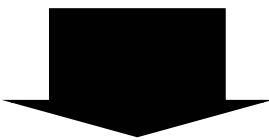


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PART A
REFERRING A DISPUTE
TO THE
METALS & ENGINEERING INDUSTRIES BARGAINING COUNCIL
CENTRE FOR DISPUTE RESOLUTION



WHAT IS THE PURPOSE OF THIS FORM?

This form enables a person or organisation to refer a dispute to the Centre for Dispute Resolution for conciliation and con-arb.

WHO FILLS IN THIS FORM?

Employer, employee, union or employers' organisation.

WHERE DOES THIS FORM GO?

To the Provincial Office of the CDR in the province where the dispute arose. See details on this page.

WHAT WILL HAPPEN WHEN THIS FORM IS SUBMITTED?

When you refer the dispute to the CDR, it will appoint a Council commissioner who must attempt to resolve the dispute within 30 days.

OTHER INSTITUTIONS

Please note that if you are not covered by the Bargaining Council, you need to take the dispute to the appropriate body, e.g. the CCMA.

You may also need to deal with the dispute in terms of a private procedure if one applies.

Please contact our office for assistance if you are unsure.

FURTHER INSTRUCTIONS

A copy of this form must be served on the other party. Proof that a copy of this form has been served on the other party must be supplied by attaching –

- A copy of a registered slip from the Post office
- A copy of a signed receipt if hand delivered;
- A signed statement confirming the service by the person delivering the form;
- A copy of a fax confirmation slip; or
- Any other satisfactory proof of service

PROVINCIAL OFFICES OF THE CDR

GAUTENG, NORTH WEST, MPUMALANGA & LIMPOPO PROVINCES

1 st Floor	PO Box 9381	Tel: 011 834 4660
Metal Industries House	Johannesburg	Fax: 086 636 8699
42 Anderson Street	2000	Email:
Johannesburg		
2001		

WESTERN CAPE

1 st Floor	PO Box 6096	Tel: 021 421 6140
Harbour Place	Roggebaai	Fax: 086 636 8694
7 Martin Harmmerschlag Way	8012	Email:
Foreshore		
Cape Town		
8001		

KWAZULU NATAL

11 th Floor	PO Box 5900	Tel: 031 305 4761
Sangro House	Durban	Fax: 086 636 8693
417 Smith Street	4000	Email:
Durban		
4001		

FREE STATE & NORTHERN CAPE

2 nd Floor	PO Box 30095	Tel: 057 352 4142
26 – 28 Heeren Street	Moreskof	Fax: 086 636 8697
Welkom	9462	
9459		

EAST LONDON (BORDER REGION)

Malcomess Park	PO Box 13162	Tel: 043 743 7790
Office No. 7	Vincent	Fax: 086 636 8691
St. George's Road	5217	Email:
Southernwood		
East London, 5201		

PORT ELIZABETH (MIDLANDS)


6 th Floor	PO Box 12848	Tel: 041 586 1542
Old Mutual Building	Centralhill	Fax: 086 636 8694
64 Govan Mbeki Avenue	6006	Email:
Port Elizabeth		
6001		

TSHWANE

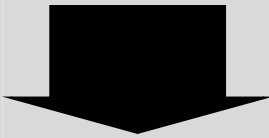
351 Schoeman Street	P O Box 570	Tel: 012 320 2566
Pretoria	Pretoria	Fax: 086 648 3582
0002	0001	

Visit the MEIBC website at:

