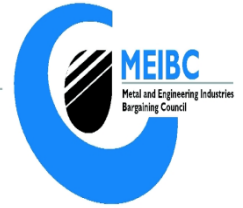


**READ THIS FIRST**

# REFERRING A DISPUTE TO THE CDR FOR CONCILIATION (INCLUDING CON-ARB)

**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, trade union, employers' organization, federation of trade union or federation of employer's organization.

**WHERE DOES THIS FORM GO?**

To the Provincial Office of the CDR MEIBC, 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 MEIBC, the CDR 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 MEIBC scope, 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 nearest 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;

**PROVINCIAL OFFICES OF THE CDR****GAUTENG**

1<sup>st</sup> Floor  
Metal Industries House  
42 Anderson Street  
Johannesburg  
2001

P O Box 9381  
Johannesburg  
2000

Tel: 011 834 4660  
Fax: 011 834 6853  
086 636 8699  
Email: [cdr@meibc.co.za](mailto:cdr@meibc.co.za)

**WESTERN CAPE**

14<sup>th</sup> Floor, Office 1401  
Golden Acre  
Adderley Street  
Cape Town  
8001

P O Box 6096  
Roggebaai  
8012

Tel: 021 421 6140  
Fax: 021 421 1385  
Email: [cdr@meibc.co.za](mailto:cdr@meibc.co.za)

**KWAZULU NATAL**

11<sup>th</sup> Floor  
Mercury House  
320 Smith Street  
Durban  
4001

P O Box 5900  
Durban  
4000

Tel: 031 305 4761  
Fax: 086 636 8693  
Email: [cdr@meibc.co.za](mailto:cdr@meibc.co.za)

**FREE STATE & NORTHERN CAPE**

2<sup>nd</sup> Floor  
Wessels & Smith Building  
26 – 28 Heeren Street  
Welkom  
9459

P O Box 30095  
Moreskof  
9462

Tel: 057 352 4142  
Fax: 057 352 5093  
Fax: 086 636 8697  
Email: [cdr@meibc.co.za](mailto:cdr@meibc.co.za)

**EAST LONDON (BORDER REGION)**

Malcomess Park  
Office No. 7  
St. George's Road  
Southernwood  
East London, 5201

P O Box 13162  
Vincent  
5217

Tel: 043 743 7790  
Fax: 043 743 8444  
Email: [cdr@meibc.co.za](mailto:cdr@meibc.co.za)

**PORT ELIZABETH (MIDLANDS)**

6<sup>th</sup> Floor  
Old Mutual Building  
64 Govan Mbeki Avenue 6006  
Port Elizabeth  
6001

P O Box 12848  
Centralhill  
6006

Tel: 041 586 1542  
Fax: 041 586 1077  
Email: [cdr@meibc.co.za](mailto:cdr@meibc.co.za)

**TSHWANE**

351 Schoeman Street  
4<sup>th</sup> Floor  
Metro Park Building  
Pretoria  
0002

P O Box 570  
Pretoria  
0001

Tel: 012 320 2566  
Fax: 086 648 3582  
Email: [cdr@meibc.co.za](mailto:cdr@meibc.co.za)

**MPUMALANGA & LIMPOPO PROVINCES**

68 Arras Street  
1st floor  
Msele Hosken Building  
Witbank  
1035

P O Box 3787  
Witbank  
1035

Tel: 013 656 6336  
Fax: 086 636 8695  
Email: [cdr@meibc.co.za](mailto:cdr@meibc.co.za)

- A copy of an e-mail confirmation slip; or
- Any other satisfactory proof of service

Visit the MEIBC website at:

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

**READ THIS FIRST**



Tick the correct box

The name of the employee or an employer that is referring the dispute must be filled in NB:

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.

These alternate contact details should be of a union official or representative, a relative or a friend.

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.

Tick the correct box

**1. DETAILS OF PARTY REFERRING THE DISPUTE**

As the referring party, are you:

An employee

A trade union

An employer

An employer's organization

Federation

**(a) If the referring party is an employee or employer**

Name: .....

Surname: .....

Length of Service:.....ID number.....

Salary Gross:.....Salary Net:.....

Gender (M/F):.....Age.....Nationality:.....

Postal / Physical

Address: .....

.....Postal Code: .....

Tel: .....Cell: .....

Fax: .....Email: .....

**Alternative contact details of employee (representative/relative/friend):**

Name: .....Surname: .....

Postal / Physical Address: .....

.....Postal Code .....

Tel: .....Cell: .....

Fax: .....Email: .....

**(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**

Name: .....

Contact person (if organisation): .....

