

## Referring a dispute:

If you are an employee in dispute with your employer, or vice versa, over a matter such as-

- dismissal,
- wages and working conditions
- workplace changes, or
- discrimination

You may want to ask the CCMA to conciliate or even arbitrate your dispute. A union or employer's organisation may also initiate this action. You do not need the other party's consent before taking a matter to the CCMA.

**Note:** The following disputes **cannot** be referred to the CCMA-

- where an independent contractor is involved,
- where the case does not deal with an issue in the LRA or Employment Equity Act (EEA). (Basic Conditions of Employment Act (BCEA) issues may be linked to unfair dismissal disputes and unfair retrenchment disputes at the CCMA),
- where a bargaining council or statutory council exists for that sector,
- where a private agreement exists for resolving disputes (for example: private arbitration)

### Steps for disputes at the CCMA

**Step 1:** If you have a labour problem, it is very important that you take steps immediately. In the case of an unfair dismissal dispute, you have only 30 days from the date on which the dispute arose to open a case, if the case is an unfair labour practice, you have only 90 days and, with discrimination cases, you have six months.

**Step 2:** If you have decided to lodge a dispute, you need to complete a CCMA case referral form (also known as [LRA Form 7.11.](#)). These forms are available from the CCMA offices, Department of Labour and the CCMA website. (<http://www.ccma.org.za>).

**Step 3:** Once you have completed the form, you need to ensure that a copy is delivered to the other party and you must be able to prove that a copy was sent. Acceptable methods include faxing a copy (keep the fax transmission slip), sending it by registered mail (keep the postal receipt), send it by courier (keep proof) or deliver in person (ask the person receiving it to sign for it).

**Step 4:** You do not have to bring the referral form to the CCMA in person. You may also fax the form or post it. Make sure that a

copy of the proof that the form had been served on the other party is also enclosed.

**Step 5:** The CCMA will inform both parties as to the date, time and venue of the first hearing.

**Step 6:** Usually the first meeting is called conciliation. Only the parties, trade union or employers' organisation representatives (if a party to the dispute is a member) and the CCMA commissioner will attend. The purpose of the hearing is to reach an agreement acceptable to both parties. Legal representation is not allowed.

**Step 7:** If no agreement is reached, the commissioner will issue a certificate to that effect. Depending on the nature of the dispute, the case may be referred to the CCMA for arbitration or the Labour Court as the next step.

**Step 8:** In order to have an arbitration hearing, you have to complete a request for arbitration form, (also known as [LRA Form 7.13.](#)). A copy must be served on the other party (same as in step 3). Arbitration should be applied for within three months from the date on which the commissioner issued the certificate.

**Step 9:** Arbitration is a more formal process and evidence, including witnesses and documents, may be necessary to prove your case. Parties may cross-examine each other. Legal representation may be allowed. The commissioner will make a final and binding decision, called an arbitration award, within 14 days.

**Step 10:** If a party does not comply with the arbitration award, it may be made an order of the Labour Court.