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**BARGAINING COUNCIL FOR THE FAST FOOD, RESTAURANT, CATERING AND ALLIED TRADES**

**REFERRING A DISPUTE TO THE BARGAINING COUNCIL FOR THE FAST FOOD, RESTAURANTS, CATERING AND ALLIED TRADES (INCLUDING CON – ARB)**

**READ THIS FIRST**



**WHAT IS THE PURPOSE OF THIS FORM?**

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

**WHO FILLS IN THIS FORM?**

Employer, employee, union or employers' organisation.

**WHERE DOES THIS FORM GO?**

The General Secretary of the Bargaining Council.

**WHAT WILL HAPPEN WHEN THIS FORM IS SUBMITTED?**

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

**OTHER INSTITUTIONS**

Please note that if you are not covered by this Bargaining Council agreement, you have to submit the dispute to the CCMA.

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

If in doubt contact the Bargaining Council for assistance.

**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 service by the person delivering the form;
- A copy of a fax confirmation slip; or
- Any other satisfactory proof of service.

**THE BARGAINING COUNCIL FOR THE FAST FOOD, RESTAURANTS, CATERING AND ALLIED TRADES, IS ACCREDITED TO PERFORM THE FOLLOWING DISPUTE RESOLUTION FUNCTIONS FOR PARTY TO PARTY DISPUTES**

Unfair dismissal disputes	-----Section 191
Unfair labour practice	-----Section 191
Mutual interest disputes	-----Section 64
Interpretation of Collective Agreement disputes	-----Section 24(1)
Essential Services disputes	-----Section 74
Essential Services disputes	-----Section 41
Pre – dismissal arbitrations	-----Section 188A
Application of Chapter 2	-----Section 9

**READ THIS FIRST**



Tick the correct box

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.

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).

**OTHER PARTIES**

If more than one party is referring the dispute or if the dispute is referred against more than one party, write down the additional names and particulars on a separate page and attach to this form

Tick the correct

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

As the referring party, are you:

An Employee  A Trade Union

An Employer  An Employer's organisation

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

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

I.D. Number: \_\_\_\_\_

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

\_\_\_\_\_ Postal Code: \_\_\_\_\_

Tell: \_\_\_\_\_ Cell: \_\_\_\_\_

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

**Alternate contact details of employee:**

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

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

\_\_\_\_\_ Postal Code: \_\_\_\_\_

Tell: \_\_\_\_\_ Cell: \_\_\_\_\_

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

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

(c) Name: \_\_\_\_\_

(d) Postal Address: \_\_\_\_\_

\_\_\_\_\_ Postal Code: \_\_\_\_\_

(e) Tell: \_\_\_\_\_ Cell: \_\_\_\_\_

(f) Fax: \_\_\_\_\_ Email: \_\_\_\_\_

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

An Employee  A Trade Union

An Employer  An Employee organisation

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

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

\_\_\_\_\_ Postal Code: \_\_\_\_\_

Tell: \_\_\_\_\_ Cell: \_\_\_\_\_

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

Please turn over →

Tick the correct box

If the dispute concerns dismissals, also complete Part B (See Page 5)

→

**This section must be completed!**

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

**UNFAIR LABOUR PRACTICE**

The dispute(s) concerns an unfair labour practice the dispute must be referred (i.e. received by the council) 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.

**3. NATURE OF THE DISPUTE**

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

- Unfair dismissal
- Unfair labour practice
- Application of chapter 2
- Interpretation of Collective Agreement
- Mutual interest
- Essential Service
- Temporary Employment
- Service Agree details
- Other (Please describe) \_\_\_\_\_

Summarize the facts of the dispute you are referring:

**4. DATE DISPUTE AROSE**

The dispute arose on: \_\_\_\_\_

The dispute arose where: \_\_\_\_\_

If the dispute concerns a dismissal the date inserted here must be the same as that set out in item 2 of part B

**5. DETAILS OF DISPUTE PROCEDURES FOLLOWED**

Have you followed all internal grievances/disciplinary  Yes  No

Procedures before coming to the Council?

Describe the procedures followed: \_\_\_\_\_

**6. RESULT OF CONCILIATION/ARBITRATION**

What outcome do you require? \_\_\_\_\_

Tick the correct box

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

Special features might be 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 disclosure about unilateral change to terms and conditions of employment.

The con – arb process involves arbitration being held immediately after the conciliation if the dispute remains unsolved.

Only fill in if you object to the arbitration commencing immediately after conciliation. An objection cannot be made in disputes relating to probation.

## 7. SECTOR

Indicate the sector or service in which the dispute arose

Restaurant     Tea Room     Catering Trade

Fish & Chips Shop     Cafes     RoadHouse

Take Away Food Outlet     Other \_\_\_\_\_

## 8. INTERPRETATION SERVICES

Do you require an interpreter at the conciliation/con – arb  Yes  No

If Yes, please indicate for what language:

Afrikaans     isiNdebele     isiZulu     isiXhosa

Sepedi     Sesetho     Setswana     siSwati

Tshivenda     Xitsonga     Other (please indicate)

## 9. SPECIAL FEATURES/ADDITIONAL INFORMATION

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

## 10. Dispute about unilateral change to terms and conditions of employment (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 changes.

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 the employer objects to the arbitration commencing immediately after the conciliation the employer must submit a written notice in terms of the CCMA Rule 18(2) at least 7 days prior to the scheduled date of the conciliation. The employer must attend the conciliation regardless of whether it makes this objection.

## 12. CONFIRMATION OF ABOVE DETAILS

Signature of party referring the dispute: \_\_\_\_\_

Signed at \_\_\_\_\_ on this \_\_\_\_\_

**PART B**  
**ADDITIONAL FORM FOR DISMISSAL**  
**DISPUTES ONLY**

DATE OF REFERRAL

Dismissal disputes must be referred (i.e. received by the Bargaining Council) within 30 days of dismissal or, if it is a later date, within 30 days of the employer making a final decision to dismiss or to uphold the dismissal. If more than **30 days** has elapsed since the date of your dismissal, you are required to apply for condonation.

Tick the correct box

Tick the correct box

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

**1. COMMENCEMENT OF EMPLOYMENT**

When did you start working at the company?  
\_\_\_\_\_

**2. NOTICE OF DISMISSAL**

When were you dismissed (date)? \_\_\_\_\_

How were you informed of your dismissal?  
\_\_\_\_\_

In writing                       Orally

Other (Please describe) \_\_\_\_\_

**3. REASON FOR DISMISSAL**

Why were you dismissed?

Misconduct                       Incapacity

Operational Requirements                       Unknow  
(Retrenchment)

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 reason for dismissal unfair?     Yes     No

If yes, why? \_\_\_\_\_  
\_\_\_\_\_