


BCEA Form 15
Section(s) 68(3) and 73(1)
Basic Conditions of
Employment Act 75 of 1997,
as amended.

APPLICATION FOR A WRITTEN
UNDERTAKING / COMPLIANCE
ORDER TO BE MADE AN
ARBITRATION AWARD



READ THIS FIRST



WHAT IS THE PURPOSE OF THIS FORM?

This form requests the CCMA to make a written undertaking secured with an Employer or a Compliance Order issued by the inspector of the Department of Labour an arbitration award for the purpose of enforcing the written undertaking or compliance order.

If an employer from whom a written undertaking has been secured or to whom a compliance order has been issued and served does not comply with the written undertaking or compliance order within the period recorded therein, the Director General (or his/her delegate) may apply to the CCMA to make the written undertaking or compliance order an arbitration award which may then be enforced in terms of section 143 of the LRA.

WHEN CAN THIS APPLICATION BE MADE?

This application can only be referred after the date on which the employer was required to comply with the written undertaking or compliance order.

WHO FILLS IN PART A OF THIS FORM?

A party applying to have the written undertaking or compliance order made an arbitration award. The applicant must state whether it is the referring party or the other party in the matter.

CCMA REGIONAL OFFICE WHEREIN THE REFERRAL IS MADE:

In the matter between:

REFERRING PARTY

obo

EMPLOYEE(S)

.....

and

EMPLOYER

PART A: APPLICATION FOR ENFORCEMENT FOR A WRITTEN UNDERTAKING OR COMPLIANCE ORDER TO BE MADE AN AWARD IN TERMS OF SECTION 68(3) OR 73(1) OF THE BCEA.

I, the undersigned:

.....

(Full name of referring party)

do hereby make oath and say:

1. I am a duly delegated employee of the Department of Labour appointed in terms of section 9 of the Public Service Act, 1994 as amended.
2. The authority to refer this matter to the CCMA has been delegated / assigned to me by the Director-General in terms of section 85(5) of the BCEA.
3. On (date), the employer made a written undertaking in terms of section 68 of the BCEA to comply with certain provisions of the BCEA as per the attached undertaking, by no later than

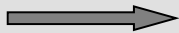
OR

Case Number

Please turn over →

THE FOLLOWING DOCUMENTS MUST BE ATTACHED TO THIS FORM

- A copy of the Compliance order or written undertaking
- Proof of service of the compliance order to the employer
- Inspection report
- Confirmatory affidavit of the inspector who secured the written undertaking or issued the compliance order.
- Any other relevant documents i.e. witness affidavits, documents obtained during the inspection etc.
- Proof of service of this form on the employer and any other relevant parties.



Use additional paper if necessary.

“Deponent” refers to the applicant. The completed affidavit should only be signed by the applicant in the presence of the Commissioner of Oaths.



A Commissioner of Oaths must complete this section in the presence of the Deponent

OBJECTION TO THE ENFORCEMENT OF A WRITTEN UNDERTAKING OR COMPLIANCE ORDER:

If the employer wishes to object to the written undertaking or compliance order being made an arbitration award the employer must serve and file a notice of objection in terms of Rule 31B (4), within 5 days of receipt of this application.

4. On (date), a labour inspector issued and served a compliance order (Annexure A) on the employer in terms of section 69(1) of the BCEA requiring the employer to comply with certain provisions of the BCEA as per the attached compliance order, by no later than

(complete whichever is applicable and delete whichever is not applicable)

5. To date –
- a) The period within which the employer had to comply with the written undertaking or compliance order has lapsed.
 - b) The employer has failed to fully comply with the written undertaking or compliance order.
 - c) Specifically, the employer has failed to comply with the following provisions of the written undertaking or compliance order:

 - d) The employer has not referred a dispute relating the compliance order in terms of section 69(5) of the BCEA.

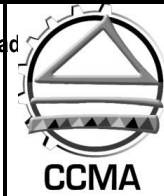
6. Whereof, the application is hereby made for the – (tick boxes)
- written undertaking to be made an arbitration award in terms of section 68(3) of the BCEA
 - compliance order to be made an arbitration award in terms of section 73 of the BCEA
- Other

.....
DEPONENT (Signature)

I HEREBY CERTIFY that the deponent has acknowledged that he / she knows and understands the contents of this affidavit which was signed and sworn to before me at.....on (date)

.....
COMMISSIONER OF OATHS

.....
DATE



Application for a Written Undertaking / Compliance Order to be made

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

LRA Form 7.11
Labour Relations Act, 1995
Sections 9, 16, 21, 22, 24, 26, 45, 61, 63, 64, 72, 74, 86, 89, 94, 134, 191(1), 198 and 198A-C
Employment Equity Act, 1998
Sections 10
Basic Conditions of Employment Act, 1997
Sections 41, 69(5), 73A,80, 84
Skills Development Act, 1998
Section 19
National Minimum Wage Act, 2018
Section 4(8)

READ THIS FIRST



WHAT IS THE PURPOSE OF THIS FORM?

