

# Dealerships need to adapt

The South African retail motor industry, especially dealerships, will have to adapt a leaner, meaner and more accommodating approach where excellence experience is brought closer to the customers.

While the financial sustainability of new vehicle dealerships remains a challenge in trying economic times, used vehicles sales are having a roaring trade with pop-up shops to cater to customer's needs and to counter rivals in the market.

Persistent high interest rates are forcing South Africans to downscale on vehicles because they can no longer afford the instalments or fuel/diesel consumption is too expensive.

Dewald Ranft, Chairman of the Motor Industry Workshop Association (MIWA), is optimistic about the growth in used car sales, considering it as positive news for independent workshops.

Ranft says with so much more second-hand options available, it is encouraging to see that used vehicle prices have experienced, on average, a more significant increase than new cars in South Africa, with the report recording a price increase of 8% in Q3 2023 (3% above inflation).

Notably, the report also showed that cars older than 3 years showed an even more significant price increase – with prices rising between 15.7% and 19.4%.

"These are all vehicles typically out of warranty and can be serviced at any one of the many accredited independent workshops nationally," says Ranft.

Used car online marketplace, Weelee, recently reported it has seen "exponential growth" in the number of prospective car buyers opting for online bidding platforms, selling an average of 2 000 vehicles per month as consumer needs evolve.

Since launching its online car sales platform in 2017, Weelee has helped over 100 000 South Africans sell their vehicles through its platform, doubling its sales year-on-year.

The company's business model is premised on a hybrid selling approach. Weelee purchases quality used vehicles from private owners and sells them at wholesale prices at its Megastore.

New vehicle dealerships experience the opposite. In December 2023 the new vehicle market registered its fifth consecutive month of year-on-year decline.



**Gerhard Lourens, MISA's President, visited Audi in Downtown Nashville with Martlé Keyter (MISA's Chief Executive Officer: Operations), Heidi Reid (Senior Vice-President), Renèe Ntshingila (Second Vice-President), and Delmary October (MISA's Women of the Year 2023), where the delegation met Audi Brand Specialist Michael Mason.**

Gerhard Lourens, President of MISA, says the retail motor industry are under tremendous strain with the decision of the South African Reserve Bank's (SARB) Monetary Policy Committee to keep the repo rate unchanged at 8.25%. The Committee will review the repo rate again on 27 March 2024.

According to Lourens dealerships must consider the latest global best practises.

He was part of a MISA delegation visiting a unique boutique dealership during an educational trip in Nashville, Tennessee, USA and found it to be an extremely profitable set-up. Operated by only three sales executives who collectively sold 41 new and 41 pre-owned units for the month of December.

According to Michael Mason, Audi Brand Specialist, the aim of this boutique satellite store is to bring Audi's excellence closer to its customers in Clarksville, Mt. Juliet, Lebanon and to the heart of the Music City.

"Our Downtown Nashville Audi dealership in SoBro is designed to conveniently deliver the luxury you deserve and expand on the level of Audi's excellence set by our Brentwood store. Our reputation in Brentwood is built on innovation, luxury and customer care.

"At Audi Downtown Nashville, our exciting new experience centre raises those standards of excellence - two locations for one seamless Audi experience," Mason explained.

Lourens says this boutique store does not conform to the new Audi corporate identity. Its floor can only hold four vehicles but they

do hold a great variety of models, specializing in e-tron models and giving an honorary spot to the black beast, e-tron GT as well as the brand new S7.

"This is a well laid out boutique store with an exceptionally detailed Service Department and an Accessory Store that caters for all. A fun ultra-modern environment is created with highly motivated and productive employees.

"Sales are generated by a call centre, saving the cost of the traditional big dealership with lots of space, which is a high cost to the bottom line. It does away with the Corporate Identity of the brand – same furniture, same vehicles and same look and feel.

"The workshop of the dealership is not on the same premises. This means that more boutique stores can be established in popular areas to increase sales. This is definitely a concept that can work very well in South Africa," says Lourens.

Mercedes-Benz in Atlanta redesigned its showroom and now have a boutique digitally focused retail store due to the increase in the brand's online shopping.

BMW made history as the first brand to introduce a pop-up store in California as part of its future retail program. The store focussed on the i8 hybrid sports car. The decorations of the pop-up store were large flat screens configuring BMW-vehicles. The aim of the pop-up store being to lure customers back to stores.



MISA CEO: OPERATIONS

# Message from *Martlé Keyter*

## Information Act causes frustration

MISA would like to encourage all dealerships to apply to the Union's Legal Department to train employees in how to apply the Protection of Personal Information Act (POPIA) when it comes to used vehicle sales and customer information.

This act was introduced to combat the increase in cases of theft and misuse of people's personal information. There was a need to promulgate regulations to protect personal information and one's right to privacy.

But that privacy does not include the service record of a vehicle, merely the personal details of the owner to whom the vehicle belonged.