<http://www.meibc.co.za>

<p style="text-align: center;">READ THIS FIRST</p> <div style="text-align: center;">  </div> <p>Tick the correct box <input checked="" type="checkbox"/></p> <p>The name of the employee or an employer that is referring the dispute must be filled in (a). If there is more than one employee to the dispute and the referring party is not a trade union, then each employee must supply their personal details and signature on a separate page, which must be attached to this form.</p> <p>These alternate contact details should be of a union official or representative, a relative or a friend.</p> <p>The name of the trade union or employers organisation that is referring the dispute or assisting a member to refer a dispute must be filled in (b). If there is more than one party, please provide all the details of each party on a separate page.</p> <p>Tick the correct box <input checked="" type="checkbox"/></p>	<p>1. DETAILS OF PARTY REFERRING THE DISPUTE</p> <p>As the referring party, are you:</p> <p><input type="radio"/> An employee <input type="radio"/> A trade union</p> <p><input type="radio"/> An employer <input type="radio"/> An employer's organisation</p> <p>(a) If the referring party is an <u>employee</u> or <u>employer</u></p> <p>First Name(s).....</p> <p>SurnameIdentity number.....</p> <p>Postal / Physical Address:.....</p> <p>.....Postal Code:</p> <p>Tel:Cell:</p> <p>Fax:Email:</p> <p>Alternate contact details of employee:</p> <p>Surname:First Names:</p> <p>Postal / Physical Address:</p> <p>.....Postal Code</p> <p>Tel:Cell:</p> <p>Fax:Email:</p> <p>(b) Name of the referring party if the referring party is an employer's organisation or trade union, or if the employer's organisation is assisting a member to the dispute</p> <p>Name:</p> <p>Contact person (if organisation):</p> <p>Postal / Physical Address:</p> <p>.....Postal Code</p> <p>Tel:Cell:</p> <p>Fax:Email:</p> <p>2. DETAILS OF THE OTHER PARTY (PARTY WITH WHOM YOU ARE IN DISPUTE)</p> <p>The other party is:</p> <p><input type="radio"/> An employee <input type="radio"/> A trade union</p> <p><input type="radio"/> An employer <input type="radio"/> an employers organisation</p> <p>Company Name:</p> <p>Contact person :</p> <p>Physical Address:</p> <p>.....Postal Code</p> <p>Tel:Cell:</p> <p>Fax:Email:</p> <p style="text-align: right;">Please turn over</p>
--	--

READ THIS FIRST



Tick the correct box

If the dispute concerns dismissals, please complete Part B.

Note that probation disputes will automatically go to con-arb. All other disputes may go to con-arb, unless an objection is received from one of the parties.

This section must be completed!

Unfair labour practices: If the dispute(s) concerns an unfair labour practice the dispute must be referred within 90 days of the act or omission which gave rise to the unfair labour practice. If more than 90 days has elapsed you are required to apply for conciliation

Dismissal disputes: the date that you fill out must match the date in section B.

Parties may, at their own cost, bring interpreters for languages other than the official South African languages. Please indicate this under 'other'.

3. NATURE OF THE DISPUTE

What is the dispute about (tick only one box)?

- | | |
|---|---|
| <input type="radio"/> Unfair dismissal | <input type="radio"/> Non-renewal of contract |
| <input type="radio"/> Mutual Interest | <input type="radio"/> Refusal to Bargain |
| <input type="radio"/> Unilateral change to terms & conditions of employment | <input type="radio"/> Severance Pay S41 BCEA |
| <input type="radio"/> Refusal to bargain | <input type="radio"/> Disclosure of information |
| <input type="radio"/> Interpretation or application of collective bargaining provisions | <input type="radio"/> Unfair labour practice (probation) |
| <input type="radio"/> Other – <i>please give details</i> | <input type="radio"/> Unfair labour practice (other) – <i>please give details</i> |
| | |
| | |

Summarise the facts of the dispute you are referring:

.....

.....

4. DATE DISPUTE AROSE

The date of dismissal

(give the date, day, month and year)

The dispute arose where:

(give the City/Town in which the dispute arose)

5. DETAILS OF DISPUTE PROCEDURES FOLLOWED

Have you followed all internal grievance / disciplinary procedures before coming to the CDR? Yes No

Describe the procedures followed:

.....

.....

6. RESULT OF CONCILIATION

What outcome do you require?

.....

7. INTERPRETATION SERVICES

If you require an interpreter at the conciliation / con-arb? If yes, please indicate for what language:

- Yes No

Language.....

