CMA F.1

REFERRAL OF A DISPUTE TO THE COMMISSION FOR MEDIATION AND ARBITRATION

(Made under Regulation 34(1))

DETAILS OF EMAIL AND PHYSICAL ADDRESS, TELEPHONE NOS. AND FAX NOS. OF HEAD OFFICE AND AREA OFFICES OF THE COMMISSION TO BE INSERTED HERE

READ THIS FIRST:

A. PURPOSE OF THE FORM

This Form shall be completed if a party to a labour dispute intends to refer to dispute to the Commission in terms of section 86(1) of the Employment and Labour Relations Act.

B. WHO FILLS IN THE FORM?

The party wishing to refer the dispute – e.g. an employer, employee, union or employer's' organization – must complete this form.

C. WHERE DOES THE FORM GO?

To the other party or the dispute and a copy to the Commission in the area where the dispute has arisen, together with proof of the Form having been served on the other party or parties.

D. HOW CAN THE FORM BE SERVED?

By hand, registered post or fax. Proof of service on any other party must accompany the Form served on the Commission. The following constitutes proof on service.

- by hand: - receipt signed by the party or a person who appears to be at least 18 years old and in charge of the party's place of residence or place of employment, or a signed statement by the person who served the document;
- by registered post:- proof of posting from postal authorities;
- by fax: fax transmission slip confirming the fax was successfully transmitted.

E. WHAT HAPPENS WHEN THE FORM IS SUBMITTED?

The Commission shall refer the dispute to mediation and advise all parties of the place, date and time of the first mediation meeting. Provide that the Commission may in certain

circumstances refer the dispute direct to arbitration in terms of section 88 (3) of the Employment and Labour Relations Act.

IMPORTANT
THE RULES FOR MEDIATION AND ARBITRATION PUBLISHED BY THE COMMISSION REQUIRE A DISPUTE CONCERNING THE TERMINATION OF EMPLOYMENT TO BE REFEREED TO THE COMMISSION WITHIN 30 DAYS OF THE TERMINATION OR THE DATE THAT THE EMPLOYER MADE A FINAL DECISION TO TERMINATE OR UPHOLD THE DECISION TO TERMINATE. ALL OTHER DISPUTE TO BE REFERRED WITHIN 60 DAYS OF THE DISPUTE HAVING ARISEN. IF THIS DISPUTE IS REFERRED OUTSIDE THE TIME PERIODS STIPULATED, AN APPLICATION FOR CONDONATION FROM A PARTY TO THE DISPUTE SHALL ACCOMPANY THIS FORM. OTHERWISE THIS DISPUTE SHALL NOT BE PROCESSED

Tick the correct box

If you are an employee fill in (a) below
If you are an employer, union official or representative or an employers' organization, fill in (b) below

1. DETAILS OF PARTY REFERRING THE DISPUTE

As the referring party, are you:

☐ An employee

☐ An employer
☐ A union official or representative
☐ An employers' organisation

(a) **If the referring party is an** employee

Surname: _____
Fist Name: _____
Employee Identity Number: _____
Postal address: _____
_____
Physical address: _____
_____

Tel.: _____ Cell: _____
Fax.: _____ Email: _____

(b **If the referring party is** an employer, an employer, an employer's organization or union

Name: _____
Postal address: _____
Physical address: _____
Tel.: _____ Cell: _____

G.N. No. 47 (contd.)