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

WHO FILLS IN THIS FORM?

Employer, employee, trade union or employers' organisation.

OTHER PARTIES

If there is more than one employee to the dispute and the referring party is not a trade union, then each employee must supply his/her personal details and signature on a separate page, which must be attached to this form.

WHERE DOES THIS FORM GO?

The Registrar, Regional Office of the CCMA in the region where the dispute arose.

OTHER INSTITUTIONS

Please note that if you are covered by a bargaining council, a statutory council or an accredited agency you have to refer the dispute to the relevant council or agency.

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

If in doubt contact the CCMA for assistance.

WHAT WILL HAPPEN WHEN THIS FORM IS SUBMITTED?

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

1. DETAILS OF PARTY REFERRING DISPUTE

- An employee
- An employer
- Department of Labour
- A trade union
- An employers' organisation

(a) Name of the party if the referring party is an employee

Name:.....

Surname:.....

Length of service:..... ID Number:.....

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

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

Postal Address:.....

.....Code:.....

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

Fax:..... Email:

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

Name:.....

Surname:.....

Postal Address:.....

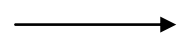
.....Code:.....

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

Fax:..... Email:

CCMA Case Number.....

Please turn over



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 any of the following:

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

Attach supporting documents

The CCMA may be requested to assist with service.

UNFAIR LABOUR PRACTICE

If the dispute(s) concerns an unfair labour practice the dispute must be referred (i.e. received by the CCMA) within 90 days of the act or omission which gave rise to the unfair labour practice. If more than 90 days has lapsed you are required to apply for condonation.

NATIONAL MINIMUM WAGE DISPUTES

Disputes emanating from the NMWA and referred either in terms of S4(8) of the NMWA or S73A of the BCEA may be referred by any person who works for another and who receives or is entitled to receive any payment for that work.

MUTUAL INTEREST DISPUTES

- Attach the collective agreement on picketing or
- If no collective agreement on picketing, complete Annexure A to this form.
- If referring a request for establishment of picketing rules, complete Annexure A to this form.
- If referring a dispute relating to breach or interpretation of picketing rules, attach a copy of the picketing rules.

DISPUTES RELATING TO COMPLIANCE ORDERS

If referring a dispute relating to a compliance order, the order must be attached to this form. If the dispute is referred after the date on which compliance was due you are required to

(b) Name of the referring party if the referring party is an employer, Department of Labour, employer's organisation or trade union, or if the employer's organisation or the trade union is assisting a member to the dispute

Name:.....

Surname (if applicable):.....

Designation:.....

Postal Address:.....

..... Code:.....

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

Fax:..... Email:

Contact person:.....

2. DETAILS OF THE OTHER PARTY (PARTY WITH WHOM YOU ARE IN DISPUTE)

The other party is:

- An employer An employer's organisation Department of Labour
- An employee A trade union
- Other, Specify.....

(E.g. Temporary Employment Service, owner of the premises or person who controls access to the premises where employees work if it's an organisational rights dispute etc.)

Full Name(s):.....

(If company or close corporation, the name of the company or close corporation)

Postal Address:.....

..... Code:.....

Physical Address:.....

..... Code:.....

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

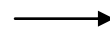
Fax:..... Email:.....

Company or close corporation registration number:

Number of employees employed by the employer:

apply for condonation.

Please turn over



3. NATURE OF THE DISPUTE

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

- | | |
|---|--|
| <input type="checkbox"/> Dismissal | <input type="checkbox"/> Mutual Interest |
| <input type="checkbox"/> Severance Pay | <input type="checkbox"/> Organisation Rights |
| <input type="checkbox"/> Unfair Labour Practice | <input type="checkbox"/> Disclosure of Information |
| <input type="checkbox"/> Freedom of Association | <input type="checkbox"/> S80 BCEA |
| <input type="checkbox"/> Unfair Discrimination – S10 EEA | <input type="checkbox"/> S19 SDA |
| <input type="checkbox"/> Interpretation / Application of Collective Agreement | <input type="checkbox"/> S198 LRA |
| <input type="checkbox"/> Disputes relating to breach of collective agreement, picketing agreement or picketing rules - S69(8) | <input type="checkbox"/> S198B (Fixed Term Contract) |
| <input type="checkbox"/> Unilateral Changes to Terms and Conditions of Employment – S64 LRA | <input type="checkbox"/> S84 BCEA |
| <input type="checkbox"/> Refusal to Bargain | <input type="checkbox"/> Breach of picketing rules |
| <input type="checkbox"/> S198A LRA (Temporary Employment) | |
| <input type="checkbox"/> S198C (Part-time Employment) | |
| <input type="checkbox"/> Application for determination of Picketing Rules – S69(6B) | |
| <input type="checkbox"/> S198A(4) LRA (Dismissal) | |
| <input type="checkbox"/> S198A(5) LRA (Unfavorable treatment) | |
| <input type="checkbox"/> Unilateral Changes to Terms and Conditions of Employment S4(8) NMWA | |
| <input type="checkbox"/> S73A of the BCEA (Claims for monies owing in terms of the NMWA) | |
| <input type="checkbox"/> S73A (Other claims for failure to pay amounts owing) | |
| <input type="checkbox"/> S69(5) BCEA (Dispute relating to Compliance orders) | |
| <input type="checkbox"/> Other | |