According to POPIA personal information is any information that may identify a person such as a name, surname, identity number, contact number, email address, religion, medical history, education, financial or any other information that is unique to an individual.

I realised the confusion in the retail motor industry after members requested MISA to give clarity and guidance on the inconsistent implementation of POPIA by dealerships.

According to members dealerships are often running into brick walls when they need confirmation of a motor vehicle service record.

Not all vehicles have the traditional service books because the information is kept updated on systems. If there is a service book, the personal detail of the previous owner of the vehicle can be torn out from the book.

"We need to confirm the service record with the manufacturing dealership, but uninformed staff refers to POPIA and say they are not allowed to disclose any information.



**Martlé Keyter**

"We know when giving the VIN number of any vehicle no personal information of the current or former owner is involved so information should be easily obtained from any dealership," the member explained.

He is correct that POPIA applies to the personal information of an individual, but does not include the service history of a vehicle. The manufacturer only has a duty not to disclose the owner's personal information.

Specific manufacturers were mentioned as the biggest culprits.

MISA investigated the matter and indeed came to the conclusion that there is a lot of confusion amongst employers on how POPIA affects them.

Some members believe that according to POPIA no information may be shared unless it is to the owner of the vehicle or with the consent of the owner. They are not even allowed to share information with the South African Police Service (SAPS) unless provided with a court order to do so.

One of the dealer groups only confirm if the service record is up to date or not, but does not provide the proof or the service record itself because it reflects the customer's details which they are not allowed to disclose.

Another blocks out the customer's details before providing the service record.

A third dealership group adjusted its system to show the maintenance plan without the customer's details.

It is suggested that dealerships request customers to submit the proof of service record when the vehicle is traded in or sold. It will be easy for the registered owner to obtain the information.

MISA can assist employers to train their staff on how to apply POPIA consistently, because it is clear that there are various perceptions and interpretations of the law.

MISA would like to ensure that POPIA is correctly implemented across the retail motor industry.

To request training on POPIA, please send an e-mail to [training@ms.org.za](mailto:training@ms.org.za).

## HIGH-LEVEL OVERVIEW OF THE TWO-POT RETIREMENT SYSTEM

Retirement fund members in financial need will be able to access a portion of their savings to pay for emergencies or unforeseen expenses from their savings component, while ensuring that the balance is preserved until retirement.

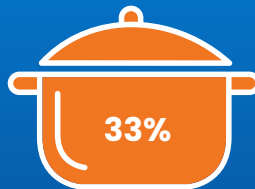
### CONFIRMED IMPLEMENTATION DATE: 01 SEPTEMBER 2024



100%

#### Vested Component

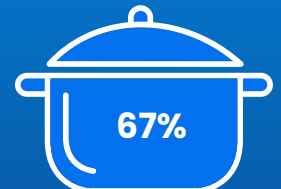
- Addresses what is currently in your retirement saving plus investment returns prior to 1 September 2024.
- Can take a full withdrawal on resignation or retrenchment.
- Can make one full or partial withdrawal from a benefit preserved in a Preservation Fund.
- If the total non-vested benefit is less than R247 500, the full non-vested benefit can be taken in cash.



33%

#### Savings Component

- Addresses immediate financial needs.
- You can access 1/3 from your retirement fund contributions prior to retirement.
- Can be withdrawn once in a tax year, provided the amount is not less than R2 000.
- No limit on the amount you can withdraw.
- You can also keep this invested or withdraw it, or use it to buy a retirement income.
- Tax at marginal rates applies for amounts withdrawn.



67%

#### Retirement Component

- 2/3 of retirement fund contributions must remain invested until retirement.
- Cannot be accessed as a cash withdrawal before or at retirement.
- These savings, and any investment growth can be used to buy a retirement income.

### 55 years on 1 March 2021

You will have the option to participate in the two-pot retirement system. If you do not want to participate in the new system, then all your contributions will be allocated to the vested component, and they will then not have a savings component or a retirement component.

#### Seed Capital

You will also have access to some seed capital, amounting to 10% of your current retirement savings, this will be capped at R30 000.

# Unemployment rises despite election promises



Unemployment in South Africa rose again to almost eight million people (32,1%) being jobless as MISA, predicted when there was an improvement in the unemployment rate in November last year.

Hundreds of thousands of Basic Education Minister Angie Motshekga's "real Covid-19 babies" in the Class of 2023 joined the 44,3% of unemployed youth in South Africa. More than 700 000 learners passed Matric last year and another half million dropped out of school along the way.

Martlé Keyter, MISA's Chief Executive Officer: Operations, says the rise in the unemployment rate does not sit well with MISA after listening to the tale of Tintswalo in President Cyril Ramaphosa's State of the Nation Address.

