

ANNEXURE 9(1)
SOUTH AFRICAN LOCAL GOVERNMENT
BARGAINING COUNCIL



REFERRING A DISPUTE TO THE COUNCIL

NATIONAL/DIVISION:

1. WHAT IS THE PURPOSE OF THIS FORM?

This form enables a person or organization to refer a dispute to the South African Local Government Bargaining *Council* (“*Council*”) for conciliation.

2. WHO FILLS IN THIS FORM?

Any party to the dispute, such as an employer, employee, *Trade Union* or employer’s organization.

3. WHERE DOES THIS FORM GO?

To the Regional Secretary of the *Council* in the Division where the dispute arose or if the dispute is a national dispute to the General Secretary of the *Council*.

4. WHAT WILL HAPPEN WHEN THIS FORM IS SUBMITTED?

When you refer the dispute to the *Council*, the *Council* will try to resolve the dispute, through conciliation, within 30 days of the date of referral.

5. 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 one 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 confirmation slip; or
- A copy of an email conformation slip or sent email; or
- Any other satisfactory proof of service.

6. PLEASE NOTE

The following disputes must be forwarded directly to the CCMA and cannot be dealt with by a bargaining *Council* in terms of the Labour Relations Act, No 66 of 1995 (of the *Act*).

- Disclosure of information disputes (16 and 189 of the *Act*);
- Organisational rights disputes (Chapter 3 part A of the *Act*);
- Agency shop disputes (25 of the *Act*);
- Closed shop disputes (26 of the *Act*);
- Interpretation or application of collective bargaining provisions (63(1) of the *Act*)
- Picketing disputes (69 of the *Act*);
- Workplace forum disputes (86 and 94 of the *Act*).

Please turn over ...

Unfair Labour Practice

If the dispute(s) concerns an unfair labour practice, the dispute must be referred 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.

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

3.NATURE OF THE DISPUTE

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

- Dismissal
- Mutual Interest
- Unilateral change to terms & conditions of employment
- Disputes by Essential Services employees
- Interpretation or application of collective agreement concluded at
 - Central Council level
 - Divisional level
 - LLF or Municipal level
- Refusal to Bargain
- Severance Pay S41 BCEA
- Disputes about Freedom of Association
- Unfair labour practice (probation)
- Unfair labour practice (other) – *please give details*

-
- S198 LRA
 - S198A(Labour Broker)
 - S198B(Fixed Term Contract)
 - S198C(Part-time Employment)
 - Other – *please give details*
-

If you have submitted another dispute which is similar or related to this dispute, please specify the SALGBC case number?

If it is 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 relates to probation |
- Operational Requirements (Retrenchments)
 - where I was the only employee dismissed
 - where the employer employs less than ten (10) employees
 - Other

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

.....
.....
.....

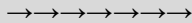
5.DATE AND WHERE DISPUTE AROSE:

The dispute arose on:

.....
(give the date, day, month and year)

The dispute arose where:

This must be completed!



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

Special features might be a reason for the urgency of the matter, the large number of people involved, important legal or labour issues, etc.

.....
(give the City/Town in which the dispute arose)

6.DATE OF DISMISSAL (if applicable) _____

7.FAIRNESS/UNFAIRNESS OF DISMISSAL(if applicable)

(b) **Procedural Issues**

Was the dismissal procedurally unfair? Yes No

If yes, why?

.....
.....

(c) **Substantive Issues**

Was the reason for the dismissal unfair? Yes No

If yes, why?

.....
.....

8.RESULT REQUIRED

.....
.....

9.OBJECTION TO CON-ARB PROCESS(Only complete this part if you object to the arbitration commencing immediately after conciliation)

I/we object to the arbitration commencing immediately after the conciliation in terms of 191(5A)(c).

Signature of person objecting to con-arb

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.SPECIAL FEATURES / ADDITIONAL INFORMATION

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

.....
.....

.....

**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 the employment that applied before the change.

Signed:(employee party referring the dispute)

12.PLEASE INDICATE HOW MANY WITNESSES WILL BE CALLED:

Applicant

1 to 2 2 to 4 4 to 6 6 or more

Respondent

1 to 2 2 to 4 4 to 6 6 or more

13.CONFIRMATION OF ABOVE DETAILS

Form submitted by:

.....

(Please print name)

Signature:

.....

Position:

.....

Date:

Place:

READ THIS



PART B
TO BE COMPLETED FOR DISMISSAL DISPUTES ONLY
SOUTH AFRICAN LOCAL GOVERNMENT BARGAINING COUNCIL

DISMISSAL DISPUTES MUST BE REFERRED WITHIN 30 DAYS OF DISMISSAL. IF THE DISMISSAL WAS MORE THAN 30 DAYS AGO, YOU ARE REQUIRED TO APPLY FOR CONDONATION ON C OF THIS FORM.

