



PART A: REFERRING A DISPUTE TO THE ELRC FOR CONCILIATION, ARBITRATION AND JOINT CONCILIATION

WHAT IS THE PURPOSE OF THIS FORM?

This form enables an employee, trade union or an employer, covered by the scope of the ELRC constitution, to refer a dispute to the ELRC for resolution.

This form must be completed whenever a dispute is referred to the ELRC.

- If the dispute is one referred to in clauses **24 or 25 or 26 and 27** of the **ELRC Dispute Procedure**, the dispute will be set down for **conciliation, arbitration, joint conciliation arbitration and con-arb** by the ELRC.
- If the dispute is one referred to in **clause 10.1** of the ELRC Dispute Procedure, the dispute will be set down for **conciliation**. **If the dispute remains unresolved and the parties request arbitration there is no need to complete any additional referral form.** The arbitrator will record the request in writing and the arbitration will then proceed in terms of **clause 25(4) to 25(8)**.
- If the dispute is one referred to in **clause 14.1.1** of the **ELRC Dispute Procedure**, the dispute will be set down for **conciliation** by the ELRC in terms of **clause 24**. **If the dispute remains unresolved and the parties request arbitration there is no need to complete any additional referral form.** The arbitrator will record the request in writing and the arbitration will then proceed in terms of **clause 25(4) to 25(8)**.
- If the dispute is one referred to in **section 14.1.2** of the ELRC Dispute Procedure, the dispute will be set down for **arbitration** by the ELRC in terms of **clause 25** of the dispute procedure.
- If the dispute is one referred to **clause 14.1.3** of the ELRC Dispute Procedure, the dispute will be set down for **conciliation and arbitration** by the ELRC in terms of **clause 26** of the dispute procedure.
- If the dispute is one referred to **clause 14.1.4** of the ELRC Dispute Procedure, the dispute will be set down for **con-arb** by the ELRC in terms of **clause 27** of the dispute procedure.

WHO FILLS IN THIS FORM?

Employer, Employee, Trade Union or Representative.

WHERE DOES THIS FORM GO? ELRC OFFICES

All correspondence should be addressed as follows:

ATTENTION: Dispute Resolution Services

POSTAL ADDRESS:

General Secretary
ELRC
Private Bag X 126
CENTURION
0046

PHYSICAL ADDRESS:

General Secretary
ELRC Building
261 West Avenue
CENTURION
0046

ENQUIRIES:

TEL: (012) 663 7446

FAX: (012) 643 1601

E-mail: dispute.res.hod@elrc.co.za

Website: <http://www.elrc.org.za>

WHAT WILL HAPPEN WHEN THIS FORM IS SUBMITTED?

If the General Secretary is satisfied that the dispute is in fact a dispute in terms of the Constitution of the ELRC, and the referral has been properly served and that the requirements of the constitution have been complied with, the dispute shall be registered.

The General Secretary shall appoint a panellist from the ELRC panel who must attempt to resolve the dispute, unless the parties to the dispute have themselves agreed on a particular ELRC panellist, in which case the ELRC will appoint that panellist (provided the panellist is available).

When you receive correspondence from the General Secretary requesting further information you must respond urgently, to avoid undue delays.

TIME FRAMES, GRIEVANCE PROCEDURE AND CONDONATION APPLICATION

Before referring a dispute, kindly refer to the time frames indicated below as referred to in the Dispute Procedures:

- 1) A party may refer a dispute to the *General Secretary*:
 - 1 In the case of a dismissal dispute
 - (a) Within 45 days of the date of dismissal, or if it is a later date, within 45 days of the employer making a final decision to dismiss or uphold the dismissal.
 - (b) Within 52 days of the date on which the employee serves on the employer written notice to conclude an appeal lodged against a dismissal.
 - 2 In the case of an unfair labour practice dispute
 - (c) Within 45 days of the date of *the Act* or omission which allegedly constitutes the unfair labour practice, or if it is a later date, within 45 days of the date on which the employee became aware of *the Act* or omission.
 - 3 In the case of promotions, appointments and transfers within 30 days from the date on which the employee:
 - (d) Became aware of the recommendation, or
 - (e) Was informed of the recommendation, whichever is the later.
 - 4 In the case of a dispute, which requires the employers grievance procedure to be invoked, the dispute may not be referred, unless:
 - (f) The employee as invoked the grievance procedure, and
 - (g) An outcome has been rendered; or
 - (h) In the event of the grievance procedure having been invoked and an outcome had not

been rendered at least 45 days from the date on which the grievance was lodged.