8. PLACE OF HEARING

All hearings are held in the Council's regional offices. However, would you like it if this case is heard in one of the additional two venues listed below, only if the dispute arose there?

Middelburg Yes No

Polokwane Yes No

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Special features might be a reason for the urgency of the matter, the large number of people involved, important legal or labour issues, etc.

Only fill this in if this is a dispute about unilateral change to terms and conditions of employment.

You do not need to fill out any other forms for the matter to proceed to arbitration.

9. SPECIAL FEATURES / ADDITIONAL INFORMATION

Briefly outline any special features / additional information the CDR needs to

note:.....
.....
.....
.....

10. DISPUTE ABOUT UNILATERAL CHANGE TO TERMS AND CONDITIONS OF EMPLOYEMENT (s64 (4))

I/we require that the employer party not implement unilaterally the proposed changes that led to this dispute for 30 days, or that it restore the terms and conditions of employment that applied before the change.

Signed:(Employee party referring the dispute)

11. OBJECTION TO CON-ARB PROCESS

I/we object to the arbitration commencing immediately after the conciliation in terms of Section 191(5A)(c).

Signed:

If any party objects to the arbitration commencing immediately after the conciliation, that party must submit a written notice in terms of CDR Rule 11(2) at least 7 days prior to the scheduled date of the con-arb hearing. Regardless of whether a party makes this objection, they must attend the conciliation hearing.

12. IF THE MATTER REMAINS UNRESOLVED AFTER CONCILIATION

If the dispute is not settled at conciliation and it is an issue which may be referred to arbitration in terms of the LRA, do you wish to proceed to arbitration?

Yes No Will decide at/after the conciliation

Note: - If you attend the conciliation hearing and sign the certificate of non-resolution, the matter will automatically be scheduled for arbitration.

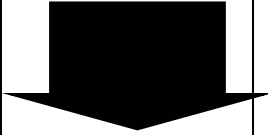
If you **DO NOT** attend the conciliation hearing, you **MUST** complete a request for arbitration referral form (LRA 7.13), serve it on the company and to the CDR, with proof of service that you have done so.

13. CONFIRMATION OF ABOVE DETAILS

Signature of party referring the dispute:

Signed atthis day
(place) (date)

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PART B

ADDITIONAL FORM FOR DISMISSAL DISPUTES ONLY



Dismissal disputes must be referred (i.e. received by the CDR) within 30 days of dismissal. If the dismissal was more than 30 days ago, you are required to apply for condonation on section D of this form.

Tick the correct box

Tick the correct box

1. COMMENCEMENT OF EMPLOYMENT

When did you start working at the company?

2. NOTICE OF DISMISSAL

When were you dismissed?
(IF THE DISPUTE CONCERNS A DISMISSAL, THE DATE INSERTED MUST BE THE SAME AS THAT SET OUT IN ITEM 4 OF PART A.)

How were you informed of your dismissal?

- By letter
- Verbally
- At/After a disciplinary hearing
- Constructive (resigned)
- Other (*please describe*)

3. REASON FOR DISMISSAL

Why were you dismissed?

- Misconduct
- Incapacity
- Operational Requirements (Retrenchment)
- Unknown
- Constructive
- Other (*please describe*).....

4. WAS THE DISMISSAL RELATED TO PROBATION Yes No

5. FAIRNESS/UNFAIRNESS OF DISMISSAL

(a) Procedural Issues

Was the dismissal procedurally unfair? Yes No

If yes, why?

(b) Substantive Issues

Was the dismissal substantively unfair? Yes No

If yes, why?

