


APPLICATION FOR CONDONATION IN RESPECT OF REFERRAL DOCUMENTS, REQUESTS, OR APPLICATIONS DELIVERED LATE

Instructions:

1. For a condonation application for the late referral of a dispute or document, please insert your identifying details and complete the **written statement**.
2. Please read Information Table One and Table Two for details on the time periods for the referral of disputes and the filing of documents linked to application proceedings.

Please insert the identifying details of the parties to this application.

IDENTIFYING DETAILS	INSERT YOUR DETAILS HERE 
Name of party applying for condonation (if it is an employer, please cite the full name of the business or in the case of a natural person, that person's name and surname)	
Contact number and e-mail address	
Name of the respondent (if it is an employer, please cite the full name of the business or in the case of a natural person, that person's name and surname)	
Contact number and e-mail address	
Case number (where applicable)	
Date of application for condonation	

WRITTEN STATEMENT

I, the undersigned,
(full name and the capacity of person making the written statement – e.g. Bongani Xing, employee)

do hereby declare that the following information is accurate and that I understand that I may be required to confirm the content of this written statement under oath or affirmation before a commissioner of the CCMA.

GROUND FOR CONDONATION (This section must be completed)

1. **Degree of Lateness** (please use Information Table One to determine the degree of lateness for a referral document and Information Table Two to determine the degree of lateness for an application document).

1.1 The referral or the delivery of the application documentation is days late.

2. **Please set out the reasons for the late delivery of the referral or application document(s)**

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3. **The referring party’s prospects of succeeding with the referral or application and obtaining the relief sought against the other party** *(Please set out why you believe you are likely to succeed with your dispute referral or the application – including notice of opposition to the application.)*

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5. **Any prejudice to the other party** *(What prejudice [disadvantage], if any, do you think your late referral or submission of application documentation may have for the other party.)*.....

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6. **Any other relevant factors?** *(Include any other information that you believe will assist the commissioner to determine your application for condonation.)*

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7. **PLEASE NOTE:**

Table one below sets out the time periods in which disputes may be referred to the CCMA.

Table Two sets out the time periods in which to deliver opposing and replying statements, or other similar written statements as may be required.

8. POPIA CONFIRMATION:

By signing this document, I/we hereby grant my 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.

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For the Applicant

Capacity

Information Table One: Time period for the referral of a dispute to the CCMA

When calculating days, please exclude the first day and include the last day in your calculation. For example, if you were dismissed on 01 June, you must start counting the 30-day referral period for conciliation from 02 June.

NATURE OF DISPUTE	NUMBER OF DAYS TO REFER
Alleged unfair dismissal (Conciliation or con-arb application)	CONCILIATION OR CON-ARB: Refer within 30 days of the date of dismissal ¹ or if it is a later date, within 30 days of the employer making a final decision to dismiss or to uphold the dismissal.
	ARBITRATION: Refer within 90 days of the earlier of the expiry of the 30-day conciliation period or the date of receipt of the certificate of outcome.
Alleged unfair labour practice	CONCILIATION OR CON-ARB: Refer within 90 days of the act or omission which allegedly constitutes the unfair labour practice or, if it is a later date, within 90 days of the date on which the employee became aware of the act or occurrence.
	ARBITRATION: Refer within 90 days of the earlier of the expiry of the 30-day conciliation period or the date of receipt of the certificate of outcome.
Alleged unfair discrimination	CONCILIATION: Refer within 6 months of the act or omission that allegedly constitutes unfair discrimination.
	ARBITRATION: Refer within 90 days of the earlier of the expiry of the 30-day conciliation period or the date of receipt of the certificate of outcome.
Employer refers a dispute concerning a compliance order issued in terms of section 69 of the BCEA. ²	Refer within the time stated in the compliance order.

Information Table Two: Compliance with time periods set out in the CCMA Rules.

When calculating days, please exclude the first day and include the last day in your calculation.

CCMA RULE	APPLICATION	NUMBER OF DAYS TO SUBMIT
Rule 9 Application for Condonation for a dispute referred in terms of the LRA, BCEA or EEA	Opposing an application (Rule 31(5))	Within 5 days after receiving the application.
	Replying to an application to oppose the application (Rule 31(6))	Within 3 days after receiving the application to oppose and opposing statement.
Rule 17 Conduct of a con-arb	Notice of objection to a con-arb hearing.	Notice to be served at least 7 days prior to the date of the hearing.
Rule 20 When the parties must hold a pre-arbitration conference	Convening a pre-arbitration conference (Rule 20(2)).	Pre-arbitration conference must be convened at least 14 days prior to the date of the arbitration or as directed in terms of Rule 20(1)(c).
	Delivering a copy of the pre-arbitration minute.	Pre-arbitration minute to be delivered to the commissioner at least 7 days prior to arbitration or as directed in terms of Rule 20(1)(c).
Rule 23 How to postpone an arbitration	Delivering written confirmation by both parties to agree to postpone (Rule 23(2)(b))	Written confirmation of agreement to postpone delivered to the Commission at least 7 days prior to arbitration.
	Application to postpone an arbitration hearing – used in the absence of agreement of both parties to postpone. (Rule 23(3) read with Rule 31(2))	Within 14 days of the date of the hearing.
	Opposing an application (Rule 31(5))	Within 5 days after receiving the application.