Tick the correct box

Tick the correct box

1. COMMENCEMENT OF EMPLOYMENT

When did you start working at the company?

2. NOTICE OF DISMISSAL

When were you dismissed?

How were you informed of your dismissal?

- By letter Verbally
- At/After a disciplinary hearing Constructive (resigned)
- At/After a disciplinary appeal hearing
- Other (*please describe*)

(a) REASON FOR DISMISSAL

Why were you dismissed?

- Misconduct Incapacity
- Operational Requirements Unknown
(Retrenchment)
- Other (*please describe*)

4. FAIRNESS/UNFAIRNESS OF DISMISSAL

(a) Procedural Issues

Was the dismissal procedurally unfair? Yes No

If yes, why?
.....

(b) Substantive Issues

Was the dismissal substantively unfair? Yes No

If yes, why?
.....

**PART C
CONDONATION APPLICATION –
TO BE COMPLETED IF YOUR REFERRAL IS OUT OF TIME
SOUTH AFRICAN LOCAL GOVERNMENT BARGAINING COUNCIL**

ONLY FILL THIS OUT IF THE CASE HAS BEEN REFERRED LATE :

Case number (if already given):

.....

Applicant Name: **Occupation:**.....

Respondent Name:

..... **Position:**.....

AFFIDAVIT

I, the undersigned, (*full name of applicant*) do hereby make an oath and say:

1. BACKGROUND

1.1. I was dismissed on (*give date*)

1.2. The employer refused to reinstate me on (*give date*)

1.3. The dispute arose on (*give date*) after all attempts to negotiate or follow other internal procedure failed.

2. THE DEGREE OF LATENESS

2.1. The referral is days late.

2.2. I did the following to pursue my rights after my dismissal:

(i) I went to my union / the department of Labour / Community advice centre / Legal advice centre
(delete which is not applicable) on (*give date*)

(ii) I telephoned (*give name*) on (*give date*)

(iii) I signed the referral form (*give date*)

3. REASONS FOR LATENESS

The reason that I referred the matter late is

.....
.....

4. PROSPECTS OF SUCCESS

I believe that I have a good case because (*you must explain with good reasons why you will win your case*)

.....
.....

5. PREJUDICE

5.1. As the **employee party**, if condonation is not granted, I will be prejudiced because-

.....
.....
.....
.....

5.2. As the **employer party**, if condonation is granted, I will be prejudiced because -

.....
.....
.....

6. GENERAL

Please give any other information that will support your application.

.....
.....

Signature of applicant:

Name of applicant:

Occupation of applicant.....

Commissioner of oaths:

Signed before me on atby the deponent who acknowledges that he / she knows and understands the contents of the affidavit, has no objection to taking the oath / affirmation and considers it binding on his / her conscience.

Name:

Address:.....

Capacity:

NOTE: Please attach any documentary proof that supports your application. If there is insufficient space under any of the above questions, please attach additional pages of information.

GUIDELINES TO COMPLETING AND RESPONDING TO CONDONATION APPLICATIONS

The Labour Relations Act gives timeframes for the submission of referrals, applications and other documents. A condonation application needs to be completed where the timeframes for submissions are not met. The most common type of condonation application is for the late submission of the referral form (i.e. the referral is served more than 30 days after the date of dismissal or after 90 days after the alleged unfair labour practice).

If you refer your case outside of the timeframes which are indicated, you will need to complete C of this referral form and send it together with your referral form. These guidelines should assist you.

THE APPLICANT (REFERRING PARTY)

The application must be in the form of a sworn affidavit, and the application form is in this format to assist you.

The following issues must be dealt with in your application:

1 The degree of lateness and the reason(s) for the delay.

You must give reasons for the lateness that account for the full period that the referral was late. It is for example, not sufficient to say you were in hospital for a week if the referral is 6 weeks late. This would explain only the one weeks' lateness and not the other 5 weeks.

Proof is also required. For example, just stating you were in hospital without proof does not carry much weight. If proof cannot be supplied, give reason why not.

If the referral has been incorrectly made to the SALGBC or another bargaining council, the reason for the mistake must be given.

2 Prospects of success

You must state why there is a good chance of your case being successful should it eventually go for arbitration or to the Labour Court. Enough detail must be given to allow the employer to respond. For example, just stating that the chair of the disciplinary hearing was biased is not enough. Reason for and, if available, proof of the allegation must be given.

3 Prejudice

Personal circumstances and whether you have obtained other employment are important. Any other circumstances must also be mentioned.

4 The importance of the matter

If the matter is important from a general policy viewpoint, such as potential unrest, it must be stated.

5 Any other information that is important

You can give any other information that you think supports your application. Please attach any document that supports your application.

THE RESPONDENT

Should you wish to respond to the applicant's affidavit, it must reach the offices of SALGBC **within 14 days** of receiving the application. It should deal with the issues raised in the application and must also be in the form of an affidavit. Proof of service must be attached.