Postal / Physical Address: .....

.....Postal Code .....

	Tel: .....Cell: .....	
	.....	
	Fax: .....Email: .....	
	<b>2. DETAILS OF THE OTHER PARTY (PARTY WITH WHOM YOU ARE IN DISPUTE)</b>	
	The other party is:	
	An employer	An employer's organisation
	An employee	A trade union
	Federation	
	Company Name:.....	
	Contact person:.....	
Physical Address:		
.....		
.....Postal Code		
.....		
Tel: .....Cell: .....		
Fax: .....Email: .....		
.....		
MEIBC company or close corporation registration number:		
.....		
Number of employees employed by the employer:		
.....		

**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 condonation

**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)?

☐ Dismissal

☐ Mutual Interest

Severance Pay S41 BCEA

Severance Pay S41 BCEA

Unfair Labour Practice (s191(1)(a) of the LRA)

Unfair Labour Practices (s186(2) of the LRA)

Interpretation or application of collective bargaining provisions

Disclosure of information

Unilateral changes to terms & conditions of employment (s64 LRA)

S198 LRA

S198A(4) LRA (Dismissal)

\_\_\_ S198A LRA (Temporary Employment)

S198B LRA (Fixed Term Contracts)

S198A(5) LRA (Unfavorable treatment)

\_\_\_ S198C (Part-Time Employment)

\_\_\_ Other

.....

If it is an unfair dismissal dispute, tick the relevant box:

☐ Misconduct

☐ Incapacity

☐ Unknown Reasons

☐ Constructive dismissal

☐ Poor Work Performance

☐ Dismissal related to Probation

☐ Operational Requirements (Retrenchments)

☐ Where I was the only employee dismissed

☐ Where the employer employs less than ten (10) employees

☐ Other.....

**4. Summarise the facts of the dispute (use additional paper if necessary):**

.....  
.....

**5. DATE AND PLACE WHERE DISPUTE AROSE:**

The dispute arose on: .....  
(give the date, day, month and year)

The dispute arose where: .....  
(give the City/Town in which the dispute arose)

**6. DATE OF DISMISSAL (if applicable):.....**

**READ THIS FIRST**



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.

**7. FAIRNESS / UNFAIRNESS OF DISMISSAL (if applicable)**

**(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?

.....

.....

.....

.....

**8. RESULTS / OUTCOME REQUIRED**

.....

.....

**9. INTERPRETER SERVICES**

Is an interpreter required?



Yes



No

Language.....

**10. OBJECTION TO CON-ARB PROCESS (Only complete this part if you object to the arbitration commencing immediately after conciliation)**

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

.....  
Signature of person objecting to con-arb

**11. Dispute about unilateral change to terms and conditions of employment s64(4)**

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

Signed: .....(employee party referring the dispute)

**12. SPECIAL FEATURES / ADDITIONAL INFORMATION**

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

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

**13. PLEASE INDICATE HOW MANY WITNESSES WILL BE CALLED**

Applicant

☐ 1 to 2                      ☐ 2 to 4                      ☐ 4 to 6                      ☐ 6 or more

Respondent

☐ 1 to 2                      ☐ 2 to 4                      ☐ 4 to 6                      ☐ 6 or more

**14. CONFIRMATION OF ABOVE DETAILS**

Form submitted by: .....  
(Please print name)

Signature:.....  
.

Position:.....

Date:.....

Place:.....

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**National Office**  
Metal Industries House • 1<sup>st</sup> floor  
42 Anderson Street • Johannesburg 2001  
P.O. Box 9381 • Johannesburg 2000  
**Telephone:** (011) 639 8000 • **Facsimile:** 086 636 8690  
[www.meibc.co.za](http://www.meibc.co.za)  
VAT No: 4120260544

### Consent to process personal information

### Declaration and Informed Consent

- a) I declare that all Personal Information supplied to the Organisation for the purposes of service delivering and related legal and operational reasons is accurate, up to date, is not misleading and that it is complete in all respects. I undertake to immediately advise the Organisation of any changes to my Personal Information should any of these details change.
- b) I furthermore give the Organisation permission to process my Personal Information, as provided above, and acknowledge that I understand the purposes for which it is required and for which it will be used.

