

PSCBC

PUBLIC SERVICE CO-ORDINATING BARGAINING COUNCIL

PSCBC

DISPUTE RESOLUTION WORKSHOPS - 2024



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E-REFERRAL (ONLINE REFERRAL FORM)

E-REFERRAL (ONLINE REFERRAL FORM)

- The PSCBC has developed an online e-referral form, accessible on the PSCBC website.
- The purpose of the e-referral form is to enable the trade unions who are not party to the PSCBC and individual employees of the State, falling within the scope of the PSCBC, to refer disputes to the Council.
- The form is aimed at simplifying and providing an effective and digitally advanced method of referring, processing and handling disputes.
- The e-referral form is part of a larger plan within the PSCBC to curb and reduce the high number of incorrectly referred and out of jurisdiction referrals.
 - Incorrect referrals: i.e. missing information on the form
 - Out of jurisdiction: i.e. unfair dismissal or unfair labour practice disputes

E-REFERRAL (ONLINE REFERRAL FORM)

HOW TO USE THE E-REFERRAL FORM

- Visit the PSCBC website on: <https://pscbc.co.za/> or follow this link: <https://pscbc.co.za/index.php/dispute-resolution/dispute-resolution-forms-01> to access the relevant form (conciliation/arbitration/enforcement complaint).
- Complete the relevant form.
- Note that all mandatory fields must be completed, in order for the form to be submitted.
- Attach all the supporting documents where applicable and click the “submit” button.
- Thereafter, a confirmation email will be automatically sent to your email address with a copy of your referral form.

E-REFERRAL (ONLINE REFERRAL FORM)

HOW TO USE THE E-REFERRAL FORM

- After clicking submit, the e-referral form is automatically served to the specified party(ies), as per the email addresses provided on the form, including the Chief Negotiator of the State (DPSA).
- Documents completed and submitted through the e-referral form platform are presumed served to the other party and the chief negotiator of the State unless the contrary is proven.
- The form is also filed with the PSCBC.

**E-REFERRAL
FORM
REFERRAL TO
CONCILIATION**

Application for Conciliation

1. DETAILS OF PARTY REFERRING THE DISPUTE

If the referring party is an employer, employee or trade union

As the referring party, are you: (*)

PLEASE SELECT

Name (*)

Telephone (*)

Cell (*)

Email (*)

Fax

Contact Person (*)

How many employees are affected by this dispute? (*)

(if there are more than 1 referring parties, please attach a list of the names of these parties and their details to this form)

E-REFERRAL FORM

REFERRAL TO CONCILIATION

2. DETAILS OF THE OTHER PARTY (OPPOSITE PARTY)

The other party is: (*)

PLEASE SELECT

Province (*)

PLEASE SELECT

Department/Organisation

Telephone

no_spaces

Cell

no_spaces

Email (*)

Fax

no_spaces

Contact Person

(if there are more than 1 respondent, please attach a list of the names of these parties and their details to this form)

E-REFERRAL FORM

REFERRAL TO CONCILIATION

3. NATURE OF THE DISPUTE

What is the dispute about? (*)

PLEASE SELECT

PSCBC Resolution (number)

of (Year)

Give a summary of the facts of the dispute

300 Characters max.

0/300

Where the dispute arose (Town) (*)

Province (*)

PLEASE SELECT

The dispute arose on: (*)

Date of Dispute?

Today's Date: (*)

Enter Today's Date

Days since dispute

Note: If 90 days has lapsed since date of Dispute, Condonation may be required.

[Click here to download the Condonation Form.](#)

E-REFERRAL FORM

REFERRAL TO CONCILIATION

4. DETAILS OF DISPUTE PROCEDURES FOLLOWED

Was the issue tabled at the PSCBC? If so, when? Provide details

300 Characters max.

0/300

5. OUTCOME REQUIRED

What outcome do you require? (*)

300 Characters max.

6. ANY SPECIAL FEATURES/ADDITIONAL INFORMATION

Do you require an interpreter at the conciliation?

☐ No ☒ Yes

NONE REQUIRED

NONE REQUIRED

Afrikaans

Isindebele

E-REFERRAL FORM

REFERRAL TO CONCILIATION

7. POPIA CONSENT

By completing and submitting this referral form with the PSCBC, you therefore agree, that the PSCBC may process personal information on the terms and conditions set forth in the PSCBC's privacy policy, available at: <https://pscbc.co.za/pscbc-privacy-policy-manual>

Do you understand the above? (*)

☐ Yes

Please upload and additional documentation, if necessary

No file chosen

[Add another file](#)

E-REFERRAL FORM

REFERRAL TO CONCILIATION

8. CONFIRMATION OF THE ABOVE DETAILS

By submitting this form via the PSCBC e-Referral platform, service is presumed unless the contrary is proven.

I/we further confirm that I/we have the necessary authority to sign this form.

Name of the person signing this referral form: (*)

Capacity in which the form is signed (*)

Signed at (place) (*)

Date (*)

This form is presumed as electronically signed in terms of the relevant provisions of the Electronic Communications and Transactions Act 25 of 2002.

I hereby confirm that the information above is correct

☒ Yes, I confirm

Submit

Copies of this form will be sent to:

PSCBC

DPSA

Respondent

Applicant

**E-REFERRAL
FORM
CONFIRMATION
NOTIFICATION**

Dear Test Union obo App Test,

Thank you for your Application for Conciliation.

The PSCBC will contact you in due course.

Continue



Q & A



Please select your user type



PORTAL TO PARTIES



Panelist



Department



Union

PORTAL TO PARTIES

- The Portal to parties which is only accessible to parties to the PSCBC, is aimed at expediting workflows to increase efficiencies, and productivity.
- Therefore, allowing the parties to refer disputes to the Council in real-time by means of an online referral platform and affording registered users access to their case files.
- Portal benefits for parties include: -

PORTAL TO PARTIES

EMPLOYER PARTY	TRADE UNION PARTY
Online new referrals	Online new referrals
Access to electronic case files	Access to electronic case files
Registered user's case roll, set down notices, awards, recordings, and rulings	Registered user's case roll, set down notices, awards, recordings, and rulings
Upload and access bundles	Upload and access bundles
Case status reports - stats	Case status reports - stats

*The employer party will enjoy the full benefit of the portal after new referrals have been made on the portal (information needs to be provided on the portal in order to produce data for users).

PORTAL TO PARTIES

USER REGISTRATION TO THE PORTAL

In order to have access to the portal one is required to register as a portal user by:-

- Following this link: <https://labournet.collaboratoronline.com/>
- Click on 'create an account', complete the required fields and click 'submit'
 - You need to choose the stakeholder type which will then give you access to your registered subsite.
 - Please consent to the POPIA clause.
- After submitting the registration, the PSCBC will approve your request in order to grant access to the portal.
- Once registration is approved, a confirmation email will be sent to you.
 - This email will contain a link to further training videos on YouTube.

PORTAL TO PARTIES

USER REGISTRATION TO THE PORTAL



Go to:
<https://labournet.collaboratoronline.com/>

Sign In

Email address

Password

Sign In

[Forgot password?](#) [Create account](#)

Click on Create
Account

PORTAL TO PARTIES

USER REGISTRATION TO THE PORTAL



PSCBC
PUBLIC SERVICE CO-ORDINATING BARGAINING COUNCIL

First Name:*

Surname:*

Email:* ! *

Password:* ! *

Confirm password:*

 Type the code shown:

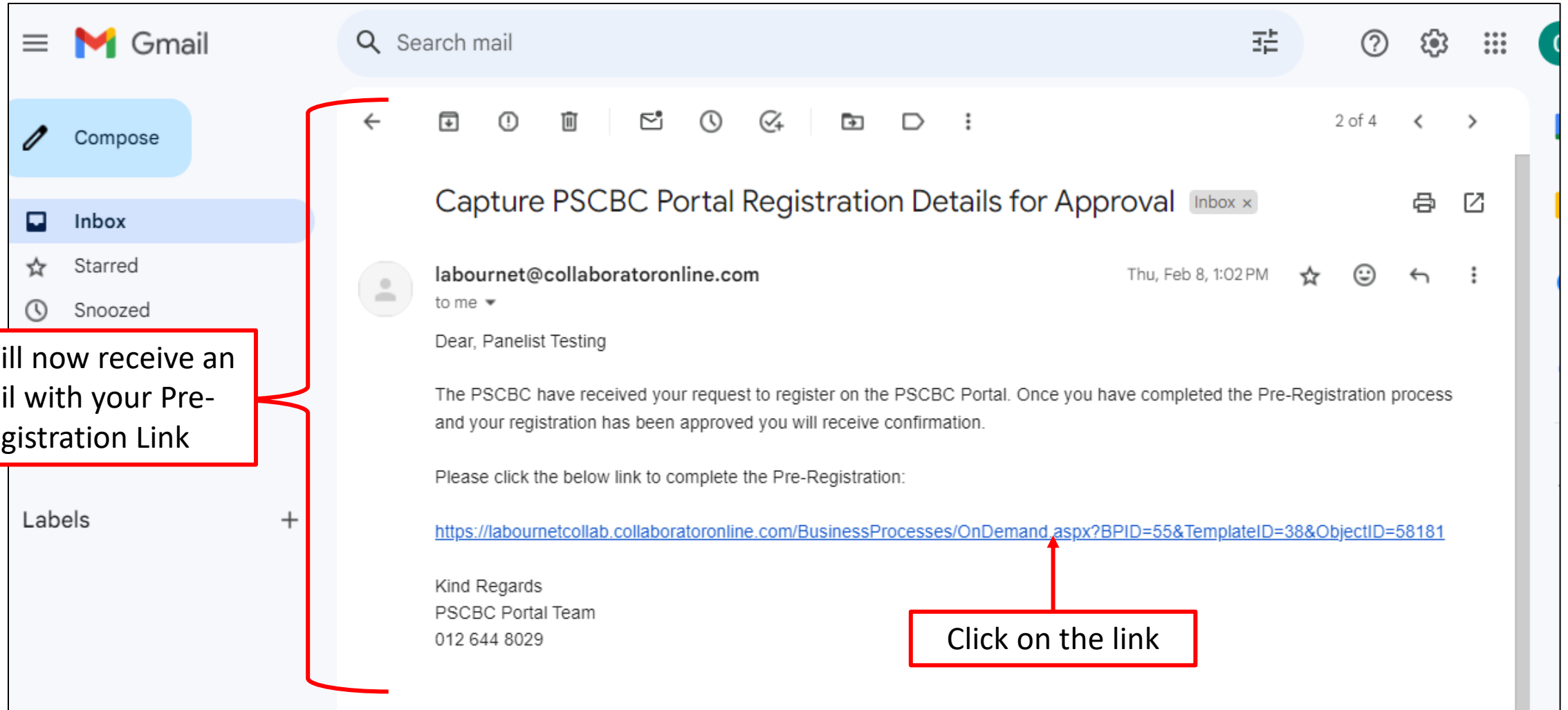
[Show another code](#)

Complete all required fields

Click on Submit

PORTAL TO PARTIES

USER REGISTRATION TO THE PORTAL



PORTAL TO PARTIES

USER REGISTRATION TO THE PORTAL

Capture PSCBC Portal Registration Details for Approval

044127, Meagan Liebenberg

UserID	44126	//
First Name	Meagan	//
Surname	Liebenberg	//
Cell	0746338735	//
Email	psc bcportaltestuser@gmail.com	//
Stakeholder Type *		// ...

Submit

Click on the Data Source button [...] and select your stakeholder type

A pop-up window will appear. Select your stakeholder type as 'Union Representative' Click on submit

TYPE OF USER

Panelist

Employer Representative

Union Representative

Committee Member

Department Representative

Submit

PORTAL TO PARTIES

USER REGISTRATION TO THE PORTAL

Capture PSCBC Portal Registration Details for Approval

044127, Meagan Liebenberg

UserID	44126	//
First Name	Meagan	//
Surname	Liebenberg	//
Cell	0746338735	//
Email	pscabcportaltestuser@gmail.com	//
Stakeholder Type *	Union Representative	// ...
Union Name *		

This page can not be submitted. Move to the highlighted field(s) and hover with your mouse over the red asterisk next to the field to determine what the problem is.

Click on the Data Source button [...] and select your Union Name

A pop-up window will appear. Select your Union, and click on submit

Select - Google Chrome

labournetcollab.collaboratoronline.com/BusinessProcesses/DSSin...