The applicant then has **7 days** to respond to the respondent's affidavit.

NOTE: Any party experiencing difficulty with the process must obtain assistance from a knowledgeable person or organization. The council is not legally permitted to assist with the **substance** of your application. If you have any queries on the **process**, you may contact SALGBC.

CONTACT DETAILS OF OFFICES OR DIVISIONS OF THE COUNCIL

Head Office

Tel: (031) 201-8210
Fax: (031) 201-9788
E-mail: info@salgbc.org.za
Physical Address: 461 King Dinuzulu Road (South), Durban, 4062
Postal Address: Private Bag X16, Musgrave, 4062

Gauteng Regional Office

Gauteng Division
Tel: (012) 665-0249 / (012) 342-8792
Fax: (012) 665-1014
E-mail: info.g@salgbc.org.za
Physical Address: 3 Eisntein Road, Highveld Park, Centurion, 0169
Postal Address: P.O. Box 67182, Techno Park, Centurion 0157

Johannesburg Metropolitan Division
Tel: (012) 665-0249 / (012) 342-8792
Fax: (012) 665-1014
E-mail: info.g@salgbc.org.za
Physical Address: 3 Eisntein Road, Highveld Park, Centurion, 0169
Postal Address: P.O. Box 67182, Techno Park, Centurion 0157

Tshwane Metropolitan Division
Tel: (012) 665-0249
Fax: (012) 665-1014
E-mail: info.g@salgbc.org.za
Physical Address: 3 Eisntein Road, Highveld Park, Centurion, 0169
Postal Address: P.O. Box 67182, Centurion 0157

Eastern Cape Regional Office

Eastern Cape Division
Tel: (041) 581-3222 / (041) 581-3672
Fax: (041) 581-3648
E-mail: info.ec@salgbc.org.za
Physical Address: 33 Heugh Road, Walmer, Port Elizabeth, 6070
Postal Address: P.O. Box 12627, Central, Port Elizabeth, 6006

KwaZulu-Natal Regional Office

eThekwin Metropolitan Division
Tel: (031) 201-8210
Fax: (031) 201-9752
E-mail: info.kzn@salgbc.org.za
Physical Address: 461 King Dinuzulu Road (South), Durban, 4062
Postal Address: Private Bag X16, Musgrave, 4062

KwaZulu-Natal Division
Tel: (031) 201-8210
Fax: (031) 201-9752
E-mail: info.kzn@salgbc.org.za
Physical Address: 461 King Dinuzulu Road (South), Durban, 4062
Postal Address: Private Bag X16, Musgrave, 4062

Western Cape Regional Office

Western Cape Division
Tel: (021) 917-1141 / 2 / 3
Fax: (021) 917-1145
E-mail: info.wc@salgbc.org.za
Physical Address: 7 De Villiers Street, Bellville, Cape Town, 7532
Postal Address: P.O. Box 19, SANLAMHOF, 7532

Cape Town Metropolitan Division
Tel: (021) 917-1141 / 2 / 3
Fax: (021) 917-1145
E-mail: info.wc@salgbc.org.za
Physical Address: 7 De Villiers Street, Bellville, Cape Town, 7532
Postal Address: P.O. Box 19, SANLAMHOF, 7532

North West/Mpumalanga/Limpopo Regional Office

Mpumalanga Division
Tel: (012) 342-3428 / (012) 342-8792
Fax: (012) 342-7015
E-mail: info.nw@salgbc.org.za
Physical Address: 3 Eisntein Road, Highveld Park, Centurion, 0169
Postal Address: P.O. Box 67182, Techno Park, Centurion 0157

North-West Division
Tel: (012) 342-3428 / (012) 342-8792
Fax: (012) 342-7015
E-mail: info.nw@salgbc.org.za
Physical Address: 3 Eisntein Road, Highveld Park, Centurion, 0169
Postal Address: P.O. Box 67182, Techno Park, Centurion 0157

Limpopo Division
Tel: (012) 342-3428 / (012) 342-8792
Fax: (012) 342-7015
E-mail: info.nw@salgbc.org.za
Physical Address: 3 Eisntein Road, Highveld Park, Centurion, 0169
Postal Address: P.O. Box 67182, Centurion 0157

Northern Cape/Free State Regional Office

Northern Cape Division
Tel: (053) 832-1215/6
Fax: (053) 831-3608
E-mail: info.fs@salgbc.org.za
Physical Address: 10 Holland Road, New Park, Kimberley, 8300
Postal Address: P.O. Box 1401, Kimberley, 8300

Free State Division
Tel: (053) 832-1215/6
Fax: (053) 831-3608
E-mail: info.fs@salgbc.org.za
Physical Address: 10 Holland Road, New Park, Kimberley, 8300
Postal Address: P.O. Box 1401, Kimberley, 8300