

CCMA FEES AND COSTS

FEES

The CCMA may charge fees in circumstances outlined below.

WHEN CAN THE CCMA CHARGE FEES?

Fees that may be charged by the CCMA are set by the Governing Body in terms of section 123 of the Labour Relations Act. (see Tariff of Fees overleaf).

The CCMA may charge fees in the following circumstances:

When conducting, overseeing, or scrutinising any election or ballot at the request of a registered trade union or employers' organisation.

When providing advice or training to employees, employers, registered trade unions, federations of trade unions, registered employers' organisations, federations of employers' organisations, or councils relating to the primary objects of the Labour Relations Act or any other employment law. This training or advice may include (but is not limited to) the following-

- establishing collective bargaining structures;
- designing, establishing, and electing workplace forums and creating deadlock-breaking mechanisms;
- the functioning of workplace forums;
- preventing and resolving disputes and employees' grievances;
- disciplinary procedures;
- procedures in relation to dismissals;
- the process of restructuring the workplace;
- affirmative action and equal opportunity programmes; and
- the prevention of sexual harassment in the workplace.

In terms of section 140(2) of the Labour Relations Act (LRA) the CCMA may charge an employer an arbitration fee in dismissal matters, where the commissioner finds that the dismissal was only procedurally unfair. This fee is payable to the CCMA and is in addition to any compensation awarded to the employee in terms of section 194(1).

The CCMA may charge a fee for each day or part thereof when hearing a dispute about the interpretation of a collective agreement when -

- the collective agreement does not provide a procedure for resolving that dispute;
- the procedure provided in the collective agreement is not operative;
- a party to a collective agreement has frustrated the resolution of the dispute;
- resolving a dispute between parties to a council, or parties who fall within the registered scope of a council, if the council's dispute resolution procedures are not operative;
- resolving a dispute between parties to a collective agreement that provides for the resolution of that dispute by an accredited agency, where the agency's dispute resolution procedures are not operative.

The CCMA may charge a fee for conducting an Inquiry by Arbitrator hearing in terms of section 188A of the LRA.

WITNESS FEES?

Where a party wishes to subpoena a witness, it will be required to pay a witness fee to that witness together with the witness's reasonable travel and subsistence expenses. The CCMA may waive the requirement for payment of witness fees on motivation. Payment to witnesses is governed by CCMA Rule 38.

WHEN AND WHERE DO YOU PAY FEES?

The CCMA will issue an invoice to the party who is required to pay a fee in line with the CCMA Tariff of Fees. The public MUST NOT pay any CCMA employee directly – only pay to the CCMA's official bank account.

The CCMA will not authorise any of its staff members or commissioners to collect money directly from parties.

Witness fees must be paid directly to the witness in terms of CCMA Rule 38.

COSTS

Costs refer to an order by a commissioner for a party to pay the other party for certain expenses incurred in having the dispute resolved

through the CCMA e.g. legal costs and disbursements for subsistence and travelling. Costs can only be awarded in respect of arbitration hearings.

A commissioner may make an order for the payment of costs according to the requirements of law and fairness and in accordance with CCMA Rule 39.

The Courts have explained the meaning of "law and fairness" as follows: costs may be awarded in the discretion of the decision-maker. Generally costs should follow the result (i.e. the loser should pay the winner's costs), but (particularly in the CCMA) regard should be had to additional considerations, namely that parties should not be discouraged from invoking the dispute resolution mechanisms of the LRA; that costs should not be lightly ordered if a party acts in good faith, especially where the matter involves issues of importance to the wider industrial relations community; that a costs award should not damage an ongoing relationship between the parties; and that the conduct of the parties should be taken into account.

CCMA RULE 39

In any arbitration proceedings, the commissioner may make an order for the payment of costs according to the requirements of law and fairness and when doing so should have regard to -

1. the measure of success that the parties achieved;
2. considerations of fairness that weigh in favour of or against granting a cost order;
3. any with prejudice offers that were made with a view to settling the dispute;
4. whether a party or the person who represented that party in the arbitration proceedings acted in a frivolous and vexatious manner -
 - a. by proceeding with or defending the dispute in the arbitration proceedings, or
 - b. in its conduct during the arbitration proceedings;
5. the effect that a cost order may have on a continued employment relationship;

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6. any agreement concluded between the parties to the arbitration concerning the basis on which costs should be awarded;
7. the importance of the issues raised during the arbitration to the parties as well as to the labour community at large;
8. any other relevant factor.

The Rule also stipulates what costs can be awarded. Where a party is not legally represented, the costs are limited to reasonable disbursements actually incurred, and items and amounts must be specified by the party claiming costs. Where parties are legally represented the legal fees (not disbursements) can be claimed and can only be awarded if all parties are legally represented. In terms of the LRA, legal fees are limited to R7000,00 for the first day of arbitration and R4 700.00 per day for any subsequent days (both amounts inclusive of VAT). Fees for a candidate attorney are 50% of the latter fees.

RELEVANT LEGISLATION

Labour Relations Act 66 of 1995, section 138 (10) and Rule 39 of the Rules for the Conduct of Proceedings before the CCMA.
CCMA Tariff of Fees. R 2574 in GG 47254 of 7 October 2022.

TABLE – CCMA TARIFF OF FEES, 7 OCTOBER 2022

	SERVICE	TARIFF OF FEES
1	Training and Advice in terms of 115 (3)	R3 213, 50 – R7 301.73
1A	PLUS Administration fee for the coordination and / or preparations of training and training material to be delivered in terms of the item 1 to this Tariff of fees and section 115(3) of the LRA.	All direct variable costs. PLUS, 8% of the total direct fixed and variable costs.
2	Conducting, overseeing, or scrutinizing any election of ballot of a registered trade union or registered employers' organisation in terms of S123(1)(b) of the LRA.	R3 213,50 – R7 301.73 PLUS, All direct variable costs. PLUS, 8% of the total direct fixed and variable costs.

2A	Sate of the CCMA publications developed for purpose of executing discretionary function in terms of section 115 of the LRA.	All direct variable costs. PLUS, 8% of the total direct fixed and variable costs.
3	Costs where a dismissal is found to be unfair only because the employer did not follow a fair procedure in terms of S140 (2) of the LRA.	R3 213,50 – R7 301.73
4	Resolving a dispute about the Interpretation or application of a collective agreement under S147 (1) of the LRA.	R3 213,50 – R7 301.73 PLUS, All direct variable costs. PLUS, 8% of the total direct fixed and variable costs.
5	Resolving a dispute between parties to a council of the council's dispute resolution procedure are not operative in terms of S147 (2) of the LRA.	R3 213,50 – R7 301.73 PLUS, All direct variable costs. PLUS, 8% of the total direct fixed and variable costs.
6	Resolving a dispute between parties who fall within the registered scope of a council if the council's dispute resolution procedures are not operative in terms of S147(3) of the LRA.	R3 213,50 – R7 301.73 PLUS, All direct variable costs. PLUS, 8% of the total direct fixed and variable costs.
7	Resolving a dispute between parties to a collective agreement in terms S147 (5) of the LRA.	R3 213,50 – R7 301.73 PLUS, All direct variable costs.

		PLUS, 8% of the total direct fixed and variable costs.
8	Resolving a dispute by inquiry by arbitrator in terms of S188A.	R3 213,50 – R7 301.73 PLUS, All direct variable costs. PLUS, 8% of the total direct fixed and variable costs.