Tintswalo, a girl, represents an allegorical figure of the gains of the 'new South Africa'. She grew up in a house provided by the state, with water and electricity. She was enrolled in a government school where she received a nutritious meal.

Her parents got a child support grant to meet her basic needs.

After school she was able to study through the National Student Financial Aid Scheme and entered the world of work, according to Ramaphosa's story.



Martlé Keyter

"The statistics shows that the Tintswalo's in South Africa are few and far between.

"Persistent load shedding, sky-rocketing fuel prices and the high interest rates resulted in 22 000 workers losing their jobs in the last quarter of 2023.

"To date each political party, announcing its election manifesto, has promised to create jobs. But 30 years after democracy, South Africa still remains the most unequal country in the world," says Keyter.

MISA repeats the Union's plea to the South African Reserve Bank (SARB) Monetary Committee to start cutting interest rates at the next meeting on 27 March 2024.

**"MISA believes the cutting of interest rates is the only way to stimulate the economy and to prevent further job losses. The retail motor industry is suffering. In December 2023 the new vehicle market registered its fifth consecutive month of year-on-year decline,"** says Keyter.

MISA represents more than 63 000 members. MIBCO, the Motor Industry Bargaining Council, acknowledged MISA as the majority trade union in the industry.

# #MISAEDUCATES



and decide on his behalf what happens to his possessions and even loved ones.

And suppose Steve and Mary both die in a motor vehicle accident? There is no provision for his children or someone they trust being appointed to look after them.

It may even happen that Steve's greedy family inherits everything, and his children end up in a home!

It sounds like a serious matter because it is. For Steve and Mary, the decision to make a will is one of the most important steps they may take for their family. And they might be surprised, it is not a difficult process. It is however a legal process and to make sure everything runs smoothly. It is important to contact a legal practitioner.

They must form a partnership with someone, taking them through the process from estate planning, drafting of a will, the administration of deceased estates, trusts and curatorship.

It sounds like big, difficult tasks, but we are going to take you through this process step-by-step.

Next time we'll look at what Steve and Mary did to ensure that their family is taken care of after their death.

For more information, contact MISA's Legal Department on 011 476 3920 or email [Legal@ms.org.za](mailto:Legal@ms.org.za).

## Do you have a will?

Article by Petra Labuschagne: Director – PGL Trustees

Meet Steve and Mary. They have three children – all of them still in school. Steve is a mechanic and his wife a receptionist at a doctor's office.

Steve is an ordinary guy. He has a house and a car that he pays off. He has to pay school fees, buy food, pay life insurance and taxes, and still ensure that there is something left for date nights and/or family outings.

Steve lives for today and the end of the month. He has never thought about tomorrow.

Steve works with heavy equipment and if something goes wrong, he can get seriously hurt or even die.

What will happen then?

Mary has already spoken to him; she is worried because Steve does not have a will. Without a will, the law will take its course

## Global warning: measles outbreak

The World Health Organisation (WHO) says more than half of the world's countries face high risks of measles outbreaks due to missed vaccinations during the Covid-19 years.

There has been a very high increase in measles cases, a preventable disease, in half of the world's population which the WHO fears this might skyrocket towards the end of the year.

Last year the reported measles cases increased by 79% to 300 000, but the WHO says this figure represents just a fraction of the real total. Outbreaks of measles are underreported.

Measles is a highly contagious viral infection, which spreads through respiratory droplets.

Complications of measles can include pneumonia, diarrhoea, dehydration, brain infection (encephalitis), blindness or death, especially in young children and immunocompromised individuals.

Vaccination remains the most effective preventive measure against measles.

Symptoms include a high fever, persistent coughing, runny nose and red watery eyes. These symptoms usually begin 10 to 14 days after exposure to the virus.

A distinctive rash will usually start on the face and spread downwards. The rash looks like small, red, flat spots over the body. The rash does not form blisters, nor is it itchy or painful.

The National Institute for Communicable Diseases (NICD) reported a measles outbreak in 2023 after the virus was detected in 421 cases to the North West, Mpumalanga, Limpopo, Free State and Gauteng.

To report measles cases, please login on to the NMC App <https://nmc.nicd.ac.za/Account/Login> or complete and submit the NMC Case Notification Form.

In addition, complete and submit the



Measles case investigation form to [NMCsurveillancereport@nicd.ac.za](mailto:NMCsurveillancereport@nicd.ac.za)

For notifications or support call the NMC HOTLINE: 072 621 3805

# #PROUDLYMISA

## Never Stop Learning

Anndine Dippenaar, a Director at Kirchmanns Incorporated and a consultant for Global Business Solutions, facilitated an intense three day Labour Court Training course with Tiekie Mocke, Manager of MISA's Legal Department, and the operational team.

According to Mocke, the quality of the content, the expertise of Dippenaar, and the practical relevance of the case studies were excellent.