Name

Signature

Date


<b>Cape Town</b> Office 1401 14 <sup>th</sup> Floor Golden Acre Adderly Street L: 021 421 6140 F: 086 636 8696	<b>Dispute Resolution</b> P.O. Box 9381 Johannesburg 2000 L: 011 834 4660 F: 086 636 8699	<b>East London / Boarder</b> P.O. Box 13162 Vincent, 5217 L: 043 743 7790 F: 086 636 8691	<b>Gauteng Regional Office</b> P.O. Box 9381 Johannesburg, 2000 L: 011 639 8000 F: 086 636 8689	<b>George</b> 2 <sup>nd</sup> Floor Eagles View Building 5 Progress Street L: 044 873 3200 F: 044 873 3212	<b>KwaZulu Natal</b> P.O. Box 5900 Durban, 4000 L: 031 305 4761 F: 086 636 8693	<b>Port Elizabeth/ Midlands</b> P.O. Box 12848 Centrahill, 6006 L: 041 586 1542 F: 086 636 8694	<b>Richards Bay</b> P.O. Box 1563 Richards Bay, 3900 L: 035 789 2084 F: 086 636 8698	<b>Tshwane</b> P.O. Box 570 Pretoria, 0001 L: 012 407 3700 F: 086 648 3582	<b>Welkom</b> P.O. Box 30095 Moreskof, 9462 L: 057 352 4142 F: 057 352 5093 /086 636 8697	<b>Witbank</b> P.O. Box 3787 Witbank, 1035 L: 013 658 9400 F: 086 636 8695
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**CONDONATION APPLICATION FOR THE LATE REFERRAL**

**IN THE CENTRE FOR DISPUTE RESOLUTION**

Case Number (if already given): \_\_\_\_\_

Applicant Name: \_\_\_\_\_

and

Respondent Name:

\_\_\_\_\_  
\_\_\_\_\_  
-

**NOTICE OF APPLICATION FOR CONDONATION**

\_\_\_\_\_  
-

Pleased take notice that the Applicant intends to apply for condonation of his/her/their late referral for conciliation/arbitration on a date and time to be determined by the CDR for an order in the following terms:

- (1) Condone late referral for conciliation/arbitration;
- (2) Set down a date for oral submission of facts pertaining to this application;
- (3) Order costs to the Respondent who oppose this application; and
- (4) Further and/alternate relief.

An affidavit or statement in support of the application is attached hereto.

Also take notice that should the Respondent(s) party wish to oppose the application, an answering affidavit or statement must be deliver to CDR within five (5) days of receipt of this application failing which the matter may be heard in absentia.

(NB: This application will be dealt with in terms of CCMA Rule 31)

TAKE NOTICE FURTHER THAT the Applicant will accept the service of all processes, notices and documents in this matter as set out below.

Signed at \_\_\_\_\_ on this \_\_\_\_\_ day of \_\_\_\_\_

Applicant/s details: \_\_\_\_\_

Address: \_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_

Tel: \_\_\_\_\_

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

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

TO: CENTRE FOR DISPUTE RESOLUTION (CDR)

1<sup>st</sup> Floor, Metal Industries House

42 Anderson Street

JOHANNESBURG, 2001

Tel: 011 834 4660

Fax: 086 636 6899 / 011 834 6853

Email: [cdr@meibc.co.za](mailto:cdr@meibc.co.za)

AND TO: Respondent/s details:

Address: \_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_

NB: Please note that condonation application must be served on the employer party and furnish the CDR with proof of service thereof.

**APPLICATION FOR CONDONATION IN RESPECT OF UNFAIR DIMISSAL DISPUTE**

REFERENCE NUMBER: \_\_\_\_\_

\_\_\_\_\_  
(Applicant / Employee)

and

\_\_\_\_\_  
(Respondent / Employer)

**FOUNDING AFFIDAVIT**

I, the undersigned,

\_\_\_\_\_  
(full name of Employee / Employer)

do hereby make an oath and say:

**1. BACKGROUND**

1.1. The dispute arose on:

\_\_\_\_\_

1.2. The employer refused to reinstate me on:

\_\_\_\_\_

1.3. The dispute arose on \_\_\_\_\_ after all attempts to negotiate or follow other internal procedure including an appeal hearing at the company failed.

**2. THE DEGREE OF LATENESS**

2.1. The referral is \_\_\_\_\_ days late.

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

2.2.1. I went to my union / the department of Labour / Community Advice Centre / Legal Advice Centre (delete which is not applicable) on \_\_\_\_\_

2.2.2. I telephoned \_\_\_\_\_ on \_\_\_\_\_

2.2.3. I signed the referral form on \_\_\_\_\_

### 3. REASONS FOR LATENESS

The reason that I referred the matter late is

---

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---

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### 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)*

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### 5. PREJUDICE

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

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---

---

---

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 \_\_\_\_\_ at \_\_\_\_\_ by 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 weeks' 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 five (5) 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 **three (3) days** to respond to the respondent's affidavit (answering 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.

END