

PART A
REFERRING A DISPUTE TO THE
BARGAINING COUNCIL FOR THE FOOD RETAIL,
RESTAURANT, CATERING AND ALLIED TRADES
FOR CONCILIATION (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 30 days.

OTHER INSTITUTIONS

Please note that if you are not covered by this bargaining council, you may have to take 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.

CONTACT DETAILS

PHYSICAL ADDRESS

403 MBA Building
527 Stanza Bopape Street
(Previously Church Street)
Arcadia
Pretoria
0083

TEL: 012 341 1504
012 341 1928

POSTAL ADDRESS

P.O. Box 1256
Pretoria
0001

FAX: 012 341 0722

EMAIL:

cases.food@mweb.co.za
(Case Manager/
Head of Inspections)

recep.food@mweb.co.za
(Front Desk)

caterc@mweb.co.za

WEB SITE:

www.bcfood.co.za

**COUNCIL IS ACCREDITED TO PERFORM THE FOLLOWING DISPUTE
RESOLUTION FUNCTIONS**

- 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
- Disputes about severance pay – 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 box

1. DETAILS OF PARTY REFERRING THE DISPUTE

As the referring party, are you:

- An employee A trade union
- An employer An employer's organization

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

Name:.....

ID Number:.....

Postal Address:.....

.....Postal Code:.....

Tel:.....Cell:.....

Fax:.....Email:

Alternate contact details of employee:

Name:.....

Postal Address:.....

.....Postal Code:.....

Tel:.....Cell:.....

Fax:.....Email:

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

Name:.....

Postal Address:.....

.....Postal Code:.....

Tel:.....Cell:.....

Fax:.....Email:

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

The other party is:

- An employee A trade union
- An employer An employer's organisation

Name:.....

Postal Address:.....

.....Postal Code:.....

Tel:.....Cell:.....

Fax:.....Email:

Please turn over →

3. NATURE OF THE DISPUTE

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

- Unfair dismissal
- Unfair Labour Practice (Give details)
- Application of Chapter 2
- Interpretation/ Application of Collective Agreement
- Mutual Interest
- Severance pay S41 BCEA
- Unilateral change to terms and conditions of employment
- Essential Services
- Unfair Labour Practice (probation)
- Pre-dismissal arbitrations
- Other (please describe)

Summarise the facts of the dispute you are referring:

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

4. DATE DISPUTE AROSE

The dispute arose on:
(give the date, day, month and year)

The dispute arose where:
(give the city/town in which the dispute)

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 grievance / disciplinary procedures before coming to the Council? YES NO

Describe the procedures followed:.....
.....
.....
.....

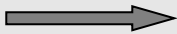
6. RESULT OF CONCILIATION

What outcome do you require?.....
.....
.....
.....

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

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

Tick the correct box

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 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 dispute 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 unresolved.

Only fill this 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
- Tearoom
- Catering Trade
- Fish & Chip Shop
- Cafes
- Roadhouse
- Take Away food outlet
- Other (*please describe*).....

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
- Sesotho
- 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 change.

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 Council Rule 16(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
 (place) (date)



PART B ADDITIONAL FORM FOR DISMISSAL DISPUTES ONLY

DATE OF REFERRAL

Dismissal disputes must be referred (i.e. received by the 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
(Retrenchment)

Unknown

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 the dismissal unfair? YES NO

If yes, why

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