MISA has a long relationship with Global Business Solutions, providing high-quality and accredited training courses that meet the needs and expectations of the Union, says Martlé Keyter, MISA's Chief Executive Officer: Operations.

"MISA is proud to say that the Union's Legal Department is simply the best in the retail motor industry.

"We have a team of qualified and experienced professionals with vast experience in the retail motor industry and labour dispute resolution.



Anne-Marie Bodenstein - Industrial Relations Specialist, Tiekie Mocke - Manager: MISA Legal Department and Anndine Dippenaar - Director: Global Business Solutions

"Join MISA to ensure that you can sleep sound at night.

"With MISA's Legal Department, help is just a phone call away," says Keyter.



MISA's Legal Department Operational Team

# #MISACARES

## Record breaking fundraiser



The Hoërskool Otto du Plessis in Gqeberha, Eastern Cape held a record breaking BINGO fundraiser, thanks to MISA's sponsored cash prizes.

The MISA Women's Forum has been involved with numerous projects for the school over the years because the Union believes that investing in our children, is an investment in the future.

Michelle Marx, Women's Forum Representative and Co-ordinator of this project, says the school approached the Union for help this year to install more water tanks on its premises. The school is situated in Algoa Park, one of the suburbs that is impacted by the drought-stricken Nelson Mandela Bay Municipality.

"After discussing the school's needs with Heidi Reid, MISA's Senior Vice-President and Chairperson of the Women's Forum, we decided to donate cash prizes for the BINGO to attract more attendees. It worked like a charm," says Marx.

Quinton Snyman, the school's Deputy Principal and Co-ordinator of the Bingo event, says they cannot thank MISA enough. The Bingo evening was great fun. The school managed to raise a record amount of money with more than 300 people attending the event.

"We rely on businesses and our community for support to ensure that we maintain and enhance our facilities to the benefit of our learners. 75% of our learners being exempted from school fees.

"The teachers and staff of Hoërskool Otto du Plessis are passionate about helping learners to achieve their goals. We are very proud of our Class of 2023 who managed to increase the Matric pass rate with 5% to an outstanding 85%. We have challenges, but we find solutions for them together," says Snyman.

Martlé Keyter, MISA's Chief Executive



Samantha Cornelius, Petro Els, Megan Constance, Michelle Marx and Shawlaine Less, Eastern Cape Women's Forum members

Officer: Operations, says that 30 years after democracy, South Africa remains the most unequal country in the world. MISA believes that everyone has a duty to work together for a better tomorrow.

Keyter established the Women's Forum and MISA Young Workers' Forum to empower MISA members to make a meaningful contribution to their social responsibility.

"MISA is proud to support Hoërskool Otto du Plessis and looking forward to these learners entering the retail motor industry," says Keyter.



Quinton Snyman (Deputy Principal), André Claassen, winner of R 5 000 voucher



Quinton Snyman (Deputy Principal), Wendy Britz, winner of R 2 000 voucher



Quinton Snyman (Deputy Principal), Petro Els winner of R 1 000 voucher

# MISA benefit paid in 3 days

**M**ISA Member Nokuphiwa Bawana (31) was delighted when she received her MISA Maternity Claim within three days.

The mother of three works as a service advisor at Kia Pietermaritzburg in KwaZulu-Natal.

She joined the Union in 2018 after Phumlani Gambushe, one of the Recruitment and Liaison Officers, explained the benefits to her.

Bawana does not have Matric, but wants to make use of the Educated MISA Member benefit as she believes that the National Senior Certificate opens up more doors for the future.

SA has one of the highest youth unemployment rates in the world - 60,7 % of people ages 15 - 24 are unemployed, according to Statistics South Africa. The overall unemployment rate is 32,1%, 44,3% of which are youth between 15 - 34.

Bawana says she wants to be the change she wants to prove to her children that she can do it. She loved the professional and passionate way Gambushe spoke to her when he explained the benefits.

MISA's Death and Funeral benefit convinced her to join the Union. She wants her children to be taken care of financially should the unfortunate happen to her.

"My first claim at MISA was the Loyalty Benefit in 2023. I also got it this year along with the maternity benefit. The process is quite fast and effective. MISA's friendly staff always keeps you posted should you not have done things right.

"The baby essentials are expensive. I thank the Recruiters for informing us of such benefits. What would we do without MISA?"

"If you are not a MISA member, what are you waiting for?" says Bawana.



**Nokuphiwa Bawana**

# Forever MISA for Michael

**M**ISA Member Michael Rothwell Blaauw (36) received the MISA Loyalty Benefit for two consecutive years.

Blaauw, the Outbound Supervisor at Parts Incorporated Africa (PIA) in Gqeberha, Eastern Cape, has been in the retail motor industry for 15 years.

"It was the best decision to join MISA five years ago."

Evette van Rooyen, one of MISA's Recruitment and Liaison Officers, convinced him to join the Union after she explained the benefits to him.