UNION NAME

- DENOSA
- HOSPERSA
- HOSPERSA/NUPSAW/NATU
- NAPTOSA
- NATIONAL EDUCATION HEALTH AND ALLIED WORKER'S UNION (NEHAWU)
- NATIONAL PROFESSIONAL TEACHER'S ASSOCIATIONS OF SOUTH AFRICA (NAPTOSA)
- NATIONAL PUBLIC SERVICE WORKER'S UNION (NPSWU)
- NATIONAL TEACHERS UNION (NATU)
- NATIONAL UNION OF PUBLIC SERVICE AND ALLIED WORKERS (NUPSAW)
- NEHAWU
- NPSWU
- NUPSAW
- PAWUSA
- POLICE AND PRISONS CIVIL RIGHTS UNION (POPCRU)
- POPCRU
- PROFESSIONAL EDUCATORS UNION (P. E. U.)
- PSA
- PUBLIC AND ALLIED WORKER'S UNION OF SOUTH AFRICA (PAWUSA)
- PUBLIC SERVANTS ASSOCIATION OF SOUTH AFRICA (PSA)
- SADTU

Page 1 of 2 (38 items) [1] 2

Submit

PORTAL TO PARTIES

USER REGISTRATION TO THE PORTAL

Capture PSCBC Portal Registration Details for Approval

044127, Meagan Liebenberg 

UserID	44126	//
First Name	Meagan	//
Surname	Liebenberg	//
Cell	0746338735	//
Email	pscbcportaltestuser@gmail.com	//
Stakeholder Type *	Union Representative	// ...
Union Name *	NAPTOSA	// ...

Submit

Once your details have been captured you can click on submit

PORTAL TO PARTIES

USER REGISTRATION TO THE PORTAL

Your registration request will now be sent to
Council for review.

Once approved, you will receive an E-mail
confirming your registration.

PORTAL TO PARTIES

USER REGISTRATION TO THE PORTAL

PSCBC Portal: Confirmation of Registration ➤ Inbox x

labournet@collaboratoronline.com
to me ▾

Dear Meagan Liebenberg,

Thank you for registering with the PSCBC Portal. Your registration has been approved. Please find your log-in details.

<https://labournet.collaboratoronline.com/>

User Name: (email address)

To access the Training Material for the PSCBC Portal please visit the following YouTube Channel
<https://www.youtube.com/channel/UCnBaQK34V71XZU1ii8eYyKw>

Kind Regards
PSCBC Portal Team

Once your Registration has been approved, you will receive an email confirming your registration

Click on the link to log in to PSCBC Portal

PORTAL TO PARTIES

PORTAL LOGIN



Sign In

Sign In

[Forgot password?](#) [Create account](#)

Enter Username and
Password (As
captured during
Registration)
Click on Sign In

****Username = Email
Address**

PORTAL TO PARTIES

PORTAL HOME PAGE

 Welcome to the PSCBC Portal

[Home](#) [EDIT LINKS](#)

Please select your user type



Panelist



Department



Union

Different access will be determined by the registration user type

PORTAL TO PARTIES

PORTAL HOME PAGE

The screenshot shows the 'Union Representative Home' page. At the top, there is a navigation bar with 'BROWSE' and 'PAGE' on the left, and 'SHARE', 'EDIT', and a full-screen icon on the right. Below this is a header section with the PSCBC logo on the left, the title 'Union Representative Home' in the center, and a search bar on the right. Under the title are links for 'Referrals', 'Case Roll', and 'Help', along with an 'EDIT LINKS' option. The main content area is titled 'Home' and 'Welcome to the PSCBC Portal'. It features three large blue icons: a clipboard for 'Referrals', a calendar for 'Case Roll', and a question mark for 'Help'. Three red callout boxes with arrows point to these icons, providing instructions on how to access the respective subsites. The page number '29' is visible in the bottom right corner.

BROWSE PAGE SHARE EDIT

 Union Representative Home
Referrals Case Roll Help EDIT LINKS

Search this site

Home
Welcome to the PSCBC Portal


Referrals


Case Roll


Help

Click on 'Referrals' image to access the Referrals Subsite

Click on 'Case Roll' image to access the Case Roll Subsite

Click on 'Help' image to access the Help Subsite

29

PORTAL TO PARTIES

NEW REFERRAL

BROWSEPAGE

SHARESYNC



Referrals

EDIT LINKS

Home



New Application



All Referrals



Home

Documents

✓



Name



PSCBC Referral to Conciliation

...

June 1, 2022

☐

collabonline\labournetadmin



PSCBC Request for Arbitration

...

June 1, 2022

☐

collabonline\labournetadmin

Outstanding Tasks

Object Ref	Task Title	Date
49226	Perform Screening	18-04-2023
59159	Capture New Referral - Arbitration	05-03-2024

Click on 'New Application' image to complete a new Conciliation

Click on 'All Referrals' image to view all submitted referrals

Click on 'Home' image to return to the Home page

'Outstanding Tasks' are all the applications that are not yet completed and submitted to Council

PORTAL TO PARTIES

NEW REFERRAL

New Referral Application

059686,      

Registration User	ADMIN	//
ObjectName	Application for Conciliation	//
Application Type *	Conciliation ▼ ConciliationArbitrationS33 Enforcement	← Select Application Type
Party Referring Dispute *		
Dispute Arose Date *		▼ *
Condonation May Be Required?	No	//

Registration User	ADMIN	//
ObjectName	Application for Conciliation	//
Application Type *	Conciliation ▼	
Party Referring Dispute *	▼ EmployerTrade Union	← Select Party Referring Dispute
Dispute Arose Date *		▼ *
Condonation May Be Required?	No	//

PORTAL TO PARTIES

NEW REFERRAL – CAPTURING CONCILIATION

New Referral Application

059686,      

Registration User	ADMIN	//
ObjectName	Application for Conciliation	//
Application Type *	Conciliation	▼
Party Referring Dispute *	Trade Union	▼
Dispute Arose Date *	2024-02-28	▼
Condonation May Be Required?	No	//

Select Dispute
Arose Date
Click on Submit

Submit

PORTAL TO PARTIES

NEW REFERRAL – CAPTURING CONCILIATION

Capture New Referral - Conciliation

059686, Application for Conciliation

Registration User: ADMIN

ObjectName: Application for Conciliation

Application Type: Conciliation

Party Referring Dispute: Trade Union

Trade Union Name:

Referring Party Ref Number:

Referring Party Telephone Number:

Referring Party Contact Person:

Referring Party Fax Number:

Select 'Trade Union Name' by using the 'Data Source' button

Click on Union name then click on Submit

Submit

UNION NAME

DENOSA

HOSPERSA

HOSPERSA/NUPSAW/NATU

NAPTOSA

NATIONAL EDUCATION HEALTH AND ALLIED WORKER'S UNION (NEHAWU)

NATIONAL PROFESSIONAL TEACHER'S ASSOCIATIONS OF SOUTH AFRICA (NAPTOSA)

NATIONAL PUBLIC SERVICE WORKER'S UNION (NPSWU)

NATIONAL TEACHERS UNION (NATU)

NATIONAL UNION OF PUBLIC SERVICE AND ALLIED WORKERS (NUPSAW)

NEHAWU

NPSWU

NUPSAW

PAWUSA

POLICE AND PRISONS CIVIL RIGHTS UNION (POPCRU)

POPCRU

PROFESSIONAL EDUCATORS UNION (P. E. U.)

PSA

PUBLIC AND ALLIED WORKER'S UNION OF SOUTH AFRICA (PAWUSA)

PUBLIC SERVANTS ASSOCIATION OF SOUTH AFRICA (PSA)

SADTU

Page 1 of 2 (38 items) [1] 2

PORTAL TO PARTIES

NEW REFERRAL – CAPTURING CONCILIATION

Capture New Referral - Conciliation

059686, Application for Conciliation

Registration User

ADMIN

ObjectName

Application for Conciliation : DENOSA OBO

Application Type

Conciliation

Party Referring Dispute

Trade Union

Trade Union Name

DENOSA

Referring Party Ref Number

2697

Referring Party Telephone Number

0123456789

Referring Party Contact Person

Contact Person

Referring Party Fax Number

0414842703

Referring Party Cell Number

Referring Party Email Address

The contact details is pre-populated from the PSCBC's database. Validate the information and add additions if required

When adding email addresses, separate them with a semicolon (;)

PORTAL TO PARTIES

NEW REFERRAL – CAPTURING CONCILIATION

How many employees are affected by the dispute *	1
Applicant Initials *	M
Applicant Surname *	Liebenberg
Applicant Cell Number	082456789
Applicant Email Address	meaganl@be.co.za

Indicate how many employees are affected by the dispute.
If only 1 employee is affected:
Enter the Applicant's details

How many employees are affected by the dispute *	2
If there are more than 1 referring party, please attach a list of the names of these parties and their details to this form.	
Applicant Initials *	M
Applicant Surname *	Liebenberg
Applicant Cell Number	082456789
Applicant Email Address	meaganl@be.co.za

If more than 1 employee is affected:
Enter the main Applicant's details, and attach a list of additional employees to the form

PORTAL TO PARTIES

NEW REFERRAL - CAPTURING CONCILIATION

DETAILS OF THE OTHER PARTY

Other Party (Opposite Party) *Employer

Other Party: Department / Organisation *

Other Party: Province *

Other Party: Telephone Number *

Other Party: Fax N

Other Party: Cell

Other Party: Email

Other Party: Contact

If there are more form

Search

Search

NAME	CONTACT PERSON	PROVINCE	TYPE	Select All	NAME	CONTACT PERSON	PROVINCE	TYPE	Deselect All
DEPARTMENT OF JUSTICE & CONSTITUTIONAL DEVELOPMENT (National)	Director-General	Gauteng	Provincial	Select	DEPARTMENT OF HIGHER EDUCATION & TRAINING	Director-General	Western Cape	Provincial	Deselect
DEPARTMENT OF JUSTICE & CONSTITUTIONAL DEVELOPMENT	J MASHABELA	Gauteng	Provincial	Select	DEPARTMENT OF JUSTICE & CONSTITUTIONAL DEVELOPMENT (KwaZulu Natal Region)	Director-General	Kwazulu Natal	Provincial	Deselect
DEPARTMENT OF JUSTICE & CONSTITUTIONAL DEVELOPMENT (LIMPOPO)	Director-General	Limpopo	Provincial	Select					
DEPARTMENT OF JUSTICE & CONSTITUTIONAL DEVELOPMENT (Mpumalanga Region)	Director-General	Mpumalanga	Provincial	Select					
DEPARTMENT OF JUSTICE & CONSTITUTIONAL DEVELOPMENT (North West Region)	Director-General	North-West	Provincial	Select					
DEPARTMENT OF JUSTICE & CONSTITUTIONAL DEVELOPMENT (Northern Cape Region)	Director-General	Northern Cape	Provincial	Select					
DEPARTMENT OF JUSTICE & CONSTITUTIONAL DEVELOPMENT (Eastern Cape Region)	Director-General	Eastern Cape	Provincial	Select					
DEPARTMENT OF JUSTICE & CONSTITUTIONAL DEVELOPMENT (Western Cape Region)	Director-General	Western Cape	Provincial	Select					
DEPARTMENT OF JUSTICE & CONSTITUTIONAL DEVELOPMENT (Free State Region)	Director-General	Free State	Provincial	Select					
OFFICE OF THE PREMIER	Director-General	Gauteng	Provincial	Select					
DEPARTMENT OF ECONOMIC DEVELOPMENT	PETER MATLI	Gauteng	Provincial	Select					

Select the Department/Organisation from the Data Source.
*Multiple Employers can be selected

PORTAL TO PARTIES

NEW REFERRAL - CAPTURING CONCILIATION

DETAILS OF THE OTHER PARTY

Other Party (Opposite Party) *

Employer

Other Party: Department / Organisation *

DEPARTMENT OF HIGHER EDUCATION & TRAINING

Other Party: Province *

Western Cape

Other Party: Telephone Number *

0211801010;0214695175

Other Party: Fax Number

0214695175

Other Party: Cell Number *

0823456789

Other Party: Email Address *

Chamane.S@Dhet.gov.za, Mathabathe.S@dhet.gov.za;Raphotle.R@Dhet.gov.za, Boezak.M@dhet.gov.za

Other Party: Contact Person *

If there are more than 1 employer, please attach a list of the names of these parties and their details to this form

The contact details is pre-populated from the PSCBC's database. Validate the information and add additions if required

If there are multiple employers, attach a list to this form

PORTAL TO PARTIES

NEW REFERRAL - CAPTURING CONCILIATION

NATURE OF THE DISPUTE

Nature of Dispute *	Mutual Interest
PSCBC Resolution	Refusal to Bargain Mutual Interest Unilateral change to terms and conditions of employment Interpretation / application of Collective Agreement
Give a summary of the facts of the dispute including the clause/s applicable in the cited resolution *	
Dispute Arose Date *	
Where did the dispute arose (Town) *	
Dispute Procedures Followed *	
Outcome Required *	
Interpretation Services *	
Additional Information	

Select the Nature of Dispute from the drop down as well as the PSCBC Resolution from the next drop down

PSCBC RESOLUTION

- Res 1 of 1998
- Res 2 of 1998
- Res 3 of 1998
- Res 4 of 1998
- Res 5 of 1998
- Res 6 of 1998
- Res 7 of 1998
- Res 8 of 1998
- Res 9 of 1998
- Res 10 of 1998
- Res 11 of 1998
- Res 13 of 1998
- Res 01 of 1999
- Res 02 of 1999
- Res 03 of 1999
- Res 04 of 1999
- Res 05 of 1999
- Res 06 of 1999
- Res 07 of 1999
- Res 02 of 2003

Page 1 of 7 (135 items) < [1] 2 3 4 5 6 7 >

PORTAL TO PARTIES

NEW REFERRAL - CAPTURING CONCILIATION

Complete the rest of the form and tick all the applicable tick boxes.