Fax.: _____ Email: _____
Contact person: _____

Tick the correct box

2. DETAILS OF THE OTHER PARTY (TO THE DISPUTE)

If there is more than one other party, write the details of the additional parties on a separate page and staple it to this form

☐ An employee
☐ An employer
☐ A union
☐ An employers' organization

Name: _____
Postal addres: _____
Physical address: _____
_____
Tel.: _____ Fax: _____
Cell: _____ Email: _____
Contact Person: _____

Tick the correct box

3. NATURE OF THE DISPUTE

☐ Application/interpretation/implementation of any law or agreement relating to employment
☐ Negotiations about terms and conditions of employment
☐ Discrimination
☐ Termination of employment
☐ Organization rights
☐ Recognition as exclusive bargaining agent
☐ Disclosure of information
☐ Tort
☐ Breach of contract
☐ Other (please describe) _____

If the dispute concerns termination of employment complete Part B of this Form

_____
_____

Summaries the facts of the dispute you are referring (unless this is a termination dispute, in which case complete Part B of this Form)

_____
_____

If applicable, insert the amount

If this dispute is about a claim you are

owed money, state the amount you believe you are owed:

_____

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

The dispute arose where: _____
(give the City/Town in which the dispute arose)

Suggest a fair solution to the dispute

4. OUTCOME OF MEDIATION

What outcome do you seek?

_____

_____

_____

Tick the correct box

5. INDUSTRY

Is the dispute in an essential service — Yes / No

Indicate the sector or service in which the dispute arose.

- ☐ Agriculture
- ☐ Building & Construction
- ☐ Cleaning
- ☐ Communications
- ☐ Contract
- ☐ Distribution
- ☐ Domestic
- ☐ Financial Services
- ☐ Food & Beverage
- ☐ Health
- ☐ Mining
- ☐ Private Security
- ☐ Public Service
- ☐ Retail Sector
- ☐ Textiles
- ☐ Transport
- ☐ Other (Please describe)

_____

G.N. No. 47 (contd.)

6. SPECIAL FEATURES/ADDITIONAL INFORMATION

(a) Interpretation Service

The commissioner provides interpretation services for official languages only.

Parties may, at their own cost, bring interpreters for languages other than official languages.

Do you require an interpreter at mediation?

YES ☐

NO ☐

If yes, please indicate for what language:

_____

(b Other

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

Special feature might be the urgency of the matter, the large number of people involved, important legal or labour issues etc.

_____

_____

7. APPLICATION FOR CONDONATION

(a) Is an application for condonation for late filing of this dispute necessary? Tick the appropriate box

YES ☐

NO ☐

If yes, an application for Condonation Form shall be attached.

A dispute concerning termination of employment to be referred to the Commission within 30 days, and other disputes within 60 days of the dispute having arisen

8. INFORMING THE OTHER PARTY

I confirm that a copy of this form has been sent to the other party/parties to the dispute and proof of this is attached to this form

Proof that a copy of this form has been sent could be:

- A registered slip form the Post Office
- A signed receipt if hand delivered
- A signed statement by the person delivering the form
- A fax slip

Signature	Name	Position	Date

PART B
ADDITIONAL FORM FOR TERMINATION OF EMPLOYMENT DISPUTES ONLY

Termination disputes shall be referred (i.e. received by the Commission) within 30 days. If you are outside this period, you are required to apply for condonation.

(1) COMMENCEMENT OF THE EMPLOYMENT

When did you start working for your employer?

_____
_____
_____
_____
_____

(2) NOTICE OF TERMINATION
Please give the date of your termination

_____

How were you informed of your termination?
☐ By letter
☐ At/After a disciplinary hearing
☐ Verbally
☐ Other (please describe)

_____
_____

REASON FOR TERMINATION

(3)
Why was your employment terminated?
☐ Misconduct
☐ Operation requirements (retrenchment)
☐ Incapacity
☐ Incompatibility
☐ Unknown
☐ Other (please describe)

_____
_____

(4) FAIRNESS/UNFAIRNESS OF TERMINATION

(a) Procedural Issues
Do you feel that the termination was procedurally unfair? (i.e. not in terms of a fair procedure)
YES ☐
NO ☐

G.N. No. 47 (contd.)

If yes, why?

(b **Substantive Issues**
Do you feel that the reason for termination was unfair?

YES ☐
NO ☐

If yes, why?