¹ **190. Date of dismissal.** (1) The date of *dismissal* is the earlier of— (a) the date on which the contract of employment terminated; or (b) the date on which the *employee* left the service of the employer. (2) Despite subsection (1)— (a) if an employer has offered to renew on less favourable terms, or has failed to renew a fixed term contract of employment, the date of *dismissal* is the date on which the employer offered the less favourable terms or the date the employer notified the *employee* of the intention not to renew the contract; (b) if the employer refused to allow an *employee* to resume work, the date of *dismissal* is the date on which the employer first refused to allow the *employee* to resume work; (c) if an employer refused to reinstate or reemploy the *employee*, the date of *dismissal* is the date on which the employer first refused to reinstate or re-employ that *employee*; (d) if an employer terminates an *employee's* employment on notice, the date of *dismissal* is the date on which the notice expires or, if it is an earlier date, the date on which the *employee* is paid all outstanding salary.

² BCEA = Basic Conditions of Employment Act 75 of 1997.

CCMA RULE	APPLICATION	NUMBER OF DAYS TO SUBMIT
	Replying to an application to oppose the application (Rule 31(6))	Within 3 days after receiving the application to oppose and opposing statement.
Rule 25 Representation before the Commission.	Application for representation. Rule 31(2))	Within 14 days of the date of the hearing.
	Opposing an application (Rule 31(5))	Within 5 days after receiving the application.
	Replying to an application to oppose the application (Rule 31(6))	Within 3 days after receiving the application to oppose and opposing statement.
Rule 26 How to join or substitute parties to proceedings - OR	Application for substitution or joinder or to correct the citation. Rule 31(2)).	Within 14 days of the date of the hearing.
	Opposing an application (Rule 31(5))	Within 5 days after receiving the application.
Rule 27 How to correct the citation of a party.	Replying to an application to oppose the application (Rule 31(6))	Within 3 days after receiving the application to oppose and opposing statement.
Rule 29 Disclosure of documents or material relevant to the dispute.	Application for disclosure (Rule 29(1)).	Application to be made not less than 14 days of the arbitration hearing date.
	Responding to the application.	Within 5 days from the date of receipt of the application.
	Replying to the response received to the application.	Within 3 days from the date on which the responding or answering statement was received.
R31B Enforcement of Written Undertaking or Compliance Order.	Application (Rule 31B)	Within 36 months of the amount being made payable by the employer to the employee.
	Opposing an application (Rule 31(5))	Within 5 days after receiving the application to enforce.
	Replying to an application to oppose the application (Rule 31(6))	Within 3 days after receiving the application to oppose and opposing statement.
Rule 32 How to apply to vary or rescind awards or rulings.	Application (Rule 31(2))	Within 14 days of the party becoming aware of the arbitration award or ruling.
	Opposing an application (Rule 31(5))	Within 5 days after receiving the application.
	Replying to an application to oppose the application (Rule 31(6))	Within 3 days after receiving the application to oppose and opposing statement.
Rule 33 How to apply to refer a dismissal dispute to the Labour Court (s191(6) of the LRA ³).	Application to refer a dismissal dispute that falls within the jurisdiction of the CCMA to the Labour Court (Rule 33).	For the employee: Within 90 days of the expiry of the 30-day conciliation period, or if earlier, within 90 days of the issuing of the certificate of outcome. For the employer: within 14 days of the request for arbitration being filed.
	Objection to the s191(6) application.	Within 7 days of receipt of the application.
	Replying to an application	N/A
Rule 37 How to have a subpoena issued and served.	Request for a subpoena (Rule 37(3))	At least 14 days prior to the arbitration hearing, or as directed by the commissioner hearing the arbitration.
	Provision of additional information by the applicant upon request from the commissioner.	Within 3 days of receipt of the request or as directed by the commissioner hearing the arbitration.
	Provision of a written response by the opposing party (only if requested by the commissioner)	Within 5 days of receipt of request from the commissioner, or as provided in the written request.
Rule 37A Expert witnesses.	Provision of notice to call an expert witness to the Commission and the other party to the dispute.	Notice, together with a summary of the proposed evidence of such witness must be given 7 days prior to the hearing.

³ LRA = Labour Relations Act 66 of 1995.