"MISA offers its members much more than just legal assistance when you need it most. Being offered educational and financial benefits only adds to MISA's value. My overall experience with MISA has been good so far.



**Michael Rothwell Blaauw**

"I love how we are always kept up-to-date with Van Rooyen checking up on us whenever she is in the Eastern Cape. She is always ready to assist, even making follow-ups on our behalf. MISA is the true definition of excellent service.

"Being a husband and a father to two daughters, I would love to develop myself as an individual. I recently got in touch with the Training Department regarding MISA's educational benefits. I plan on obtaining my matric with MISA's assistance", says Blaauw.

In the near future he plans on doing a National Diploma in Operational Management.

He encourages new employees to join MISA to share in the benefits available to MISA members.



# Celebrating Valentine's Day



MISA Employees celebrating Valentine's Day



MISA Members at #CMH Haval Silver Lakes celebrating Valentine's Day with MISA's President Gerhard Lourens.

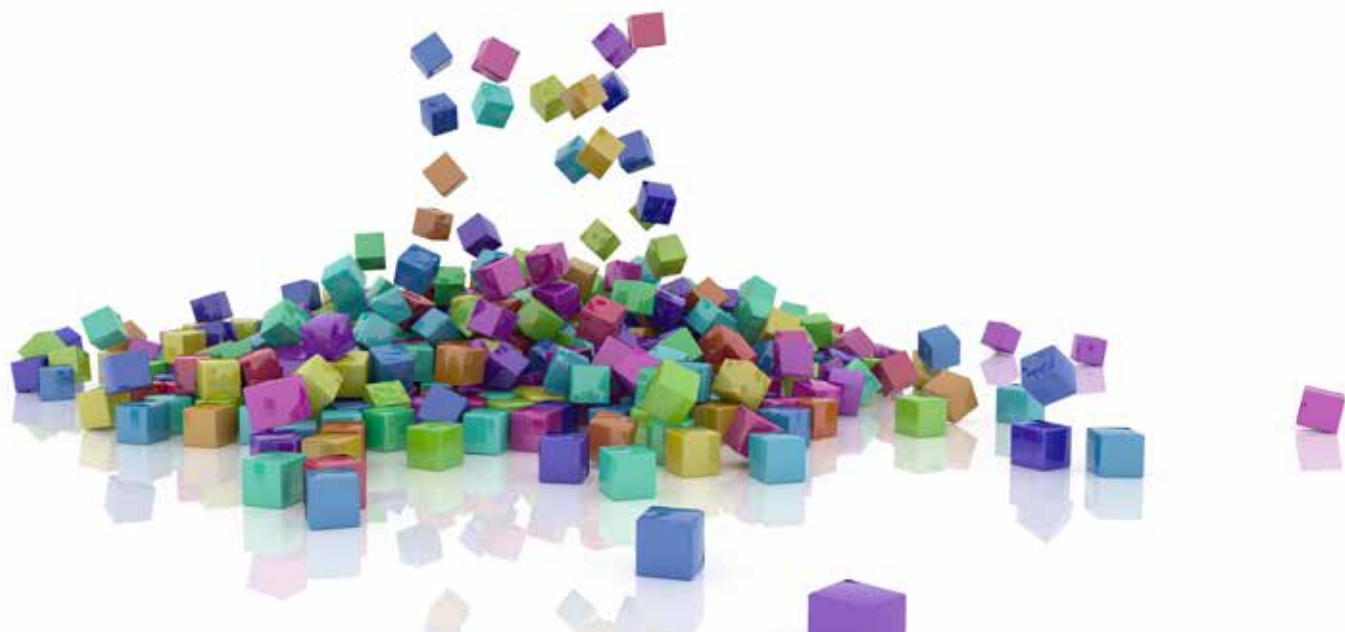


MISA Members at Mercedes-Benz Wonderboom in Pretoria celebrating Valentine's Day.



MISA Members at the Tavcor Motor Group in Gqeberha in the Eastern Cape celebrating Valentine's Day.

# THE BUILDING BLOCKS FOR YOUR CAREER: NQF LEVELS



Article by Mr. Amandla Kuse – Senior Training Officer

Selecting the right study field is a critical decision impacting various aspects of your life. This decision comes after one has undergone self-introspection, considering your skills, interest, abilities and available career fields.

The MISA January EDATA (Page 11; Importance of selecting study fields correctly), included an article that provided information on choosing a course of study.

Having selected a choice of study, one needs to know the building blocks of the selected qualification in terms of the National Qualifications Framework (NQF).

## What is NQF?

The South African National Qualifications Framework is a single integrated system used for the classification, co-ordination, registration, publication and articulation of qualifications in the country, which comprises of the following three elements:

- General and further education and training - this element incorporates schools and FET colleges;
- Higher education - this element includes universities, universities of technology;
- Trades and occupations - this element involves workplace learning and skills development such as learnerships.