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

- | | |
|--|--|
| <input type="checkbox"/> Misconduct | <input type="checkbox"/> Incapacity |
| <input type="checkbox"/> Unknown Reasons | <input type="checkbox"/> Constructive Dismissal |
| <input type="checkbox"/> Poor Work Performance | <input type="checkbox"/> Dismissal relating to Probation |
| <input type="checkbox"/> Operational Requirements (Retrenchments) | |
| <input type="checkbox"/> Where I was the only employee dismissed | |
| <input type="checkbox"/> Where the employer employs less than ten (10) employees | |

Other

4. SUMMARISE THE FACTS OF THE DISPUTE (Use additional paper if necessary)

.....

.....

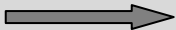
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.....

.....

This section must be completed!



(If referring a dispute relating to amounts owing in terms of section 73A of the BCEA, please provide details relating thereto)

If necessary write the details on a separate page and attach to this form.

If it is an unfair labour practice, state whether it relates to probation.

Please turn over



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) _____

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 reason for the dismissal unfair? Yes No
If yes, why?

.....
.....

8. RESULT REQUIRED

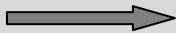
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9. SECTOR

Indicate the sector or service in which the dispute arose.

- | | |
|---|--|
| <input type="checkbox"/> Retail | <input type="checkbox"/> Safety/Security (Private) |
| <input type="checkbox"/> Mining | <input type="checkbox"/> Domestic |
| <input type="checkbox"/> Building & Construction | <input type="checkbox"/> Food & Beverage |
| <input type="checkbox"/> Business/Professional Services | <input type="checkbox"/> Transport (Private) |
| <input type="checkbox"/> Agriculture/Farming | |
| <input type="checkbox"/> Other | |

This section must be completed!



If necessary write the details on a separate page and attach to this form.

Please turn over

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



Section 10 of the Employment Equity Act requires the referring party to satisfy the Commission that he/she has attempted to resolve the dispute internally before referring it to the CCMA.

Resolving a dispute internally may include engagements with management, filing a grievance and/or following any other process as set out in the company policy.

Failure to make reasonable attempts to resolve the dispute will mean the referral is pre-mature and therefore, the CCMA may not have jurisdiction / or power to determine the dispute.

10. INTERPRETER SERVICES

Is an interpreter required? **Yes / No**

- | | | |
|--|-------------------------------------|-----------------------------------|
| <input type="checkbox"/> Afrikaans | <input type="checkbox"/> IsiNdebele | <input type="checkbox"/> IsiZulu |
| <input type="checkbox"/> IsiXhosa | <input type="checkbox"/> Sepedi | <input type="checkbox"/> SeSotho |
| <input type="checkbox"/> Setswana | <input type="checkbox"/> IsiSwati | <input type="checkbox"/> Xitsonga |
| <input type="checkbox"/> Sign Language | <input type="checkbox"/> Tshivenda | |
| <input type="checkbox"/> Other | | |

11. DISCRIMINATION MATTER

If it is a discrimination dispute, have you attempted to resolve the dispute?

Yes		No	
-----	--	----	--

If yes specify steps taken to resolve the dispute and if no, provide reasons for not attempting to resolve the dispute internally:

.....

.....

.....

.....

.....

(If written confirmation is available, please attach)

12. CONFIRMATION OF ABOVE DETAILS

Form submitted by:

.....
 (please print name)

Signature:

Position:

Date:

Place.....



**COMMISSION FOR CONCILIATION,
MEDIATION & ARBITRATION**

TO THE CCMA

PROTECTION OF PERSONAL INFORMATION ACT, 4 OF 2013

By signing this referral form, I/we hereby grant my/our voluntary consent that my/our personal information may be processed, collected, used and disclosed in compliance with the Protection of Personal Information Act, 4 of 2013. I/we furthermore agree that my/our personal information may be used for the lawful and reasonable purposes in as far as the CCMA (responsible party) must use my/our information in the performance of its public legal duty. I/we understand that my/our personal information may be disclosed to a third party in as far as the CCMA must fulfil its public legal duty. I/we furthermore understand that there are instances in terms of abovementioned Act where my express consent is not necessary to permit the processing of personal information, which may be related to litigation or when the information is publicly available. Further details are available on the CCMA website.

SIGNED AT _____ ON THIS _____ DAY OF _____ 202__

INITIAL AND SURNAME: _____

SIGNATURE: _____