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# GEO

# NEWSLETTER

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## **Amendments to the CCMA rules**

The CCMA has a set of rules which govern the manner in which disputes are lodged and dealt with in conciliation and arbitration proceedings.

Although the rules may be of more interest to the GEO officials handling dispute matters, it is perhaps important for members to be aware of the main changes.

A summary of the changes is as follows:

### **Serving of documents**

Previously, the rules referred to the serving of documents by fax as an acceptable means of service. Technology, of course, has essentially made faxes and fax machines redundant.

The preferred method is via email or online via the CCMA website and portals. It is still, however, required that proof of successful delivery to the other party and the CCMA be attached and presented to the CCMA.

### **Condonation applications**

The CCMA rules establish certain timelines by when applications must be referred. For example, an employee has 30 days in which to lodge an unfair dismissal dispute. An employee can apply after the 30-day time limit but must attached a condonation to the 7.11 application form. The condonation application and 7.11 form must be sent to the respondent employer and also to the CCMA. Proof of delivery must be attached to the application.

In an attempt to reduce the number of in limine hearings, the CCMA can now decide whether to hear oral arguments for late applications or decide whether to grant condonation on the papers submitted. As stated above, late applications must still be accompanied by a condonation application specifying the reasons for applications that are outside of the specified time limits.

## **Postponements**

The previous rules stated that if both parties agree to a postponement at least seven days prior to a hearing, the CCMA must postpone the matter. The word 'must' has been changed to 'may'. In other words, the CCMA has the discretion to postpone a matter irrespective of whether the parties have agreed to such.

## **Picketing rules**

Picketing rules determine the conduct of employees and the employer during protected or lawful strikes. The reason why picketing rules are now insisted upon is an attempt to minimise violence, intimidation and property damage.

The rules have thankfully dealt with the issue of picketing rules. A commissioner may not issue a certificate of non-resolution on any matter of mutual interest allowing a union to strike unless picketing rules have either been agreed to or determined by the CCMA.

## **Cheques as payment**

Cheques as an acceptable form of payment to the CCMA have been removed. Although seldom done, the CCMA can charge a fee for providing certain services such as an inquiry into certain matters. A bank transfer into the CCMA's bank account is the preferred method of payment.



## **Applicant not attending arbitration**

Previously if the applicant did not attend arbitration, the matter was dismissed. This was essentially made as a ruling by the Commissioner. The applicant could apply to have the ruling rescinded or reviewed (if rescission was not granted).

The new rules state that should an applicant not attend the arbitration proceedings, the matter is simply removed from the roll. The applicant can have the matter re-enrolled within 14 days of becoming aware of the matter being removed but must provide good reasons why it should be re-enrolled.

The respondent must be given an opportunity to oppose the re-enrolment within 7 days of the application for re-enrolment.

## **Time periods**

The previous rules stated that the period between the 16th of December and the 7th of January is not included when calculating time periods.

The new rules have removed this exclusion and, as such, this period will still be recognised as dates which are included in the calculation of time periods. It is likely that the CCMA will still enrol matters during these dates.

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