Give a summary of the facts of the dispute including the clause/s applicable in the cited resolution *		
Dispute Arose Date *	2022-06-01	▼
Where did the dispute arose (Town) *	Pretoria	
Dispute Procedures Followed *		
Outcome Required *		
Interpretation Services *	Yes	▼
Interpretation Language	▼	
Additional Information	Afrikaans isiNdebele isiZulu isiXhosa isiSwati Sepedi Sesotho Setswana Tshivenda Xitsonga	
I confirm that a copy of this form has been sent to the other part/parties to the dispute and the chief negotiator of the state (DPSA). I further confirm that I have the necessary authority to sign this form. *		
Name of Party signing referral form *		

PORTAL TO PARTIES

APPLICATION FOR CONCILIATION – ATTACHING SUPPORTING DOCUMENTATION

The screenshot illustrates the process of attaching supporting documentation to an application for conciliation. The top part shows a web form with a 'File' field and a 'Choose File' button. A red box highlights the 'Choose File' button, with an arrow pointing to it from a text box that says: 'Upload all relevant documents by clicking on 'Choose File''. Below the 'Choose File' button, a file selection dialog is open, showing a list of files. A red box highlights the 'Example Document 1' file, with an arrow pointing to it from a text box that says: 'Select the file that you want to upload and click on Open'. The dialog also shows 'Example Document 2' and 'Example Document 3'. The 'File name' field at the bottom of the dialog shows 'Example Document 1'.

Chief Negotiator of the state pscbc.disputes@dpsa.gov.za

This page can not be submitted. Move to the highlighted field(s) and hover with your mouse over the red asterisk to see the problem is.

File Choose File No file chosen Add File Submit Save Close

Upload all relevant documents by clicking on 'Choose File'

Example Document 1 Example Document 2 Example Document 3

Select the file that you want to upload and click on Open

PORTAL TO PARTIES

APPLICATION FOR CONCILIATION – ATTACHING SUPPORTING DOCUMENTATION

Chief Negotiator of the state pscbc.disputes@dpsa.gov.za

This page can not be submitted. Move to the highlighted field(s) and hover with your mouse over the red asterisk next to the field to determine what the problem is.

File Choose File Example Document 1.docx Add File 

Submit Save Close

Your document name will be displayed.

Click on Add File to upload the document

Continue uploading all relevant documents.

You can view the documents that have been uploaded.

File Choose File No file chosen Add File  File added.

File Name	File Size	Action
Example Document 1.docx	1 KB	 
Example Document 2.pdf	403 KB	 

Submit Save Close

PORTAL TO PARTIES

APPLICATION FOR CONCILIATION – APPLICATION SUBMISSION PAGE

Outcome Required *

Interpretation Services *

▼

Additional Information

Tick all tick-boxes to confirm the terms

The data subject agrees that PSCBC can process their personal information on the terms and conditions set forth in PSCBC's privacy policy, available at: *

<https://pscbc.co.za/pscbc-privacy-policy-manual>

By submitting this referral form, I grant my/our voluntary consent, as stipulated in the POPIA Consent above, and further confirm that referral is correct and duly signed in line with the PSCBC DR Rules *

This document is presumed as electronically signed in terms of the relevant provisions of the Electronic Communications and Transactions Act 25 of 2002.

Type your name to sign this form

Name of Person signing referral form *

Capacity in which form is signed

Date Referral Form completed

Trade Union

2024-03-11

By submitting this form via the PSCBC Portal, service is presumed unless the contrary is proven.

This page can not be submitted. Move to the highlighted field(s) and hover with your mouse over the red asterisk next to the field to determine what the problem is.

Submit

42

PORTAL TO PARTIES

ALL REFERRALS PAGE



Referrals

 EDIT LINKS

Home



New Application



All Referrals



Home

Documents

  N
 P
 P
 A

ne\labournetadmin
ne\labournetadmin

Outstanding Tasks

Object Ref	Task Title	Date
54937	Capture New Referral - Conciliation	06-11-2023
55544	Capture New Referral - Conciliation	28-11-2023
55545	Capture New Referral - Arbitration	28-11-2023
55613	New Referral Application	28-11-2023
55616	Capture New Referral - Conciliation	28-11-2023
56494	Capture New Referral - Conciliation	23-01-2024
56671	Capture New Referral - Conciliation	29-01-2024
59160	Capture New Referral - Conciliation	05-03-2024
59161	Capture New Referral - Arbitration	05-03-2024
59158	Capture New Referral - Conciliation	05-03-2024
59264	Capture New Referral - Conciliation	07-03-2024
59265	Capture New Referral - Conciliation	07-03-2024
59353	Upload Documents	11-03-2024
59355	Capture New Referral - Arbitration	11-03-2024

All Click on 'All Referrals' image to view all submitted referrals

PORTAL TO PARTIES

ALL REFERRALS PAGE

All Referrals

Home Documents Site Contents EDIT LINKS

Search this site

Home

New Referral

Home

All referrals submitted will be displayed here

Action	Object Ref	Referral Type	Referral Name	Case Number	Date Created
...	36769	Conciliation	Application for Conciliation : ASSOCIATION OF MINEWORKERS AND CONSTRUCTION UNION (AMCU) OBO P Dlamini // DEPARTMENT OF HEALTH;OFFICE OF THE PREMIER;E-GOVERNMENT;DEPARTMENT OF EDUCATION		2022-06-21
...	36771	Conciliation	Application for Conciliation : BUILDING WOOD AND ALLIED WORKERS UNION OF SOUTH AFRICA (BWAUSA) OBO M LiebenBERG // DEPARTMENT OF HEALTH;DEPARTMENT OF EDUCATION;E-GOVERNMENT		2022-06-21
...	38366	Conciliation	Application for Conciliation : DENOSA OBO M Liebenberg // DEPARTMENT OF HIGHER EDUCATION & TRAINING		2022-06-28

Referral Progress

Action	Object Ref	Stage	Ref Number	Case Number	Date Completed	Status	Outcome	Process Type
--------	------------	-------	------------	-------------	----------------	--------	---------	--------------

PORTAL TO PARTIES

ALL REFERRALS PAGE

HOME



New Referral



Home

All Referrals

Action	Object Ref	Referral Type	Referral Name	Case Number	Date Created
...	36769	Conciliation	Application for Conciliation : ASSOCIATION OF MINEWORKERS AND CONSTRUCTION UNION (AMCU) OBO P Dlamini // DEPARTMENT OF HEALTH;OFFICE OF THE PREMIER;E-GOVERNMENT;DEPARTMENT OF EDUCATION		2022-06-21
...	36771	Conciliation	Application for Conciliation : BUILDING WOOD AND ALLIED WORKERS UNION OF SOUTH AFRICA (BWAUUSA) OBO M LiebenBERG // DEPARTMENT OF HEALTH;DEPARTMENT OF EDUCATION;E-GOVERNMENT		2022-06-21
...	38366	Conciliation	Application for Conciliation : DENOSA OBO M Liebenberg // DEPARTMENT OF HIGHER EDUCATION & TRAINING		2022-06-28

Referral Progress

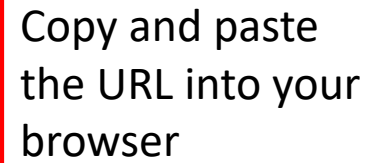
Action	Object Ref	Stage	Ref Number	Case Number	Date Completed	Status	Outcome	Process Type
...	36772	Referral Sent to Council			2022-06-21	Complete	Successful	Conciliation
...	36775	Referral Received by Council	PSRN20117/2022		2022-06-21	Complete	Sent for Screening	Conciliation

All progress updates will be viewed on the Referral Progress table

PORTAL TO PARTIES

HOW TO USE THE PORTAL TO PARTIES – APPLICATION FOR ARBITRATION

Copy and paste
the URL into your
browser



<https://labournetcollab.collaboratoronline.com>

PORTAL TO PARTIES

HOW TO USE THE PORTAL TO PARTIES - LOG IN - APPLICATION FOR ARBITRATION



Sign In

Sign In

[Forgot password?](#) [Create account](#)

Enter Username and Password (As captured during Registration)
Click on Sign In

****Username = Email Address**

PORTAL TO PARTIES

HOW TO USE THE PORTAL TO PARTIES – APPLICATION FOR ARBITRATION

After you have logged onto the Portal and selected your stakeholder type, then click on the referrals image to access the referral form.