- 5 In the case of any other dispute within 45 days of the date on which the dispute arose.
- 2) A party may not refer a dismissal dispute, where the dismissal has been appealed unless:
 - 6 The appeal had not been concluded by the employer within 45 days; and
 - 7 The employer had been served with 7 days written notice to remedy the default.
- 3) A party may not refer a dispute, except a dismissal dispute before invoking the grievance procedure relating to that dispute and allowing 45 days for the resolution thereof.

If the referral is late, then ELRC Form E2, "**Application for Condonation of late referral of a dispute to the ELRC**", must accompany the dispute referral.

OTHER INSTRUCTIONS

Please note that 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 ("the LRA"):

- Disclosure of information (Section 16 and 89 of the LRA)
- Organizational rights (Chapter III part A of the LRA)
- Agency shop disputes (Section 25 of the LRA)
- Closed shop disputes (Section 26 of the LRA)
- Interpretation or application of collective bargaining provisions (Section 63 (1) of the LRA)
- Picketing disputes (Section 69 of the LRA)
- Workplace forum disputes (Sections 86 and 94 of the LRA)

1. DETAILS OF PARTY REFERRING THE DISPUTE

As the referring party, are you?

- An employee
- An employer
- A union official or representative

(a) Details of grievant employee/s:

Surname: First Names:

Identity number:

Persal number:

Pay Point Number:

Postal Address:

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Postal Code:

Tel: Cell:

Fax: Email:

If you belong to a trade union, indicate which one?

Alternate contact details of employee:

Surname: First Names:

Identity number:

Postal Address:

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Postal Code:

Tel: Cell:

Fax: Email:

(b) Details of grievant trade union or representative or if the referring party is an employer or trade union

Name:

Persal number:

Postal Address:

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Postal Code:

Tel: Cell:

Fax: Email:

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

Name:

Provincial Department of Education:

Region:

District:

Circuit:

Postal Address:

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Postal Code:

Tel: Cell:

Fax: Email:

Contact Person:

3. NATURE OF THE DISPUTE

(a) What is the dispute about? (tick the appropriate box)

- Misconduct
- Unfair Labour Practice in terms of Section 186 (2) of the LRA
- Other (please describe):
- Probation
- O1 Alleged Unfair Dismissal
- O2 Interpretation and Application of Collective Agreement
- Severance pay
- Refusal to Bargain
- Unilateral change to terms and conditions of employment
- Promotion/Appointment

(b) Summarise the facts of the dispute you are referring and attach supporting documents / letters.

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

(d) Where did the dispute arise?:
(give the district office in which the dispute arose)

4. TIME FRAMES

Time Frames have been complied with

NB: If the "No" box was ticked, please complete and attach condonation application Form E2

YES	NO
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5. GRIEVANCE PROCEDURE

Only applicable when referring disputes for conciliation, in terms of clauses 14.1.1, 14.1.3 and 14.1.4 of Annexure A of the Constitution.

Have you followed all internal grievance / disciplinary procedures before coming to the ELRC?
If yes, attach documentary evidence.

YES	NO
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Date on which Grievance Procedure was invoked:

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6. RELIEF SOUGHT

(a) What relief do you seek? Does the relief, which you seek, affect the right or interest of another person(s), if so please furnish names and personal details.

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(b) Does the relief, which you seek, arise out of an arbitration award and or conciliation agreement? If so, please state the details of such conciliation and or arbitration.

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8. DISPUTE IN TERMS OF SECTION 64 (4) OF THE LRA

I/We require the employer party not to 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)

9. 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.

Name (in full):

Position/Rank:

Signature of party referring the dispute:

Signed at
(place)

on this the day of
(day) (month and year)

PART B

**ADDITIONAL FORM FOR DISMISSAL DISPUTES
ONLY**

1. COMMENCEMENT OF EMPLOYMENT

Date of appointment:
(give the date, month and year)

2. NOTICE OF DISMISSAL

Please give the date of your dismissal:
(give the date, month and year)

How were you informed of your dismissal?

By letter Verbally

At/After a disciplinary hearing

Other (please describe):

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Was it constructive dismissal?

YES	NO
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3. DISCIPLINARY HEARING

Was there a disciplinary hearing before the dismissal?

YES	NO
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4. REASON FOR DISMISSAL

Why were you dismissed?

- Automatically unfair dismissal
- Incapacity
- Misconduct
- Unknown
- Operational Requirements (Retrenchment)
- Other (please describe):

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5. FAIRNESS/UNFAIRNESS OF DISMISSAL

(a) Procedural Issues

Do you think that the dismissal was procedurally unfair?
(Were internal procedures followed?)

YES	NO
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If yes, why?

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(b) Substantive Issues

Do you feel the reason for the dismissal was substantively unfair?

YES	NO
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If yes, why?

Name (in full):

Position/Rank:

Signature of party referring the dispute:

Signed at:
(place)

on this the day of
(day) (month and year)