PART C

APPLICATION FOR CONDONATION ONLY



REFERRALS MUST BE SUBMITTED WITHIN 30 DAYS FROM THE DATE OF DISMISSAL. ONLY FILL THIS OUT IF THE CASE HAS BEEN REFERRED LATE, IE. OUTSIDE OF THIS TIMEFRAME

Case number (if already given):

Applicant Name:

Respondent Name:

AFFIDAVIT

I, the undersigned, *(full name of applicant)* do hereby make an oath and say:

1. BACKGROUND

1.1. I was dismissed on *(give date)*

1.2. The employer refused to reinstate me on *(give date)*

1.3. The dispute arose on *(give date)* after all attempts to negotiate or follow other internal procedure failed.

2. THE DEGREE OF LATENESS

2.1. The referral isdays late.

2.2. I did the following to pursue my rights after my dismissal:

- I went to my union / the department of Labour / Community advice centre / Legal advice centre (delete which is not applicable) on *(give date)*
- I telephoned *(give name)* on *(give date)*
- I signed the referral form *(give date)*

3. REASONS FOR LATENESS

The reason that I referred the matter late is

.....

.....

.....

.....

4. PROSPECTS OF SUCCESS

I believe that I have a good case because *(you must explain with good reasons why you will win your case at the CDR)*

.....

.....

5. **PREJUDICE**

5.1. As the **employee party**, if condonation is not granted, I will be prejudiced because-

.....
.....
.....
.....

5.2. As the **employer party**, if condonation is granted, I will be prejudiced because -

.....
.....
.....

6. **GENERAL**

Please give any other information that will support your application.

.....
.....
.....
.....
.....

Signature of applicant:

Name of applicant:

Commissioner of oaths:

Signed before me on atby the deponent who acknowledges that he / she knows and understands the contents of the affidavit, has no objection to taking the oath / affirmation and considers it binding on his / her conscience.

Name:

Address:.....
.....

Capacity:

NOTE: Please attach any documentary proof that supports your application. If there is insufficient space under any of the above questions, please attach additional pages of information.

GUIDELINES TO COMPLETING AND RESPONDING TO CONDONATION APPLICATIONS

The Labour Relations Act and the CDR Rules give timeframes for the submission of referrals, applications and other documents. A condonation application needs to be completed where the timeframes for submissions are not met. The most common type of condonation application is for the late submission of the referral form (i.e. the referral is served on the CDR more than 30 days after the date of dismissal or after 90 days after the alleged unfair labour practice).

If you refer your case outside of the timeframes which are indicated, you will need to complete Section D of this referral form and send it together with your referral form. These guidelines should assist you.

THE APPLICANT (REFERRING PARTY)

The application must be in the form of a sworn affidavit, and the application form is in this format to assist you.

The following issues must be dealt with in your application:

1 The degree of lateness and the reason(s) for the delay.

You must give reasons for the lateness that account for the full period that the referral was late. It is for example, not sufficient to say you were in hospital for a week if the referral is 6 weeks late. This would explain only the one week's lateness and not the other 5 weeks.

Proof is also required. For example, just stating you were in hospital without proof does not carry much weight. If proof cannot be supplied, give reason why not.

If the referral has been incorrectly made to the CCMA or another bargaining council, the reason for the mistake must be given.

2 Prospects of success

You must state why there is a good chance of your case being successful should it eventually go for arbitration or to the Labour Court. Enough detail must be given to allow the employer to respond. For example, just stating that the chair of the disciplinary hearing was biased is not enough. Reason for and, if available, proof of the allegation must be given.

3 Prejudice

Personal circumstances and whether you have obtained other employment are important. Any other circumstances must also be mentioned.

4 The importance of the matter

If the matter is important from a general policy viewpoint, such as potential unrest, it must be stated.

5 Any other information that is important

You can give any other information that you think supports your application. Please attach any documents that support your application.

THE RESPONDENT

Should you wish to respond to the applicant's affidavit, it must reach the offices of the CDR **within 14 days** of receiving the application. It should deal with the issues raised in the application and must also be in the form of an affidavit. Proof of service must be attached.

The applicant then has **7 days** to respond to the respondent's affidavit.

The CDR may request additional information or it may call the parties to a hearing if there is insufficient information or if it will assist the Council in making an appropriate decision.

NOTE: Any party experiencing difficulty with the process must obtain assistance from a knowledgeable person or organisation. The council is not legally permitted to assist with the **substance** of your application. If you have any queries on the **process**, you may contact the CDR.