On the Home Screen, select your user type

Welcome to the PSCBC Portal

Please select your user type

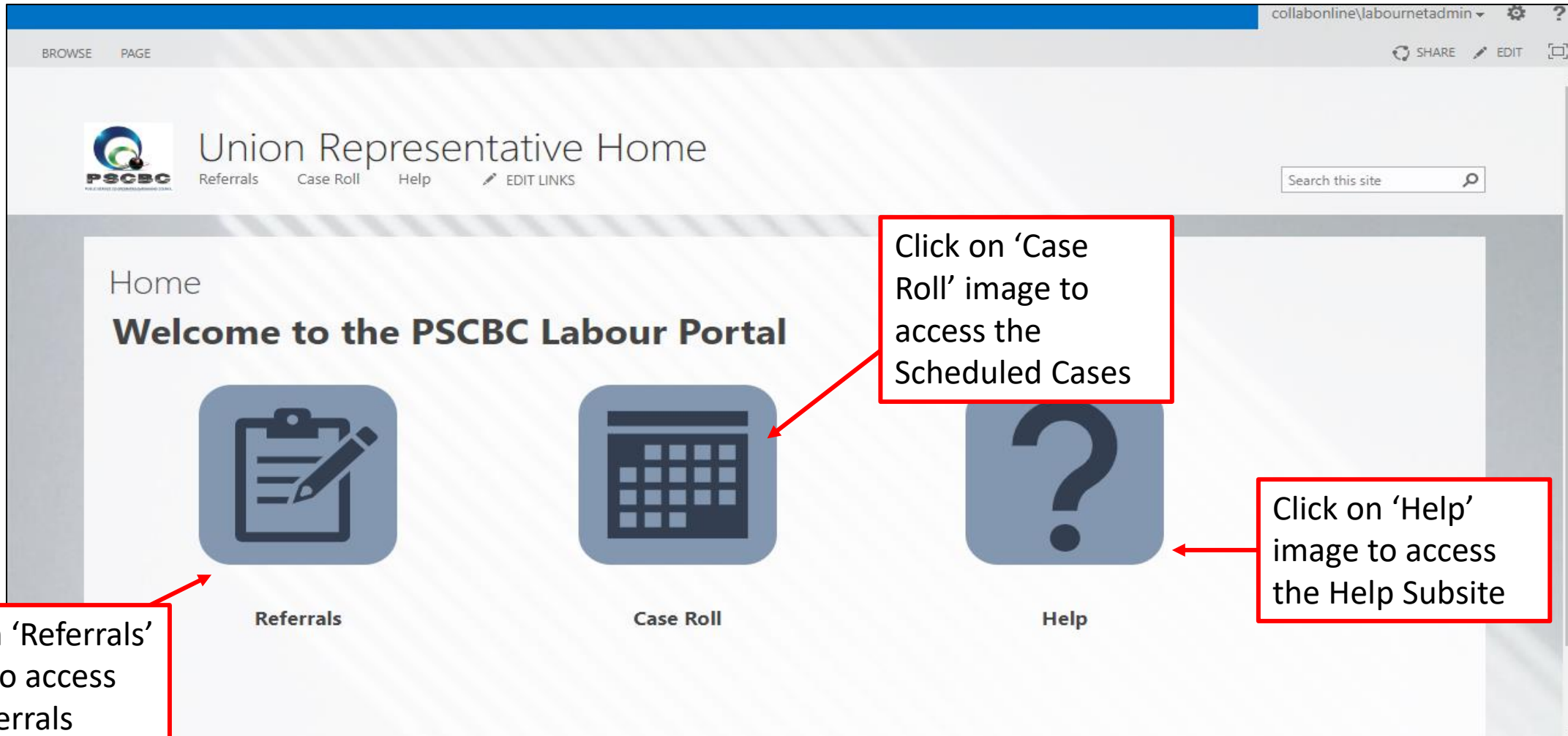
 Panelist

 Department

 Union

PORTAL TO PARTIES

HOW TO USE THE PORTAL TO PARTIES – HOME PAGE - APPLICATION FOR ARBITRATION



PORTAL TO PARTIES

HOW TO USE THE PORTAL TO PARTIES – HOME PAGE - APPLICATION FOR ARBITRATION



Referrals

 EDIT LINKS

Home



New Referral



All Referrals



Home

Click on All Referrals

Outstanding Tasks

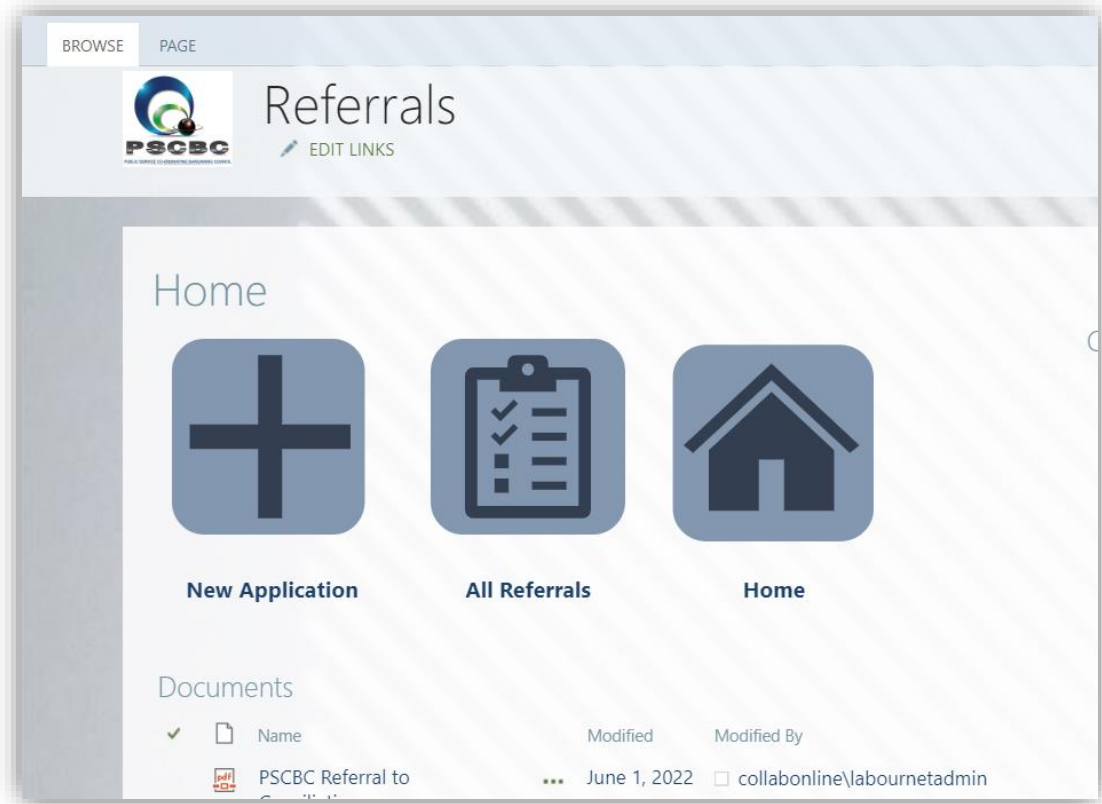
Object Ref	Task Title	Date
55543	Upload Documents	06-11-2023
55547	Capture New Referral - Conciliation	06-11-2023
55544	Capture New Referral - Conciliation	28-11-2023
55545	Capture New Referral - Arbitration	28-11-2023
55613	New Referral Application	28-11-2023
55616	Capture New Referral - Conciliation	28-11-2023
56494	Capture New Referral - Conciliation	23-01-2024
56671	Capture New Referral - Conciliation	29-01-2024

Documents

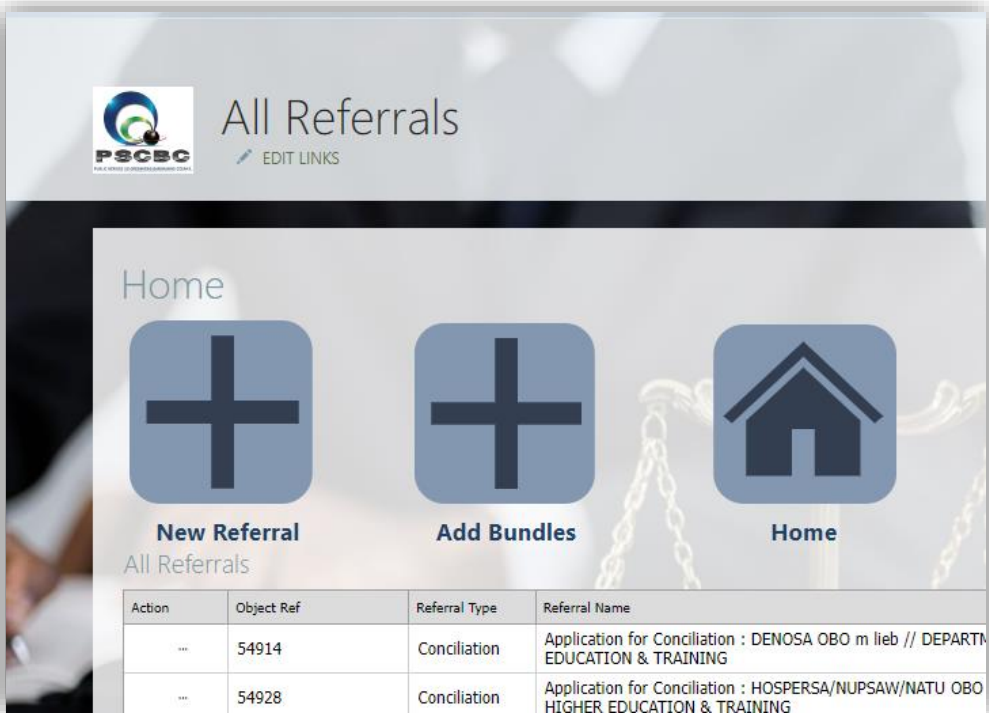
✓		Name	Modified	Modified By
		PSCBC Referral to Conciliation	... June 1, 2022	☐ collabonline\labournetadmin
		PSCBC Request for Arbitration	... June 1, 2022	☐ collabonline\labournetadmin

PORTAL TO PARTIES

APPLICATION FOR ARBITRATION



To apply for Arbitration, select the 'New Application' and then 'New Referral' to follow the prompts to capture the arbitration



PORTAL TO PARTIES

APPLICATION FOR ARBITRATION

New Referral Application

041455,      

Registration User	39804	//
ObjectName	Application for	//
Referral Type *	▼ Conciliation Arbitration S33 Enforcement	//
Condonation Required?		

Submit

Save

Close

Feedback History

Select 'Arbitration'

PORTAL TO PARTIES

APPLICATION FOR ARBITRATION

New Referral Application

059687, 

Registration User	ADMIN	//
ObjectName	Application for Arbitration	//
Application Type *	Arbitration	▼
Party Referring Dispute *	Employer Trade Union	▼ *
Outcome Certificate Date *		
Condonation May Be Required?	No	//

This page can not be submitted. Move to the highlighted field(s) and hover with your mouse over the red asterisk next to the field to determine what the problem is.

Submit

Select Party Referring Dispute

PORTAL TO PARTIES

APPLICATION FOR ARBITRATION

New Referral Application

041455, 

Registration User

39804

//

ObjectName

Application for Arbitration

//

Referral Type *

Arbitration

▼

Outcome Certificate Date *

2022-08-29



Condonation Required?

No

Select the Outcome Certificate Date

August, 2022

Su	Mo	Tu	We	Th	Fr	Sa
31	1	2	3	4	5	6
7	8	9	10	11	12	13
14	15	16	17	18	19	20
21	22	23	24	25	26	27
28	29	30	31	1	2	3
4	5	6	7	8	9	10

Save Close

Today: August 29, 2022

Feedback History

PORTAL TO PARTIES

APPLICATION FOR ARBITRATION

New Referral Application

041455, 

Registration User	39804	//
ObjectName	Application for Arbitration	//
Referral Type *	Arbitration	▼
Outcome Certificate Date *	2022-08-29	▼
Condonation Required?	No	//

If Condonation Required is No, then click on Submit

Submit Save Close

Feedback History

PORTAL TO PARTIES

APPLICATION FOR ARBITRATION

New Referral Application

059687,      

Registration User	ADMIN	//
ObjectName	Application for Arbitration	//
Application Type *	Arbitration	▼
Party Referring Dispute *	Trade Union	▼
Outcome Certificate Date *	2023-11-26	// ▼
Condonation May Be Required?	Yes	//
Click here to download Application for Condonation Form		
Submit		

If Condonation Required is Yes,
then click on the link to download
the application form.

PORTAL TO PARTIES

APPLICATION FOR ARBITRATION

New Referral Application

041455, 

Registration User

39804

//

ObjectName

Application for Arbitration

//

Application Type *

Arbitration

▼

Party Referring Dispute *

Trade Union

▼

Outcome Certificate Date *

2023-11-26

//

▼

Condonation May Be Required?

Yes

//

[Click here to download Application for Condonation Form](#)

Submit

Save

Close

Click on Save and Close to
continue later after
completing the
condonation application.

PORTAL TO PARTIES

APPLICATION FOR ARBITRATION



Referrals

[EDIT LINKS](#)

Home



New Referral



All Referrals



Home

Outstanding Tasks

Object Ref	Task Title	Date
54928	Upload Documents	06-11-2023
54937	Capture New Referral - Conciliation	06-11-2023
55544	Capture New Referral - Conciliation	28-11-2023
55545	Capture New Referral - Arbitration	28-11-2023
55613	New Referral Application	28-11-2023
55616	Capture New Referral - Conciliation	28-11-2023
56494	Capture New Referral - Conciliation	23-01-2024
56671	Capture New Referral - Conciliation	29-01-2024

Documents

✓		Name	Modified	Modified By
		PSCBC Referral to Conciliation	... June 1, 2022	☐ collabonline\labournetadmin
		PSCBC Request for Arbitration	... June 1, 2022	☐ collabonline\labournetadmin

When your application for Condonation is complete, click on the object ref to continue with the task

PORTAL TO PARTIES

APPLICATION FOR ARBITRATION

New Referral Application

059687, 

Registration User

ADMIN

//

ObjectName

Application for Arbitration

//

Application Type *

Arbitration

▼

Party Referring Dispute *

Trade Union

▼

Outcome Certificate Date *

2023-11-26

//

▼

Condonation May Be Required?

Yes

//

[Click here to download Application for Condonation Form](#)

Click on
Submit

↓

Submit

PORTAL TO PARTIES

APPLICATION FOR ARBITRATION - CAPTURING

Capture New Referral - Arbitration

041459, Application for Arbitration

Registration User

39804

ObjectName

Application for Arbitration : OBO

Referral Type

Arbitration

Party Referring Dispute *

Trade Union

Case Reference Number

...

Submit

Save

Close

Select the existing
Case Reference
Number from the
Data Source button

APPLICATION FOR ARBITRATION – CAPTURING

Data will automatically be populated into the fields

PORTAL TO PARTIES

APPLICATION FOR ARBITRATION – UPLOAD DOCUMENTS

059424, Application for Arbitration : NEHAWU OBO M MANDILAKHE // DEPARTMENT OF HEALTH

Upload Documents

Object Name Application for Arbitration : NEHAWU OBO M MANDILAKHE // DEPARTMENT

Registration User ADMIN //

Application Type Arbitration //

Documents to Upload

I have attached the outcome form as proof that the Conciliation was unresolved and proof of service to the other party and DPSA * ☐

By submitting this referral form, I grant my/our voluntary consent as stipulated in paragraph 8 of this referral form and further confirm that referral is correct and duly signed in line with the PSCBC DR Rules * ☐

File Choose File No file chosen Add File

Click on Submit Submit

Upload all relevant documentation and tick the tick boxes

PORTAL TO PARTIES

APPLICATION FOR ARBITRATION – CONFIRMATION OF DETAILS

The case between

Party 1 NEHAWU OBO M MANDILAKHE

Party 2 DEPARTMENT OF HEALTH

was referred for conciliation, but remains unresolved. I/we now request that the matter be resolved through arbitration.

Give a summary of the facts of the dispute including the clause/s applicable in the cited resolution

Outcome Required

CONFIRMATION OF ABOVE DETAILS

The data subject agrees that PSCBC can process their personal information on the terms and conditions set forth in PSCBC's privacy policy, available at: * ☐

<https://pscbc.co.za/pscbc-privacy-policy-manual>

This document is presumed as electronically signed in terms of the relevant provisions of the Electronic Communications and Transactions Act 25 of 2002.

Name of Person signing referral form *

Capacity in which form is signed Trade Union

This page can not be submitted. Move to the highlighted field(s) and hover with your mouse over the red asterisk next to the field to determine what the problem is.