## Principles of NQF

The South African NQF framework is established on principles which ensure that its primary objectives are met, ensuring that the NQF is and remains relevant to national development needs and has international and national value and acceptance. The NQF is flexible; it allows multiple learning pathways that fall within the same learning outcome.

This allows individuals to build their careers through the prescribed NQF levels upon successfully completing accredited unit standards, as per the qualification rules.

Having a single integrated national framework provides flexibility and mobility allowing individuals to transfer the credits of a qualification acquired from one accredited learning institution to another. This further assists in providing access and ease of entry to appropriate levels of education and training for everyone in a manner which facilitates growth and development. Over and above this, NQF also recognises one's previous years of experience and skills acquired through the Recognition of Prior Learning (RPL) process.

## NQF Levels outlined

Having made a decision on what to study, one needs to know the NQF level at which the field of study falls. All formally registered and accredited qualifications in South Africa have a relevant NQF level.

The NQF consists of 10 levels divided into three bands: Levels 1 to 4 equate to high school grades 9 to 12 or vocational training; levels 5 to 7 are college diplomas and technical qualifications; and levels 7 to 10 are university degrees. See the below NQF levels and their designations:

1. Grade 9
2. Grade 10 and National (vocational) Certificates level 2
3. Grade 11 and National (vocational) Certificates level 3
4. Grade 12 (National Senior Certificate) and National (vocational) Cert. level 4
5. Higher Certificates and Advanced National (vocational) Cert.
6. National Diploma and Advanced certificates
7. Bachelor's degree, Advanced Diplomas, Post Graduate Certificate and B-tech
8. Honours degree, Post Graduate diploma and Professional Qualifications
9. Master's degree
10. Doctor's degree

Building your career through the NQF levels in building skills, is important to know the different steps and more importantly the compulsory steps/requirements to ensure success. The above clearly outlines all the NQF levels within our education system. Prior to enrolling for any formal qualification, knowing the NQF level of your highest qualification will help in determining the next level, one can enrol taking into account the qualification rules and institution's requirements.

## How to verify NQF aligned qualifications

According to the South African Qualifications Authority (SAQA), every formal qualification should be registered with the Quality Council for Trades and Occupations (QCTO), Sector Education and Training Authority (SETA) and/or other relevant body. Information on formal qualifications can be obtained from the SAQA website: [www.saqa.org.za](http://www.saqa.org.za).

The verification enables knowledge of the qualification title, SAQA number, NQF level, qualification rules and other crucial information regarding the qualification one wishes to enrol, thus ensuring that one has all the requisite information as they embark on the skills development journey.

MISA through its educational benefits, aims to assist both our members and children of members to obtain SAQA registered qualifications. Our educational benefits aim to add value to our members and their children by ensuring that they build their career paths using the right building blocks as we work at developing the retail motor industry.

The former South African president, Nelson Mandela, stated "Education is the most important tool we can use to change the world," for more information on MISA's educational benefits, contact us on 011 476 3920 or [training@ms.org.za](mailto:training@ms.org.za).

# Another successful Career Expo

MISA's Young Workers' Forum hosted a successful Career Expo at New Horizon College for learners in Harrismith in KwaZulu-Natal. Megan Stevens, who co-ordinated the day, invited Volvo Truck and Bus to attend.

The session targeted 700 learners from different schools in the area. The sessions equipped the learners with the necessary information and skills to help them with workplace readiness.

The learners were also provided with goodie bags from MISA.

A special MISA thank you to Megan and Rose Mahaye, one of MISA's Recruitment and Liaison Officers, who helped on the day.



# Equal Pay for Work of Equal Value



Article by Mr. Ayanda Matshalilanga – Labour Advisor

“A fair day’s wage for a fair day’s work: it is as just a demand as governed men ever made of governing. It is the everlasting right of man.” – Thomas Carlyle

## Introduction

The principle of equal pay for work, or work of equal value, simply means that employees of the same employer who perform same or similar work must be paid equal remuneration.

However, there may be certain exceptions that apply. In certain circumstances employers are allowed to pay different rates to employees who perform same or similar work provided that it is rational and fair to do so. A failure by the employer to prove that a pay differentiation is reasonable, amounts to unfair discrimination.

## Legislation

Section 6 of the *Employment Equity Act 55 of 1998* regulates claims for equal pay for work of equal value, prohibits unfair discrimination and lists grounds upon which no employee may be unfairly discriminated against.

Section 6(1) lists the following grounds: *race, gender, sex, pregnancy, marital status, family responsibility, ethnic or social origin, colour, sexual orientation, age, disability, religion, HIV status, conscience, belief, political opinion, culture, language, birth or on any other arbitrary ground.*

Section 6(4) confirms that, if an employee can prove that the difference in pay is linked to the above grounds, it will amount to *unfair discrimination.*

A complainant who alleges pay differentiation must specifically base their claim on one or more of the grounds listed in section 6(1). A claim based on the listed grounds is straight forward, but if the complainant alleges unfair discrimination on “*any other arbitrary ground*” which is not a listed, he or she must

identify the reason for the difference in remuneration.

