

**NATIONAL ASSEMBLY
QUESTION FOR WRITTEN REPLY
QUESTION NUMBER: 2329 [NW2506E]
DATE OF PUBLICATION: 17 AUGUST 2018**

2329. Mr N S Matiase (EFF) to ask the Minister of Finance:

- (1) (a) What number of labour disputes are currently being faced by (i) the National Treasury and (ii) the entities reporting to him, (b) what is the cause of each dispute, (c) what is the nature of each dispute and (d) on what date was each dispute (i) reported and (ii) resolved;
- (2) (a)(i) what number of employees have been dismissed by the National Treasury in the past five years and (ii) for what reason was each employee dismissed and (b)(i) what number of the specified employees were paid severance packages and (ii) what was the monetary value of each severance package?

NW2506E

REPLY:

NATIONAL TREASURY

1. (a)(i) Nine.

No.	(b) Cause Of Each Dispute	(c) Nature Of Dispute	(d) Date Dispute	
			(i) Reported	(ii) Resolved
1.	Unfair dismissal	Unfair Dismissal	27/07/17	Not resolved yet - at the Bargaining Council.
2.	Non-approval of bursary	Unfair Labour Practice	14/02/18	
3.	Non-renewal of contract / permanent appointment	Unfair Dismissal	29/05/18	
4.	Suspension without pay for 3 months and a Final Written Warning	Unfair Labour Practice	01/07/18	
5.	Termination of employment contract	Unfair Dismissal	06/08/18	
6.	Termination of employment contract	Unfair Dismissal	06/08/18	

2. (a)(i) Four.

Financial Year	2(a)(ii) Reason for dismissal	b(i) Number of employees paid severance packages	b(ii) Monetary value of each severance packages
2014-2015	Sleeping on duty, security breach and theft.	Nil	Nil
2015/2016	No National Treasury employees dismissed during the year.		
2016/2017	No National Treasury employees dismissed during the year.		
2017/2018	No National Treasury employees dismissed during the year.		
2018/2019	Late coming/time keeping, failure to attend meetings/dereliction of duty. Poor performance of work. Insubordination and disrespectful behavior. Non compliance with existing procedures/leave policy, and contemptuous, disorderly or unacceptable behavior.		
	Termination due to null and void of employment contract.		
	Termination due to null and void of employment contract.		

ASB

(1) The Accounting Standards Board does not have any labour disputes currently.

CBDA

(1) The Agency does not have any current labour disputes.

DBSA

(1) Current Labour Disputes

No. of Labour disputes (a)	Cause of each Dispute (b)	Nature of each dispute (c)	Date reported (d)(i)	Date resolved (ii)
5 (CCMA/ LABOUR COURT)	Dismissal for Gross negligence (X1)	Unfair Dismissal – Labour Court	27 November 2017	Pending
	Dismissal for Unacceptable conduct (X1)	Unfair Dismissal– Labour Court	30 December 2016	Pending
	Dismissal for Gross negligence (X1)	Unfair Dismissal – Labour Court	25 October 2008	Pending
	Dismissal for Gross negligence (X1)	Unfair Dismissal – Labour Court	03 August 2012	Pending
	Dispute regarding retirement age (X1)	Automatically Unfair Dismissal – Labour Court	01 February 2011	Pending
3 (Internal)	Dishonesty and Gross Negligence	Misconduct	21 May 2018	June 2018
	Failure to comply with company policies and procedures & dishonesty.	Misconduct	25 May 2018	Pending
	Gross Misconduct	Misconduct	10 May 2018	Pending

FIC

(1) (ii) Financial Intelligence Centre

(a) Number of labour disputes currently	(b) Cause of dispute	(c) Nature of each dispute	(d) Date reported and resolved
--	---------------------------------------	---	---

1	Poor performance	Incapacity	(i) Reported: Referred to CCMA, 5 December 2017 (ii) Resolved: 13 August 2018
1	Constructive dismissal	The employee has referred the matter for review and setting aside of the arbitration, which was awarded in favour of the Financial Intelligence Centre, on 18 December 2016	(i) Reported: Referred to Labour Court, 20 February 2017 (ii) Resolved: Not resolved

FSCA

1. (ii) Financial Sector Conduct Authority (FSCA): - 2 (two);
 - (b) Both are breaches of internal disciplinary procedures;
 - (c) The first dispute relates to misconduct and the second dispute (which is still in process) relates to dereliction of duty;
 - (d) (i) Case 1. Reported on 20 February 2018
Case 2. Reported on 06 June 2018
 - (ii) Case 1. Based on the charges brought before the employee, verified by an employer witness and representation made by the employee, the Chairperson found the employee guilty and recommended dismissal with immediate effect. The Chairperson's recommendations were considered by Senior Management and a resolution was taken to dismiss the employee with a month's notice pay. The employee has referred the matter to the CCMA for arbitration and a hearing has been set down for 4 September 2018.
Case 2. Case still in progress.