Click on Submit

Submit

Complete the required fields at the bottom of the form



Q & A





RESOLUTION 1 OF 2024

RULES FOR THE CONDUCT OF PROCEEDINGS BEFORE THE PSCBC (DR RULES) - AMENDMENTS



RESOLUTION 1 OF 2024

BACKGROUND

Resolution 1 of 2024 replaces Resolution 4 of 2005, Rules for the Conduct of Proceedings before the PSCBC.

Resolution 1 of 2024 aligns the Dispute Resolution Rules with –

- Legislation (Protection of Personal Information Act 4 of 2013 and Electronic Communications and Transactions Act 25 of 2002);
- The recent case law; and
- The digitalisation within the PSCBC and the dispute resolution processes.

RESOLUTION 1 OF 2024

GENERAL PRINCIPLES APPLIED TO THE AMENDMENTS

- All rules concerning the serving, filing and signing of documents have been amended to allow for the inclusion of the PSCBC Portal and the e-Referral form, in addition to the known methods.
- Wherever the rules mention registered mail, it now reads registered mail or courier services.
- Where an affidavit is mentioned in the rules it has been replaced with a written statement.
- Where applicable, amendments 'to whom may sign the referral form' have been made.
- Handling and dealing with applications such as postponements, rescissions, variations, etc.
- The inclusion of South African Sign Language (SASL) on the referral form, recognised as an official language.
- Lastly, all applicable PSCBC forms have been amended to include the POPIA consent clause.

RESOLUTION 1 OF 2024

PART ONE

SERVING AND FILING DOCUMENTS

RULE 1: HOW TO CONTACT THE COUNCIL

- (1) The address, telephone, fax number, e-mail address and ~~tele-fax numbers~~ relevant **hyperlinks** of the office of the Council are as follows:

Physical address: **Public Service Co-ordinating Bargaining** Centre **Lyttleton Office Village**,
260 Basden Avenue Street, Lyttleton, 0176

Postal address: PO Box 3123, Lyttleton South, 0176

Telephone: (012) 644 8100

Fax: (012) 664 **5834 8957**

Email: info@pscbbc.org.za

PSCBC Portal Link: <https://labournet.collaboratoronline.com/>

PSCBC e-Referral: <https://pscbbc.co.za/index.php/dispute-resolution/dispute-resolution-forms-01>

- (2) Documents may only be filed with the Council at the address, ~~fax or tele-fax~~ number, **e-mail address listed above or through the PSCBC Portal or the e-Referral platform.**

RULE 1: HOW TO CONTACT THE COUNCIL

Why the amendment/s?	The Amendment/s	Impact of the Amendment/s
• To introduce new and improved digital upgrades within Dispute Management (PSCBC Portal & e-Referral platform). • Portal is available to trade unions - party to the council & the employer. • E-referral form is available to trade unions, not party to council and individual employees.	• Inclusion of the PSCBC Portal hyperlink to the contact details list. • Inclusion of the e-Referral platform hyperlink to the contact details list. • This amendment is included for all areas relating to contact information in the Rules.	• Updated list of PSCBC contact information. • Promotion of a digitalised processing of the referrals.

RULE 1A: COMPLIANCE WITH LEGISLATION REGARDING PERSONAL INFORMATION

When a party serves or files documents on the Council or on the other party in terms of these rules, or processes documents that contain personal information with the other party, such party must:

- (a) be responsible for complying with their respective obligations under applicable Data Protection Legislation, including, but not limited to the Protection of Personal Information Act 4 of 2013 (POPIA), when processing personal information;
- (b) take appropriate technical and organisational measures and implement security safeguards to prevent the unauthorised or unlawful processing of personal information and/or data of the other party or of another data subject;
- (c) process the other party's personal information and/or data only in accordance with that party's instructions (having regard to the Data Protection Legislation) or as required by law; and not disclose the other party's personal information and/or data except in accordance with that party's instructions or as required by law.

RULE 1A: COMPLIANCE WITH LEGISLATION REGARDING PERSONAL INFORMATION

Why the amendment/s?	The Amendment/s	Impact of the Amendment/s
The new rule 1A seeks to ensure compliance with the provisions of the applicable Data Protection Legislation, including the Protection of Personal Information Act 4 of 2013 (POPIA) by parties and the Council when processing personal information.	Inclusion of a new rule 1A as seen above.	Compliance when handling personal information within the Council's processes.

RULE 2: OFFICE HOURS

2. ~~When are the offices of the Council open?~~ Office Hours

- (1) Office of the Council will be open every day from Monday to Friday, excluding public holidays, between the hours of 07h30 and 16h00 or as determined by the Council.
- (2) Documents may only be filed **at the premises of** ~~with~~ the Council during the hours referred to in subrule (1).
- (3) Notwithstanding subrule (2), documents may be faxed, **e-mailed and uploaded on the PSCBC Portal or the e-Referral platform** at any time **on any day** to the Council.

Why the amendment/s?	The Amendment/s	Impact of the Amendment/s
The inclusion of digitalised platforms for the referrals.	Changes effected under subrule (2) and (3) as seen above.	Digitalisation of the Council's processes regardless of the office hours.

RULE 3: HOW TO CALCULATE TIME PERIODS IN THESE RULES

- (1) For the purpose of calculating any period of time in terms of these rules-
 - (a) day means a calendar day unless otherwise specified; and
 - (b) the first day is excluded and the last day is included, subject to subrule (2).
- (2) The last day of any period must be excluded if it falls on a Saturday, Sunday, public holiday or on a day during the period 16 December to 7 January. ~~For the purposes of subrule 1(b) the last day will be 8 January or the first working day thereafter.~~

Why the amendment/s?	The Amendment/s	Impact of the Amendment/s
Ease of reading and understanding	No material changes	Clear readability and understanding

RULE 4: WHO MUST SIGN DOCUMENTS

- (1) A document that a party must sign in terms of the Act, the PSCBC Dispute Resolution Procedures or these rules may be signed by the party or by a person entitled in terms of the Act or these ~~Rules~~ to represent that party in ~~the proceedings-a~~ hearing.
- (2) Where a document has not been signed or was signed by a person who is not entitled to represent that party in terms of the Act, PSCBC Dispute Resolution Procedures or these rules, the intention of that party to submit that document may be confirmed by the subsequent appearance of the party at the convened hearing before the commissioner or by any other method of confirmation that may be placed on record at the Council.

RULE 4: WHO MUST SIGN DOCUMENTS

(3) If ~~proceedings are~~ a hearing is jointly instituted or opposed by more than one employee, documents may be signed by an employee who is mandated by the other employees to sign documents. A list containing the names and signatures of the employees who have mandated the employee to sign on their behalf must be attached to the referral document.

(4) Documents completed and submitted through the PSCBC Portal or the e-Referral platform are presumed as electronically signed* in terms of subrule (1), unless contrary proven.

*The relevant provisions of the Electronic Communications and Transactions Act 25 of 2002 are applicable in respect of any issue concerning electronic signatures.

RULE 4: WHO MUST SIGN DOCUMENTS

Why the amendment/s?	The Amendment/s	Impact of the Amendment/s
• The decision in <i>Adams v National Bargaining Council for the Freight and Logistics Industry and Others</i> (CA2/2019) [2020] ZALAC 10 was considered in bringing about the addition of subrule (2). • The above-mentioned case law allows for the ratification of documents. • The digitalisation of the Council's processes.	• Inclusion of a new subrule (2) as seen above. • Inclusion of a new subrule (4) as seen above.	• New subrule (2) makes provision for the ratification of a document that was not signed or signed by a person who is not entitled to represent that party in terms of the Rules. • New subrule (4) presumes that a document completed and submitted through the PSCBC Portal & the e-Referral platform is signed.

RULE 5: HOW TO SERVE DOCUMENTS ON OTHER PARTIES

(1) Unless otherwise provided for in these Rules, a party must serve a document on the other parties

(a) by handing a copy of the document to -

(i) a person identified in subrule (23);

(ii) a representative authorised in writing to accept service on behalf of a person identified in subrule (23);

(iii) in the case of a document being served on any other person as identified in subrule (23), a person who appears to be at least 16 years old and in charge of the person's place of residence, business or place of employment premises at the time;

(b) by leaving a copy of the document at –

(i) an address chosen by a person identified in subrule (23) to receive service;

(ii) any premises in accordance with subrule (34);

RULE 5: HOW TO SERVE DOCUMENTS ON OTHER PARTIES

- (c) by e-mailing, or faxing ~~or telexing~~ a copy of the document to a person identified in subrule (23)'s e-mail address or fax ~~or telex~~ number respectively, or a number or e-mail address chosen by that person to receive service; and
 - (d) by sending a copy of the document by registered ~~post mail or courier services or telegram~~ to the last-known address of the party or an address chosen by the party to receive service.
- (2) Documents completed and submitted through the PSCBC Portal or the e-Referral platform are presumed served to the other party and the chief negotiator of the State unless contrary proven.
- (3) A document must be served –
- (a) in the case of the employer, on a responsible employee of the employer at the workplace where the employee/s involved in the dispute ordinarily work or worked and on the chief negotiator of the State.
 - (b) in the case of an employee ~~or trade union, on the employee or on an official at the trade unions' head office~~ on their address as stated in subrule (1).

RULE 5: HOW TO SERVE DOCUMENTS ON OTHER PARTIES

- (c) in the case of a trade union by handing a copy of the document to a responsible employee or official at the main office of the union or its office in the province or region in which the dispute arose.
- (4) Only if no person identified in subrule (23) is willing to accept service, service may be effected by affixing a copy of the document to –
 - (a) the main door of the premises concerned; or
 - (b) if this is not accessible, a post-box or other place to which the public has access.
- (5) The Council Secretary or a panellist commissioner may order service in a manner other than prescribed in this rule.

RULE 5: HOW TO SERVE DOCUMENTS ON OTHER PARTIES

Why the amendment/s?	The Amendment/s	Impact of the Amendment/s
• Readability of the rule, and digitalisation of the Council's processes.	• Inclusion of a new subrule (2) as seen above. • Inclusion of a new subrule (3)(c) as seen above.	• New subrule (2) makes provision for the digitalisation of the Council's processes. • New subrule (3)(c) enhances readability and understanding.

RULE 6: HOW TO PROVE THAT A DOCUMENT WAS SERVED IN TERMS OF THESE RULES

- (1) A party must prove to the ~~Council Secretary~~ or a ~~panellist commissioner~~ that a document was served in terms of these Rules, by providing the ~~Council Secretary~~ or a ~~panellist commissioner~~:
 - (a) with a copy of proof ~~that of mailing~~ the document ~~has been served~~ by registered ~~post~~ mail or ~~courier services~~ to the other party;
 - (b) ~~with a copy of the telegram or telex communicating the document to the other party;~~ with a copy of the ~~telex~~fax transmission report indicating the successful transmission to the other party of the whole document; ~~or~~
 - (c) if a document was served by hand –
 - (i) with a copy of a receipt signed by, or on behalf of, the other party clearly indicating the name and designation of the recipient and the place, time and date of service; or
 - (ii) with a statement confirming service signed by the person who delivered a copy of the document to the other party or left it at any premises.

RULE 6: HOW TO PROVE THAT A DOCUMENT WAS SERVED IN TERMS OF THESE RULES

- (d) if a document was served by e-mail, with a copy of the sent e-mail indicating the successful dispatch to the other party of the e-mail and any attachments concerned; or
 - (e) if a document is filed through the PSCBC Portal or the e-Referral platform, service is presumed unless contrary proven*.
- (2) If proof of service in accordance with subrule (1) is provided, it is presumed, ~~until the~~ unless contrary ~~is proven~~, that the party on whom it was served has knowledge of the contents of the document.
- (3) The Council may accept proof of service in a manner other than prescribed in this rule, where the proof is sufficient.

*The relevant provisions of the Electronic Communications and Transactions Act 25 of 2002 are applicable in respect of any issue concerning service by e-mail or the service of a notice of hearings by short message service as permitted by rule 5(5).

RULE 6: HOW TO PROVE THAT A DOCUMENT WAS SERVED IN TERMS OF THESE RULES

Why the amendment/s?	The Amendment/s	Impact of the Amendment/s
To allow for any other manner as proof of service other than prescribed where it is sufficient.	Inclusion of the- subrules (1)(d), (1)(e) and (3) as seen above.	Subrule 1(d) inclusion of proof required when a document is served by email. Subrule (1)(e) caters for the digitalised processes of the council. Subrule (3) provide for a discretion for the Council to accept proof of service in any manner other than the prescribed.

RULE 7: HOW TO FILE DOCUMENTS WITH THE COUNCIL

(1) A party must file documents with the Council:

- (a) by handing the document to the office of the **General** Secretary at the address as per rule 1(1);
- (b) by sending a copy of the document by registered **post mail or courier services** to the office of the **General** Secretary at the address as per rule 1(1); or
- (c) by **e-mailing**, faxing **or submitting, through the PSCBC Portal or the e-Referral platform**, the document to the office of the **General** Secretary ~~at the number listed~~ as per rule 1(1).