Additionally, the complainant must prove the differentiation, by establishing that the work performed is equal, or of equal value, to that of a higher remunerated colleague, and why such differentiation in pay is based on prohibited grounds.

The employer will then need to prove, on a balance of probability, that such discrimination did not take place as alleged, or is rational and justifiable.

When the claim is based on “*any other arbitrary ground,*” there is a higher burden of proof on the complainant.

The *Code of Good Practice on Equal Pay / Remuneration for Work of Equal Value* (The Code), provides a list of factors that may justify different pay as fair and justifiable, such as, the seniority or length of service, geographical location, qualification, quality, or quantity of work.

## Case Law

In *Ntai & Others v SA Breweries Ltd* (2001) 22 ILJ 214 (LC) the Labour Court (LC) confirmed the onus of proof rests on the complainant to prove how the discrimination is linked to an “*arbitrary ground,*” stating that “*the mere ‘arbitrary’ actions of an employer do not, as such, amount to ‘discrimination’ within the accepted legal definition of the concept.*” In this matter, black employees, alleged that the employer discriminated against them based on race, in the alternative, arbitrary discrimination, by paying their white counterparts better salaries.

The employer attributed the difference in pay to a series of performance-based pay increments, the greater experience of the comparators, and their seniority. The Labour Court accepted that the applicants had made out a prima facie case but noted that they

still bore the overall onus of proving that the difference in pay was based on race. Finding that the employees had failed to prove, on a balance of probability, that the reason for the different salaries was based on race, dismissing their case.

In *Pioneer Foods (Pty) Ltd v Workers Against Regression* 2016 37 ILJ 2872 (LC), (the Pioneer Foods case), the LC considered an application in terms of section 10(8) of the EEA. Where employees had alleged unfair discrimination in terms of section 6(4) (equal pay for work of equal value), stating that “length of service” is not an arbitrary ground, and that the Commissioner erred in finding that the employer had unfairly discriminated against employees. In this matter, the majority trade union concluded a collective agreement with the employer in terms of which newly appointed employees would be paid 20% less than the longer serving employees for the first two years of their employment. The LC held that the employer’s act of paying newly appointed employees less than the longer serving employees was rational and fair, because it was based on the combination of seniority and length of service.

The Pioneer Foods case relied on the Constitutional Court judgement of *Harksen v Lane* 1997 (11) BCLR 1489 (CC), which stated that “*if the differentiation is not on a specified ground, then whether or not there is discrimination will depend upon whether, objectively, the ground is based on attributes and characteristics which have the potential to impair the fundamental human dignity... or to affect them in a comparably serious manner.*”

## Conclusion

In light of the above, it is clear the law permits pay differentiation, provided that it is objectively justifiable. Therefore, when you are in doubt seek legal advice.

## HELP US FIND THE 2024 MISA WOMAN OF THE YEAR

The annual MISA Woman of the Year Award is one of the most important development initiatives of the MISA Women's Forum.

As a campaigner for equal rights of women in the retail motor industry, the MISA Women's Forum instituted this Award in 2010 to pay homage to the role that women play in this important economic sector.

The Award aims to do more than that: it is an important opportunity for the winner to grow and develop personally and professionally during her tenure as the MISA Woman of the Year.

We are not necessarily looking for the most senior, most successful woman in the retail motor industry, but we are looking for someone who has the potential to develop far beyond their current job title and role.

Another important criterion is also the difference the person makes in the lives of others, whether it's through community involvement, or by simply touching and enriching the lives of people at work or in the community.

We all know someone or perhaps you are that person who is selfless and has a passion for serving people from all walks of life. This is the kind of person the MISA Women's Forum is looking to find and develop further through this annual Award.

### **REGIONAL WINNERS PLAY AN IMPORTANT ROLE**

The Award is structured in such a way that a Regional Finalist is selected in each MISA Region. They compete for the national title. There can only be one national winner, but the Regional Finalists also play an important role.

**THE 2024 MISA WOMAN OF THE YEAR AWARD WINNER WINS AN OVERSEAS EDUCATIONAL TRIP IN 2025.**

**CLOSING DATE FOR NOMINATIONS: 31 MAY 2024**

Please email the forms to [misa.womensforum@ms.org.za](mailto:misa.womensforum@ms.org.za)  
For further information contact Karen Gouws on (041) 364 0102.



## **NOMINATOR'S DETAIL**

*(The detail of the person, male or female, making the nomination. If you are nominating yourself, kindly complete this section as well.)*

By completing this form, I give MISA permission to process my personal information provided below for the sole purpose of recording my nomination/entry.