GEPF

- (1) The GEPF is not facing any labour disputes at the moment.
- (2) (a)(i) Two employees have been dismissed in the past five years

(a)(ii) One employee was dismissed for breach of the Supply Chain Management Policy. One employee was dismissed for gross insubordination, abuse of company property and putting the safety of other employees at risk.

(b) (i and ii) None of the employees received severance packages.

GPAA

(1) (a) The number of disputes is 4,

(b) **The cause of each dispute were amongst others:**

- Unfair dismissal
- Access to Information
- Two different cases were reported with regards to employees appointed at different salary levels.

(c) **The nature of each dispute entailed:**

1. Alleged unfair labour dismissal for misconduct
2. The request for information
3. Unfair Labour practice with regards to salary disparities on two matters.

(d) **Date reported and resolved**

Date reported	Date resolved
(1) 30/10/2012	- 30/07/2018
(2) 16/02/2018	- Pending Arbitrator's ruling
(3) 02/03/2017	- Pending notice of set - down for Arbitration
(4) 12/02/2018	- Pending notice of set - down for a review at Labour Court

IRBA

The IRBA hereby declares that;

1. There are currently no labour disputes within the entity.
-

LAND BANK

- (1) (a) What number of labour disputes are currently being faced by (i) The Land and Agricultural Development Bank of South Africa (ii) the entities reporting to him, (b) what is the cause of each dispute, (c) what is the nature of each dispute and (d) on what date was each dispute (i) reported and (ii) resolved?

Current Disciplinary Matters					
Nr of Labour dispute (a)	Cause of each dispute (b)	Nature of each dispute (c)	Date of dispute reported (d - i)	Date of dispute resolved (d - ii)	Comments
1	Alleged unauthorized approval by the employee provided to client on a loan agreement. Process for approval not followed.	Gross Negligence	June 2018	Unresolved, matter under investigation	
2	Disciplinary enquiry regarding non-compliance to Procurement processes	Gross Negligence	Dec 2017	August 2018	Disciplinary process was in progress however employee resigned and resignation was accepted.
3	Breach of PFMA and non-compliance to Procurement	Gross Negligence	May 2018	July 2018	Disciplinary process was in progress however employee resigned and resignation was accepted.
4	Fruitless and wasteful expenditure due to children that turned 23 was not removed from the Bankmed dependency list.	Negligence	June 2018	July 2018	Final Written warning issued to employee
5	Misconduct on I.T relate matters	Suspension			
Referred to CCMA and Labour Court					
Nr of Labour dispute (a)	Cause of each dispute (b)		Set-down date	Comments	
1	Prohibition of unfair Labour discrimination	CCMA	31 August 2018	Recruitment candidate referred matter to CCMA	
2	Unfair Retrenchment	Labour Court	Awaiting Labour Court Date	Matter occurred in 2016	
3	Dismissal: Disorderly Conduct and Unacceptable Behaviour	CCMA – Arbitration	27 August 2018		

FAIS OMBUD

(1) (a) (i) The FAIS Ombud currently faces six (6) labour matters in various fora.

(1) (b) (ii) Four of them were initiated by the former employees challenging alleged unfair dismissal based on a combination of misconduct and poor performance. The fifth referred a constructive dismissal case. The last is an alleged breach of employment contract dispute before the Magistrates' Court by a candidate whose appointment was revoked on the basis of an undisclosed pending fraud case, discovered through verification checks.

The four disputes were initiated in 2017, the last initiated in 2018. Only the fifth has been resolved by way of settlement of four months' salary. The monetary value of the settlement figure was R117 859.72

PFA

(1)(a)(ii) The Office of the Pension Funds Adjudicator currently has two unresolved labour disputes whose details are as follows:

1. Labour Court: Tando Mbono v OPFA and others JR2285/15

On 4 August 2015, Mr Mbono was dismissed by the OPFA for poor performance (having followed a poor performance process). Mr Mbono referred an unfair dismissal dispute to the CCMA, alleging his dismissal was procedurally and substantively unfair.

The CCMA found that Mr Mbono's dismissal was fair and issued an arbitration award to this effect. Mr Mbono then applied to the Labour Court to have the arbitration award reviewed and set aside. Whilst the pleading stage in the matter is closed, the matter has not yet been set down for hearing.

The OPFA has very good prospects of being successful in the review application.

2. Unfair dismissal – CCMA case no. GATW9446-18

A former Admin Assistant, Ms Nthabiseng Maleka, was dismissed in July 2018 due to excessive usage of the OPFA's telephone for her private and/or personal use. Ms Maleka referred a dispute to the CCMA alleging her dismissal was unfair.

The dismissal was effected following several warnings of misconduct to Ms Maleka for similar misdemeanours, the last of which was a final written warning in September 2017.

In addition, in December 2017 a meeting was held with all staff and employees were specifically warned about excessive usage of the work telephone for private/personal reasons. The conduct from the employee did not stop and excessive usage was once more noticed for the months after the meeting in December 2017. At her disciplinary hearing held in April 2018, the employee

pleaded guilty to the misconduct and the chairperson therefore recommended dismissal as the appropriate sanction.

Conciliation was held on 6 August 2018 but the matter could not be conciliated. The matter is now awaiting arbitration proceedings at the CCMA. No date has been provided for these arbitration proceedings.