(2) A document is filed with the Council when –

- (a) the document is handed to the office of the **General** Secretary;
- (b) a document sent by registered **post-mail or courier service** is received by the office of the **General** Secretary; ~~or~~
- (c) the transmission of the whole of a fax is completed;

RULE 7: HOW TO FILE DOCUMENTS WITH COUNCIL

- (d) the e-mail is received in the office of the General Secretary*;
- (e) a document is completed and submitted through the PSCBC Portal; or e-Referral platform
As provided for in the Electronic Communications and Transactions Act 25 of 2002.

(3) A party must only file the original of a document ~~filed by fax~~, if ~~requested~~ instructed to do so by the General Secretary or a ~~panellist-commissioner~~. A party must comply with a request to file an original document within seven (7) days of the request.

*As provided for in the Electronic Communications and Transactions Act 25 of 2002.

Why the amendment/s?	The Amendment/s	Impact of the Amendment/s
• Subrule (2)(d) and (e) is added to allow for the digitalisation of the Council’s processes.	• Inclusion of a new subrule (2)(d) and (e) as seen above.	• Subrule (2)(d) & (e) allows for parties to file documents either through email, the PSCBC Portal or the e-Referral platform.

RULE 8: PRESUMPTION WHEN SERVICE WAS DONE BY REGISTERED MAIL OR COURIER SERVICES

8. **Presumption when service was done** ~~Documents and notices sent~~ by registered ~~post~~ **mail or courier services**
- (1) Any document or notice sent by registered ~~post~~ **mail or courier services** by a party or the Council is presumed, ~~until the contrary is proved~~, to have been received by the person to whom it was sent seven **(7)** days after it was posted, ~~unless contrary proven~~.

Why the amendment/s?	The Amendment/s	Impact of the Amendment/s
• Addition of the courier services.	• Inclusion of courier services and the presumption of thereof.	• Options for parties of serving of documents and the presumption of receipt unless proven otherwise.

RULE 9: HOW TO SEEK CONDONATION FOR REFERRAL DOCUMENTS AND APPLICATIONS FILED LATE

9. How to seek condonation for **referral** documents **and applications filed ~~delivered~~ late**

- (1) This rule applies to any referral document or application delivered outside of the applicable time periods prescribed in the Act, **applicable employment law**, these ~~r~~**R**ules, or the ~~d~~**D**ispute ~~r~~**R**esolution ~~p~~**P**rocedure of the Council.
- (2) A party must apply for condonation, in terms of rule 30, when filing the document **late**, with the Council.

RULE 9: HOW TO SEEK CONDONATION FOR REFERRAL DOCUMENT AND APPLICATIONS FILED LATE

- (3) An application for condonation must set out the grounds for seeking condonation and must include details of the following:
- (a) the degree of lateness;
 - (b) the reasons for the lateness;
 - (c) the referring parties' prospects of succeeding with the referral and obtaining the relief sought against the other party;
 - (d) any prejudice to the other party; and
 - (e) any other relevant factors.
- (4) The **Secretary Council** may assist a referring party to comply with this rule.

RESOLUTION 1 OF 2024

PART TWO

CONCILIATION OF DISPUTES

RULE 10: HOW TO REFER A DISPUTE TO THE COUNCIL FOR CONCILIATION

- (1) A referral of a dispute for conciliation must be made on the **prescribed** referral form(s) of the Council **or through the PSCBC Portal or the e-Referral platform.**
- (2) The referring party must –
 - (a) sign the referral document in accordance with rule 4;
 - (b) attach to the referral documentary proof, in accordance with rule 6, that the referral document was served on the other parties to the dispute;
 - (c) if the referral document is filed out of time, attach an application for condonation in accordance with rule 9 **read with rule 30.**
- ~~(3) The Secretary must refuse to accept a referral document unless subrule (2) has been complied with.~~

RULE 10: HOW TO REFER A DISPUTE TO THE COUNCIL FOR CONCILIATION

Why the amendment/s?	The Amendment/s	Impact of the Amendment/s
• Subrule (1) is amended to allow for the digitalisation of the Council's processes. • Subrule (3) was deleted to avoid contradiction with the suggested new rule 4(2).	• Amendment of subrule (1) as seen above. • Deletion of subrule (3).	• Subrule (1) allows for parties to refer a dispute through the PSCBC Portal or the e-Referral platform. • The deletion of subrule (3) allows for the ratification of documents as provided for in rule 4(2).

RULE 11: WHAT NOTICE MUST THE COUNCIL GIVE FOR A CONCILIATION

11. What notice must the **Secretary Council** give for a conciliation

The **Secretary-Council** must give the parties at least **fourteen** (14) days’ notice in writing of a conciliation hearing, unless the parties agree to a shorter period of notice **or reasonable circumstances require a shorter period. If a notification is sent by registered mail or courier services, an additional seven (7) days must be allowed.**

Why the amendment/s?	The Amendment/s	Impact of the Amendment/s
• Allows for reasonable circumstances for shorter notice periods. • Additional days when a notice is sent by registered mail or courier services.	• Addition as seen above.	• Permits for reasonable circumstances which may require a shorter notice period for a conciliation. • Additional days required when a notice is sent by registered mail or courier services.

RULE 12: THE COUNCIL MAY SEEK TO RESOLVE A DISPUTE BEFORE CONCILIATION

12. ~~Secretary~~ **The Council** may seek to resolve **a** dispute before conciliation

The ~~Secretary-Council~~ or a ~~panellist-commissioner~~ may contact the parties by telephone or other means, prior to the commencement of the conciliation, ~~in-order~~ to seek to resolve the dispute.

RULE 13: HOW TO DETERMINE WHETHER A COMMISSIONER MAY CONCILIATE A DISPUTE

13. How to determine whether a ~~panellist~~ commissioner may conciliate a dispute

- (1) If it appears during a conciliation ~~proceedings~~ hearing that a jurisdictional issue has not been determined, the ~~panellist~~ commissioner must require the referring party to prove that the Council has the jurisdiction to conciliate the dispute. At a conciliation hearing, the following jurisdictional issue may be dealt with:
- a) non-compliance with the timeframes prescribed by the Act;
 - b) premature referral of a dispute;
 - c) a referral made not in terms of these Rules;
 - d) whether parties fall within the registered scope of the Council; and
 - e) whether the dispute concerned is an employment related matter.
- (2) A commissioner must give written reasons for a ruling on whether the Council has jurisdiction or not.

RULE 13: HOW TO DETERMINE WHETHER A COMMISSIONER MAY CONCILIATE A DISPUTE

Why the amendment/s?	The Amendment/s	Impact of the Amendment/s
• <i>Bombardier Transportation (Pty) Ltd v Mtiya and Others</i> (JR 644/09) [2010] ZALC 34; (2010) 31 ILJ 2065 (LC) ; [2010] 8 BLLR 840 (LC) has set out the jurisdictional issues that can be heard at conciliation. • Commissioners to provide written reasons for a jurisdictional ruling.	• Addition of subrule (1)(a) - (e) as seen above. • Addition of subrule (2) as seen above.	• Subrule (1)(a) - (e) sets out what types of jurisdictional issues which can be heard at conciliation. • Subrule (2) states that a Commissioner must give written reasons when making a jurisdictional ruling of this manner.

RULE 14: ISSUING OF A CERTIFICATE OF OUTCOME IN TERMS OF SECTION 135(5) OF THE ACT

14. Issuing of a certificate of outcome in terms of Section 135(5) of the Act

A certificate of outcome, stating whether the dispute has or has not been resolved, must identify the nature of the dispute as described in the referral document or as identified by the ~~panellist~~ commissioner during ~~the a~~ conciliation ~~process~~ hearing.

RULE 15: CONCILIATION HEARINGS MAY NOT BE DISCLOSED

15. Conciliation ~~proceedings~~ **hearings** may not be disclosed

- (1) Conciliation ~~proceedings~~ **hearings** are private and confidential and are conducted on a without prejudice basis. No person may refer to anything said at conciliation ~~proceedings~~ **hearings** during any subsequent ~~proceedings~~ **hearings** unless the parties agree in writing.
- (2) Irrespective of subrule (1), a commissioner may be ordered by a court of law to give evidence in court ~~proceedings~~ **concerning the nature of the dispute**. ~~No person, including a panellist, may be called as a witness during any subsequent proceedings in the Council or in any court to give evidence about what transpired during conciliation.~~

Why the amendment/s?	The Amendment/s	Impact of the Amendment/s
Case law regarding the disclosure of conciliations in <i>September and Others v CMI Business Enterprises</i> CC CCT279-16.	- Deletion of subrule (2) as seen above. - Addition of a new subrule (2) as seen above.	Subrule (2) now provides that a Commissioner may be ordered by a court to give evidence on the nature of the dispute at conciliation.

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PART THREE

ARBITRATIONS

RULE 16: HOW TO REQUEST ARBITRATION

- (1) A party may request the Council to arbitrate a dispute by ~~filing~~ completing the prescribed request ~~referral for~~ to arbitration form, ~~with the Secretary~~ available on the PSCBC platforms.
- (2) The referring party must -
 - (a) sign the request to arbitration form ~~referral document~~ in accordance with rule 4;
 - (b) attach to the request to arbitration form ~~referral document~~ written proof that the request to arbitration document was served on the other parties to the dispute in accordance with rule 6; and
 - (c) if the request to arbitration form ~~referral document~~ is served out of time, attach an application for condonation in accordance with rule 9, read with rule 30.
- ~~(3) — The Secretary must refuse to accept a referral document unless subrule (2) has been complied with.~~

RULE 16: HOW TO REQUEST ARBITRATION

Why the amendment/s?	The Amendment/s	Impact of the Amendment/s
• Subrule (1) is amended to allow for the digitalisation of the Council's processes. • Subrule (3) was deleted to avoid a contradiction with the suggested new rule 4(2).	• Amendment of subrule (1) as seen above. • Deletion of subrule (3).	• Subrule (1) allows parties to request arbitration through the PSCBC Portal or the e-Referral platform. • The deletion of subrule (3) allows for the ratification of documents as provided for in rule 4(2).

RULE 17: WHEN PARTIES MUST HOLD PRE-ARBITRATION CONFERENCE

- (1) The parties to ~~an~~ arbitration ~~hearing may must~~ hold a pre-arbitration ~~meeting conference~~, dealing with the matters referred to in subrule (2), ~~at least fourteen (14) days prior to the scheduled date of the hearing if directed to do so by a panellist.~~
- (2) In a pre-arbitration-~~meeting conference~~, the parties must attempt to reach consensus on the following:
 - (a) any means by which the dispute may be settled;
 - (b) facts that are agreed between the parties;
 - (c) facts that are in dispute;
 - (d) the issues that the ~~panellist commissioner~~ is required to decide;
 - (e) the precise relief claimed and if compensation is claimed, the amount of the compensation and how it is calculated;
 - (f) the sharing and exchange of relevant documents, and the preparation of a bundle of documents in chronological order with each page numbered;

RULE 17: WHEN THE PARTIES MUST HOLD PRE-ARBITRATION CONFERENCE

- (g) the manner in which documentary evidence is to be dealt with, including any agreement on the status of documents and whether documents, or parts of documents, will serve as evidence of what they appear to be;
- (h) whether evidence on affidavit will be admitted with or without the right of any party to cross examine the person who made the affidavit;
- (i) which party must begin;
- (j) the necessity for any *in loco* inspection;
- (k) securing the presence at the hearing of any witness;
- (l) the resolution of any preliminary points that are intended to be taken;
- (m) the exchange of witness statements;

RULE 17: WHEN THE PARTIES MUST HOLD PRE-ARBITRATION CONFERENCE

- (n) expert evidence;
 - (o) any other means by which the arbitration ~~proceedings~~ hearing may be shortened;
 - (p) an estimate of the time required for the hearing;
 - (q) the right of representation; and
 - (r) whether an interpreter is required and, if so, for how long and for which languages.
- (3) Unless a dispute is settled, the parties must draw up and sign a minute setting out the facts on which the parties agree or disagree, ~~as per the matters listed in subrule (2) or any other matter.~~
- ~~(1) A minute in terms of subrule (3) may also deal with any other matter listed in subrule (2).~~
- (4) The ~~referring~~ party requesting arbitration must ensure that a copy of the pre-arbitration conference ~~meeting~~ minute is delivered to the ~~Secretary Council~~ and appointed ~~panellist-commissioner~~ within seven (7) days of the conclusion of the pre-arbitration conference.

RULE 17: WHEN THE PARTIES MUST HOLD PRE-ARBITRATION CONFERENCE

(5) The ~~Panel~~ commissioner may after receiving a pre-arbitration minute, as per subrule (4) –

~~(a) enrol the matter for arbitration~~ (a) direct the parties to hold a further pre-arbitration conference; or

(b) make any other direction to the parties concerning the conduct of the arbitration hearing.

(6) The commissioner has a discretion to continue with the matter despite non-compliance with subrule (3), (4) and (5).