Name and surname: \_\_\_\_\_

I.D. number: \_\_\_\_\_

Company of employment: \_\_\_\_\_

Position at company: \_\_\_\_\_

Tel.: (work) \_\_\_\_\_ Tel.: (home) \_\_\_\_\_ Cell: \_\_\_\_\_

Fax: \_\_\_\_\_ Email: \_\_\_\_\_

## **NOMINEE'S DETAIL**

*(The detail of the person that is being nominated for the Award. Kindly complete this section if different from the above.)*

Name and surname: \_\_\_\_\_

I.D. number: \_\_\_\_\_

Company of employment: \_\_\_\_\_

Position at company: \_\_\_\_\_

Tel.: (work) \_\_\_\_\_ Tel.: (home) \_\_\_\_\_ Cell: \_\_\_\_\_

Fax: \_\_\_\_\_ Email: \_\_\_\_\_

I hereby confirm that I do have the nominee's consent to provide the personal information as set out above and that MISA may process the information for the sole purpose of the nominee's participation in the 2023 MISA Woman of the Year Award.

Signature: \_\_\_\_\_ Date: \_\_\_\_\_

(Nominator's signature – person (male or female) making the nomination)

## **RULES**

- All nominees/entrants have to be nominated by themselves/person employed in the retail motor industry to become nominees.
- All nominees/entrants will be contacted by MISA to confirm their participation.
- On accepting to participate in the Award, participants will receive an official entry form. This form will contain all the relevant POPIA compliance information.
- Entry form must be signed by all specified people therein.
- Entry form must be submitted to MISA on/before 21 June 2024. No late submissions will be accepted.
- Entry form and documentation (additional documentation may be requested).
- Only participants who are registered female MISA members at the time of their entry will be eligible to participate.
- The judges shall select 1(one) finalist per region: Eastern Cape | Free State/Northern Cape | KwaZulu-Natal | Northern/Highveld | Western Province.
- The judges' decision is final and no correspondence will be entered into.
- Finalists will be notified in writing by 12 July 2024 and will be officially announced per region in August 2024.
- All finalists will be interviewed during September/October 2024.
- All finalists will attend the MISA Woman of the Year Award Ceremony in Johannesburg in November 2024, where the winner will be announced.
- Previous finalists may be nominated again.
- Previous and current winners may not be nominated for 3 (three) years.
- The prize for the winner will be determined by the MISA National Executive Committee and is not transferable.
- If you are the first person to nominate the 2024 winner, you stand a chance of winning R1 000! This prize does not apply to self-nominations.

# Support MISA's Annual Golf Day

MISA invites you to participate in the Union's annual fundraising Golf Day on **17 May 2024** at the **Kyalami Country Club** in Midrand, the 26<sup>th</sup> rated golf course in South Africa.

With this Golf Day MISA will again raise funds and awareness for non-profit organisations in the fight against cancers affecting men, men's mental health and gender-based violence.

MISA decided on the Kyalami Country Club because of the unique environment and stunning setting at the heart of this club since 1954. You are bound to find the golf course in perennially grand condition, posing a challenge to all golfers whilst tempting and inviting you back to take to the challenge of the grand game.

**A four ball-team amounts to R 8 000.00 and includes the following:**

- Green Fee
- Pace of Play Referee
- Scorer
- Driving Range (unlimited balls)



- Prize Giving Dinner
- R 250.00 Drink Voucher
- R 120.00 Halfway Voucher
- Morning Coffee
- Welcome Pack
- Goodie Bag

#### Caddies & Golf Carts:

Kindly note that Caddies and Golf Carts are excluded, bookings are essential and need to be made at least 2 weeks prior to the event. You may contact the club directly on (010 594 0034).



#### Sponsor a hole

You can sponsor a hole for R8 500. This includes the corkage fee should you decide on a watering hole.

Several of our holes can accommodate vehicles displays.

Please e-mail [Sonja.Carstens@ms.org.za](mailto:Sonja.Carstens@ms.org.za) for more information or to book your spot.

Looking forward to seeing you at this grand MISA event.



MOTOR INDUSTRY STAFF ASSOCIATION

# MISA

THE INTELLIGENT ALTERNATIVE | WWW.MISA.ORG.ZA



## 17 MAY 2024

MISA invites you to participate in the Union's annual fundraising Golf Day on 17 May 2024 at the Kyalami Country Club in Midrand to raise awareness and funds for men's mental health, Cancer affecting men and gender-based violence.

You can enter a team of four players for a play of R8 000 and/or sponsor a hole for R8 500 (corkage fee incl.)

Please send an e-mail to Sonja Carstens, Manager of MISA's Media and Communication Department, at [sonja.carstens@ms.org.za](mailto:sonja.carstens@ms.org.za).

MISA ANNUAL

# GOLF DAY

## Fundraiser for men's testicular cancer and prostate cancer.