The OPFA anticipates that it has very good prospects of being successful in defending the arbitration proceedings.

PIC

(1)

	Nature of misconduct	Outcome	Recorded	Finalised
2015/16				
1	Performance related	Mutual Separation	Feb – 15	Apr - 15
1	Performance related	Mutual Separation	Feb – 16	May-16
1	Absent without authorisation	Dismissal	Apr – 15	May – 15
1	Absent without authorisation	Final written warning	Jun-16	Jul-16
1	Breach of policy	Written warning	Sep-15	Oct-15
1	Dishonesty	Resignation	Jul-15	Aug-15
2016/17				
1	Performance related	Mutual Separation	Sep-16	Mar-17
2017/18				
1	Insubordination	Written warning	May-17	Jun-17
1	Breach of policy	Mutual Separation	Nov-17	Apr-18
1	Possession of unauthorised documents	Dismissal	Nov-17	May-18
1	Dereliction of duties	Dismissal	Mar-18	Apr-18
1	Insubordination	Final written warning	Mar-18	Mar-18

(2)

Reason	Number of cases	Monetary value (Rands)	Date
Negotiated Termination	1	1,270,466	Apr – 15
	1	2,219,191	May – 16
	1	143,937	Mar – 17
	1	7,250,000	Apr – 18
Total	4	10,883,594	

SARS

(1) (a)(b)(c)(d)(i)

The information provided in this report relate to all labour disputes that are currently being faced and referred to external labour tribunals. The Table below provides the number of **CCMA disputes** SARS is currently facing. The table also reflects the figures broken down per the nature and cause of the dispute, per financial year of referral:

Nature and cause of CCMA Matter	2013/14	2014/15	2015/16	2016/17	2017/18	2018/19	Grand Total
Unfair Dismissal							43
- Abscondment / Desertion					1		
- Alcohol / Drugs					1		
- Bribery / Corruption				1			
- Constructive Dismissal					4	2	
- Disclosure of Information			2	2	2		
- Fraud			1	1	7	6	
- Inappropriate Behaviour		1	2		2	2	
- Incapacity – Ill Health					1		
- Negligence				1	1		
- Theft			1	1		1	
Unfair Labour Practice							93
- Unfair Discrimination			1	1		2	
- Collective Agreement - Interpretation or Application			2		2		
- Unfair Conduct - promotion / demotion / probation / training / benefits			3	2	6	1	
- Unilateral change to terms and conditions of employment				3		2	
- Equal pay for work of equal value					2	1	
- Unfair Labour Practice Other	3	6	13	16	21	6	
GRAND TOTAL	3	7	25	28	50	23	136

The Table below provides the number of labour disputes SARS is currently facing at the Labour Court and/or Labour Appeal Court. The table also reflects the figures broken down per the nature and cause of the dispute, per calendar year of referral:

Nature and cause of Labour Court Matter	2009	2010	2012	2013	2014	2015	2016	2017	2018	Grand Total
Unfair Dismissal										29
- Constructive Dismissal									1	
- Disclosure of Information				1	2					
- Fraud		1			1	1		1	2	
- Inappropriate behaviour	1	1		1		1	1	1	1	
- Incapacity - Poor Performance			1							
- Insubordination	2									
- Intimidation / Incitement			1							
- Negligence					1			3		
- Theft						2	1	1		
Unfair Labour Practice										10
Unfair Labour Practice Other		1	2	1			1	2		
Unfair Discrimination			2							
Outstanding interest in respect of arbitration award									1	
Grand Total	3	3	6	4	4	4	3	8	5	39

(d) on what date was each dispute ((ii) resolved;

The focus of this report is on answering the question of “dispute currently being faced” and therefore those that are open and still in progress at the relevant tribunal. Dates of resolution are therefore not yet available until these matters are resolved.

(2) (a)(i)(ii)

The Table below provides the number of SARS employees having been dismissed over the past 5 financial years, against the reasons for the dismissals:

Terminations Reasons	2013/14	2014/15	2015/16	2016/17	2017/18	2018/19 YTD	Grand Total
Abscondment	2	1	1	1	2		7
Discharge Incapacity Ill Health	3	2	4	1	3		13
Discharge Incapacity Poor Work Performance	1	1					2
Dismissal Misconduct	51	40	25	29	52	15	212
Grand Total	57	44	30	31	57	15	234

(b)(i) what number of the specified employees were paid severance packages and

Terminations Reasons	2013/14	2014/15	2015/16	2016/17	2017/18	2018/19 YTD	Grand Total
Severance Package					2		2
Grand Total					2		2

(ii) what was the monetary value of each severance package?

Due to confidentiality provisions associated with employees’ personal information, as protected by the Protection of Personal Information (POPI) Act, SARS is not in a position to disclose more detailed information regarding this.

SASRIA

- (1) (a) What number of labour disputes are currently being faced by Sasria?

Sasria is currently not facing any labour disputes.

TAX OMBUD

1. The Office of the Tax Ombud does not have any labour dispute with its employees.
-