(7) If any party to the dispute fails to attend or comply with an instruction to hold a pre-arbitration meeting conference as per subrule (5), without a justifiable reason, the ~~panel~~ commissioner may deal with the matter in terms of rule 29, read within the context of this rule, and make an order of cost against that party.

~~(8) The parties to an arbitration may agree to hold a pre-arbitration meeting in terms of subrule (2).~~

RULE 17: WHEN THE PARTIES MUST HOLD PRE-ARBITRATION CONFERENCE

Why the amendment/s?	The Amendment/s	Impact of the Amendment/s
• Pre-arbitration conferences are not compulsory for the Council's processes. • To allow a Commissioner to direct parties to hold a pre-arbitration conference. • For processes to continue if parties have not followed a Commissioner's directive.	• Subrule (1): the word "must" is replaced with "may". • Subrule (5): partial deletion and update as seen above. • The addition of subrule (6). • The deletion of subrule (8).	• Subrule (1) creation of an opportunity for parties to hold a pre-arbitration conference if they want to. • Subrule (5) gives a Commissioner the power to direct parties to have a pre-arbitration conference. • Subrule (6) a Commissioner can continue with the proceedings even if the parties have not complied.

RULE 18: FILING OF STATEMENTS BY PARTIES

18. Filing of statements by parties ~~When must the parties file statements~~

(1) A ~~panellist~~ commissioner may direct –

- (a) the referring party in an arbitration ~~hearing~~ to deliver a statement of case; and
- (b) the other parties to deliver an answering statement.

(2) A statement in terms of subrule (1) must –

- (a) set out the material facts upon which the party rely and the legal issues that arise from the material facts; ~~and~~
- (b) be delivered within ~~any the~~ time period specified ~~in the notice referred to in sub-rule (1)~~ by the Council or a commissioner.

RULE 19: WHEN MUST THE COUNCIL NOTIFY PARTIES OF AN ARBITRATION HEARING

19. ~~What notice must the Secretary give of arbitration?~~ When must the Council notify parties of an arbitration hearing

The ~~Secretary Council~~ must give the parties at least **twenty-one** (21) days’ notice, in writing for an arbitration hearing, unless the parties agree to a shorter period **or reasonable circumstances require a shorter period**. If a notification is sent by registered mail or courier services, an additional seven (7) days must be allowed.

Why the amendment/s?	The Amendment/s	Impact of the Amendment/s
• Clarification of circumstances permitting for shorter notice periods. • Additional days, when a notice is sent by registered mail or courier services.	• Addition as seen above.	• The amendment allows the Council to give parties a shorter notice period for an arbitration process. • The amendment allows for an additional 7 days if a notice has been sent by registered mail or courier services.

RULE 20: HOW TO DETERMINE WHETHER A COMMISSIONER MAY ARBITRATE A DISPUTE

20. How to determine whether a ~~panellist~~ commissioner may arbitrate a dispute

- (1) If during the arbitration ~~proceedings~~ hearing it appears that a jurisdictional issue has not been determined, the ~~panellist~~ commissioner must require the referring party to prove that the Council has jurisdiction to arbitrate the dispute.
- (2) A commissioner must give written reasons for a ruling on whether the Council has jurisdiction.

Why the amendment/s?	The Amendment/s	Impact of the Amendment/s
The need for written reasons for a jurisdictional ruling by a Commissioner.	Addition of subrule (2) as seen above.	Subrule (2) states that a Commissioner must give written reasons when making a jurisdictional ruling of this manner.

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PART FOUR

RULES THAT APPLY TO HEARINGS

RULES THAT APPLY TO ~~CONCILIATIONS AND ARBITRATIONS~~ HEARINGS

RULE 21: WHERE A HEARING WILL TAKE PLACE

21. Where a ~~conciliation or arbitration hearing~~ will take place

- (1) A dispute must be conciliated or arbitrated in the province in which the cause of action arose unless the ~~Secretary Council~~ directs otherwise.
- (2) The conciliation and/or arbitration ~~proceedings hearing~~ shall be held at a venue to be determined by the ~~Secretary Council. which shall preferably be at the employee's workplace or the premises of the trade union concerned.~~

Why the amendment/s?	The Amendment/s	Impact of the Amendment/s
• A determination to be made by the Council instead of the Secretary. • The hearings are to be set down as directed by the Council. • The need to allow for any hearing platforms.	• The use of hearing which is inclusive of all hearings to be held. • In subrule (1) & (2) replacing Secretary with Council.	• Subrule (1) the Council directs instead of Secretary. • Subrule (2) the inclusivity of all hearing venue platforms.

RULE 22: REPRESENTATION BEFORE COUNCIL

22. ~~Who may appear or represent in proceedings~~ Representation before the Council

- (1) In ~~the a~~ conciliation ~~proceedings~~ hearing a party to the *dispute* may appear in person or be represented only by ~~a member~~ an office bearer or *official* of that party's registered *trade union* or by an employee of any national department or provincial ~~administration~~ government.
- (2) Despite subrule (1) the commissioner may during conciliation hearing allow for legal representation to argue matters of jurisdiction only. After the legal representative has argued the matter, he/she must be excused from proceedings.
- (3) During conciliation hearing, in deciding the admissibility of representation as per subrule (2) the commissioner must take into account the complexity of the issue to be argued, the level of representation of the party in being able to respond to the argument and any prejudice that may be suffered by any party to allow such representation.
- (4) In any ~~other arbitration proceedings~~ hearing, a party to the *dispute* may appear in person or be represented ~~only~~ by a legal practitioner, ~~a candidate attorney~~, a member, office bearer or *official* of that party's registered *trade union* or an employee of a national department or a provincial ~~administration~~ government.

RULE 22: REPRESENTATION BEFORE COUNCIL

Why the amendment/s?	The Amendment/s	Impact of the Amendment/s
• Allowing for legal representation to argue jurisdictional issues at conciliation. • A candidate attorney to represent a party at arbitration.	• Addition of subrule (2) and (3). • The addition of “a candidate attorney” in subrule (4).	• Subrule (2) at conciliation, parties can be legally represented if a jurisdictional issue is argued. • Subrule (3) lists the factors a Commissioner to consider when deciding to allow the representation as envisioned by subrule (2). • Subrule (4) an inclusion of a candidate attorney to represent a party.

RULE 23: OBJECTIONS TO A REPRESENTATIVE BEFORE THE COUNCIL

23. Objections to a representative ~~appearing~~ before the Council

(1) A party to the dispute that challenges the right of appearance of a representative must furnish reasons showing why the representative does not have the right of appearance.

~~(2) The panellist may call upon the representative to furnish reason why the representative should be permitted to appear.~~ (2) Any documentary proof requested by the ~~panellist~~ commissioner in terms of subrule (21) must be submitted by the representative.

~~(3) A representative must provide any documentary proof requested by the panellist commissioner in terms of subrule (2).~~

RULE 24: HOW TO JOIN OR SUBSTITUTE PARTIES TO A HEARING

24. How to join or substitute parties to ~~proceedings~~ a hearing

~~(1) — If it becomes known that a party, who is not cited as a party to the dispute, has a substantial interest in the subject matter of the proceedings and are not aware of the proceedings, the Secretary must:~~

~~(a) — notify such party of the proceedings; and~~

~~(b) — give such party a time frame in which they need to apply should they want to be joined as a party to the proceedings.~~

(1) The ~~Secretary~~ Council or ~~panellist~~ commissioner may, at any stage prior to the conclusion of a hearing, make an order joining any ~~a panellist may join any~~ number of persons as parties to the hearing ~~in proceedings~~ if —

(a) ~~the Their~~ right of the referring party to relief depends on substantially the same question of law or fact, which, if a dispute were to be referred separately against the person sought to be joined, it would arise in a separate claim;

RULE 24: HOW TO JOIN OR SUBSTITUTE PARTIES TO A HEARING

~~(b) A panellist may make an order joining any person as a party in the proceedings if the party has a substantial interest in the subject matter of the proceedings.—The party to be joined may be prejudicially affected by the outcome of the hearing.~~

(2) ~~A panelist~~ The Council or commissioner may make an order in terms of subrule (21)—

(a) ~~of its~~ on own accord;

(b) on application by a party; or

(c) if a person entitled to join the ~~proceedings~~ hearing applies at any time during the ~~proceedings~~ hearing to intervene as a party.

(3) An application in terms of this rule must be made in terms of rule 30.

RULE 24: HOW TO JOIN OR SUBSTITUTE PARTIES TO A HEARING

- (4) When making an order in terms of subrule (21), ~~a panellist the Council or commissioner~~ may –
- (a) give appropriate directions as to the further procedure in the ~~proceedings hearing~~; and
 - (b) make an order of costs in accordance with these ~~r~~Rules.
- (5) If in any ~~proceedings hearing~~ it becomes necessary to substitute a person for an existing party, any party to the ~~proceedings hearing~~ may apply to the ~~Secretary Council~~ for an order substituting that party for an existing party, and ~~a panellist the Council or commissioner~~ may make such ~~an~~ order or give appropriate directions as to the further procedure in the hearing.
- (6) An application to join any person as a party to a ~~proceedings hearing~~ or to be substituted for an existing party must be accompanied by copies of all documents previously delivered, ~~including the referral form~~, unless the person concerned or that person's representative is already in possession of the documents. ~~The application may be made at any stage prior to the conclusion of a hearing.~~
- (7) Subject to any order made in terms of subrules (54) and (65), a joinder or substitution in terms of this rule does not affect any steps already taken in a ~~the proceedings-a hearing~~.

RULE 25: HOW TO CORRECT THE CITATION OF A PARTY

If a party to any ~~proceedings~~ hearing has been incorrectly or defectively cited, the ~~Secretary Council~~ or a ~~panellist~~ a commissioner may correct the error or defect on -

- (a) own accord, by consent of the parties; or
- (b) application; and
- (c) notice to the parties concerned.

RULE 26: WHEN DISPUTES MAY BE CONSOLIDATED

26. ~~When disputes may be consolidated the Council may consolidate disputes~~

- (1) The ~~Secretary or a panellist~~ Council or commissioner, ~~of his/her own accord or on application,~~ may consolidate more than one dispute so that the disputes may be dealt with in the same ~~proceedings,~~ ~~after consultation with parties~~ hearing on –
- ~~(a) own accord; or~~
 - ~~(b) application; and~~
 - ~~(c) notice to the parties concerned.~~
- (2) The Council or commissioner may order consolidation of separate disputes of right, where –
- ~~(a) the relief sought in each of the separate disputes to be consolidated, depends on the determination of similar or substantially the same questions of law and fact;~~
 - ~~(b) there will be no substantial prejudice on the party or parties sought to be joined through a consolidation order;~~
 - ~~(c) the balance of convenience favour such consolidation; and~~
 - ~~(d) the Council has jurisdiction on all disputes sought to be consolidated.~~

RULE 26: WHEN DISPUTES MAY BE CONSOLIDATED

Why the amendment/s?	The Amendment/s	Impact of the Amendment/s
Options when applying this rule.	Inclusion of a new subrule (2) as seen above.	Subrule (2) allows for options on how to apply this rule.

RULE 27: DISCLOSURE OF DOCUMENTS

- ~~(1) The parties may agree on the disclosure of documents.~~
- ~~(2) Either party may request a panellist to make an order as to the disclosure of relevant documents.~~
- (1) At any time after the certificate of outcome is issued or the expiry of the 30-day conciliation period, but not less than fourteen (14) days prior to the hearing date, either party may request the other party to disclose any documents or material relevant to the dispute.
- (2) The party to whom the request is made must respond to the request within five (5) days from the date on which the request was received.
- (3) A commissioner may either before or during the hearing on own accord, or on application, make an order as to the disclosure of relevant documents or other evidence.
- (4) Notwithstanding the above, the parties may agree on the disclosure of documents or other relevant evidence.
- (5) This rule is to be distinguished from the disclosure of information disputes in terms of Section 16 of the Act and rule 36 of these Rules.

RULE 27: DISCLOSURE OF DOCUMENTS

Why the amendment/s?	The Amendment/s	Impact of the Amendment/s
• To develop a procedure to be applied in this rule.	• A complete rework of the rule as seen above in red.	• A more formalized procedure setting out all relevant timeframes. • Differentiating this rule from a disclosure of information dispute and rule 36 (subpoena) of these Rules.

RULE 28: HOW TO POSTPONE A HEARING

- (1) A scheduled hearing may be postponed –
 - (a) by agreement between the parties in terms of subrule (2); or
 - (b) by application and on notice to the other parties in terms of subrule (3).
- (2) The ~~Secretary-Council~~ must postpone an arbitration without the parties appearing if-
 - (a) all the parties to the dispute agree in writing to the postponement; and
 - (b) the written agreement for the postponement is received by the ~~Secretary-Council more than~~ seven (7) days prior to the scheduled date of the hearing.
- (3) If the conditions of subrule (2) are not met, any party to the dispute may apply in terms of rule 30 to postpone a hearing by delivering an application to the other parties to the dispute and filing a copy with the ~~Secretary-Council more than~~ seven (7) days prior to the scheduled date of the hearing.
- (4) A party that wants to oppose an application for postponement made in terms of subrule (3), may make written representations to the ~~Secretary-Council more than~~ five (5) days prior to the scheduled date of the hearing.

RULE 28: HOW TO POSTPONE A HEARING

(5) After due consideration of any application and written representations received in terms of subrules (3) and (4), the ~~Secretary Council may decide whether to postpone the matter or not.~~

~~———— (a) ——— without convening a hearing postpone the matter; or~~

~~———— (b) ——— convene a hearing to determine whether to postpone the matter.~~

(6) If a party to a dispute fails to comply with the time periods referred to in subrules (2) to (4), the ~~conciliation and arbitration~~ **scheduled hearing** must take place on the scheduled date, unless the ~~Secretary Council~~ on good cause shown grants a postponement and conveys ~~his/her~~ **its** decision in writing to the ~~panellist commissioner~~ and all parties to the dispute.

(7) Notwithstanding subrule (1), **conciliation hearings may only be postponed if –**

(a) good cause is shown; and

(b) postponement is granted by the General Secretary.

RULE 28: HOW TO POSTPONE A HEARING

Why the amendment/s?	The Amendment/s	Impact of the Amendment/s
• Streamlining of the procedure was required. • Postponement of conciliation processes without good cause frustrates the dispute process.	• Subrule (4) to (1) remains the same. • Deletion of subrule (5)(a) and (b). • Addition of subrule (7).	• Effective postponement of proceedings by the Council. • Good cause must be shown before the General Secretary grants a postponement for a conciliation.

RULE 29: WHAT HAPPENS IF A PARTY FAILS TO ATTEND PROCEEDINGS BEFORE THE COUNCIL

29. What happens if a party fails to attend ~~proceedings a hearing~~ before the Council

- (1) If ~~an applicant~~ a referring party fails to attend or be represented at ~~any proceedings a hearing~~ before the Council as contemplated in rule 22, a ~~panellist~~ commissioner may:
- ~~(i) dismiss the matter by issuing a ruling; or~~
 - ~~(ii) ——— adjourn the proceedings to a later date.~~
- (a) At conciliation hearing conclude the hearing by issuing a certificate that the dispute remains unresolved.
- (b) At arbitration hearing -
- (i) adjourn the hearing to a later date; or
 - (ii) dismiss a matter by issuing a written ruling.

RULE 29: WHAT HAPPENS IF A PARTY FAILS TO ATTEND PROCEEDINGS BEFORE THE COUNCIL

(2) If a respondent fails to attend or be represented at a ~~proceedings~~ hearing before the Council as contemplated in rule 22, a ~~panellist~~ commissioner may –

~~(i) continue with the proceedings in the absence of the respondent;~~

~~(ii) adjourn the proceedings to a later date.~~

~~(a) At conciliation hearing conclude the hearing by issuing a certificate that the dispute remains unresolved.~~

~~(b) At arbitration hearing –~~

~~(i) adjourn the hearing to a later date; or~~

~~(ii) continue with hearing in the absence of the respondent and issue a default award.~~

RULE 29: WHAT HAPPENS IF A PARTY FAILS TO ATTEND PROCEEDINGS BEFORE THE COUNCIL

- (3) A ~~panellist~~ commissioner must be satisfied that the party had been properly notified of the date, time and venue of the ~~proceedings-hearing~~, before making any decision in terms of subrules (1) or (2).
- (4) If a matter is dismissed in terms of this rule, the ~~Secretary-Council~~ must send a copy of the ruling, ~~within fourteen (14) days~~, to the parties and the party or parties responsible for the dismissal must bear the cost of the dismissal.
- ~~(5) — if a panellist adjourns a hearing in terms of this rule the party or parties responsible for the adjournment must bear the cost of adjournment.~~

RULE 29: WHAT HAPPENS IF A PARTY FAILS TO ATTEND PROCEEDINGS BEFORE THE COUNCIL

Why the amendment/s?	The Amendment/s	Impact of the Amendment/s
• Differentiation between conciliations and arbitrations and the respective procedure thereof. • Case law relating to the attendance of parties at conciliations in Premier Gauteng & another v Ramabulana N.O & others (2008) 29 ILJ 1099 (LAC) – referring party non-attendance which used to result in the dismissal of a matter at conciliation.	• A complete rework of the rule as seen above in red.	• Issuing of a certificate of outcome if either party does not attend at conciliation.

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PART FIVE

APPLICATIONS

RULE 30: HOW TO BRING AN APPLICATION

(1) This rule applies to any –

(a) application for condonation, joinder, substitution, variation, rescission or postponement;

(b) application in a jurisdictional dispute;

(c) application to have a settlement agreement made an arbitration award in terms of ~~s142A of the LRA~~ Section 142A of the Act; and

(d) any other preliminary or interlocutory application.

(2) Subject to rule 31, an application must be brought on notice to all parties/persons who have an interest in the application.

RULE 30: HOW TO BRING AN APPLICATION

(3) The party bringing the application must sign the notice of application in accordance with rule 4 and must state -

(a) the title of the matter;

(b) the case number assigned to the matter by the ~~Secretary~~ Council;

(c) the relief sought;

(d) the address at which the party delivering the document will accept delivery of all documents and proceedings;

(e) that any party that intends to oppose the matter must deliver a notice of opposition and answering ~~affidavit~~ written statement within ~~fourteen days~~ five (5) days after the application has been delivered to it;

RULE 30: HOW TO BRING AN APPLICATION

- (f) that the application may be heard in the absence of a party that does not comply with subparagraph (e); **and**
 - (g) that a schedule is included listing the documents that are material and relevant to the application.
- (4) The application must be supported by **~~an affidavit~~ a written statement**. The **~~affidavit~~ written statement** must clearly and concisely set out:
- (a) the names, description and addresses of the parties;
 - (b) a statement of the material facts, in chronological order, on which the application is based, in sufficient detail to enable any person opposing the application to reply to the facts;
 - (c) a statement of legal issues that arise from the material facts, in sufficient detail to enable any party to reply to the document;
 - (d) if the application is filed outside the relevant time period, grounds for condonation in accordance with rule 9; and

RULE 30: HOW TO BRING AN APPLICATION

- (e) if the application is brought urgently, the circumstances why the matter is urgent and the reasons why it cannot be dealt with in accordance with the time periods prescribed in these ~~Rules~~.
- (5) (a) Any party opposing the application may deliver a notice of opposition and an answering ~~affidavit~~ ~~written statement~~ within ~~fourteen days~~ ~~five~~ (5) days from the day on which the application was served on that party.
 - (b) A notice of opposition and an answering ~~affidavit~~ ~~written statement~~ must contain, with the changes required by the context, the information required by subrules (3) and (4) respectively.
- (6) (a) The party initiating ~~the proceedings~~ ~~an application~~ may deliver a replying ~~affidavit~~ ~~written statement~~ within ~~seven days~~ ~~three~~ (3) days from the day on which any notice of opposition and answering ~~affidavit~~ ~~written statement~~ are served on it.
 - (b) The replying ~~affidavit~~ ~~written statement~~ must address only issues raised in the answering ~~affidavit~~ ~~written statement~~ and may not introduce new issues of fact or law.

RULE 30: HOW TO BRING AN APPLICATION

~~(7) The Secretary or panellist may permit the affidavits referred to in this rule to be substituted by a written statement.~~

(7) In an urgent application, the Council or ~~panellist-commissioner~~ -

(a) may dispense with the requirements of this rule; and

(b) may only grant an order against a party that has had notice of the application.

(8) (a) The ~~Secretary Council~~ must allocate a date for the hearing of the application once a replying ~~affidavit written statement~~ is delivered, or once the time limit for delivering a replying ~~affidavit written statement~~ has lapsed, whichever occurs first.

(b) The ~~Secretary Council~~ must notify the parties of the date, time and place of the hearing of the application.

(9) Despite this rule, the ~~panellist-commissioner~~ may determine an application in any manner he/she deems fit.

RULE 30: HOW TO BRING AN APPLICATION

Why the amendment/s?	The Amendment/s	Impact of the Amendment/s
• Updating the timeframes to accommodate effective dispute management processes. • Replacing of an affidavit with a written statement.	• Amending timeframe to oppose applications from 14 days to 5 days and the other party replying from 7 days to 3 days.	• Effective/speedily dispute management processes though shortened timeframes and replacing affidavit with a written statement.

RULE 31: HOW TO APPLY TO VARY OR RESCIND ARBITRATION AWARDS OR RULINGS

~~(1)~~ An application for the variation or rescission of an arbitration award or ruling must be made within fourteen ~~(14)~~ days of the date on which the applicant became aware of ~~the arbitration award or ruling~~.

~~(a) — the arbitration award or ruling; or~~

~~(b) — a mistake common to the parties to the proceedings.~~

~~(2) — A ruling made by a panellist, which has the effect of a final order, will be regarded as a ruling for the purposes of this rule.~~

RULE 32: HOW TO REQUEST AN INQUIRY IN TERMS OF SECTION 188A OF THE ACT

32. How to request an inquiry in terms of Section 188A of the Act

- (1) Where there is cross-sectoral dispute, an employer requesting the Council to conduct an inquiry, must do so by delivering a completed prescribed form to the Council.
- (2) The employee must sign the prescribed form unless the employee has agreed in terms of Section 188A(4)(b)5 to the inquiry in a contract of employment or the inquiry is held in accordance with a collective agreement, in which case a copy of the contract or the collective agreement must be attached to the form.
- (3) When filing the prescribed form, the employer must pay the prescribed fee to the Council. Payment of the fee may only be made by electronic transfer into the bank account of the Council.
- (4) Within seven (7) days of receiving a request in terms of sub rule (1) and payment of the prescribed fee, the Council must notify the parties to the inquiry of when and where the inquiry will be held.

RULE 32: HOW TO REQUEST AN INQUIRY IN TERMS OF SECTION 188A OF THE ACT

- (5) Unless the parties agree otherwise, the Council must give the parties at least seven (7) days' notice of the commencement of the Inquiry.
- (6) The Council is only required to refund a fee paid in terms of sub rule (3) if the Council is notified of the resolution of the matter prior to issuing a notice in terms of sub rule (4).
- (7) Despite subrule (1), if any employee alleges in good faith that the holding of an inquiry contravenes the Protected Disclosures Act, 2000 (Act 26 of 2000), that employee or the employer may require that an inquiry be conducted in terms of this Section into allegations by the employer into the conduct or capacity of the employee.
- (8) Where the employee, in terms of sub rule (7), has requested an Inquiry by Arbitrator, the employer must pay the prescribed fee to the Council as set out in sub rule (3).

RULE 32: HOW TO REQUEST AN INQUIRY IN TERMS OF SECTION 188A OF THE ACT

Why the amendment/s?	The Amendment/s	Impact of the Amendment/s
• The provision of enquiry by the arbitrator process, should a need arise.	• Inclusion of the new as seen above.	• Provision of the enquiry by the arbitrator process – s188A.

RESOLUTION 1 OF 2024

PART SIX

GENERAL

RULE 33: CONDONATION FOR FAILURE TO COMPLY WITH THESE RULES

33. Condonation for failure to comply with these ~~se~~ **rRules**

On good cause shown, ~~a panellist~~ the Council or commissioner may condone any failure to comply with the time ~~period frames~~ in these ~~rRules~~ ~~on good cause shown~~.

RULE 34: RECORD OF HEARINGS

34. Record of **hearings proceedings**

(1) ~~A commissioner must provide the Council with The Council must keep~~ a record of –

~~———— (a) any evidence given in an arbitration hearing;~~

~~———— (b) any sworn testimony given in any proceedings before the Council.~~

(a) all hearings except conciliations, unless otherwise instructed; and

(b) any arbitration award or ruling made by a ~~panellist~~ commissioner.

(2) The record ~~may~~ **must** be kept by ~~handwritten~~ legible notes ~~or~~ **and** by means of an electronic recording.

RULE 34: RECORD OF HEARINGS

(3) A party may request a copy ~~the transcript~~ of the record, or a portion of a record kept in terms of subrule (2), on payment of the costs ~~where applicable~~.

~~(3) After the person who makes the transcript of the record has certified that it is correct, the record must be returned to the Secretary.~~

~~(3) The transcript of a record certified as correct in terms of sub rule (4) is presumed to be correct, unless the Labour Court decides otherwise.~~

RULE 35: HOW AN APPLICANT MAY WITHDRAW A MATTER

35. How an applicant may withdraw a matter

- (1) The applicant may withdraw a matter by filing a notice of withdrawal on the Council.
- (2) The applicant shall inform the Council in writing if the dispute has been resolved between the parties and if any settlement agreement has been reached, such written settlement agreement must be attached to the notice of withdrawal.
- (3) If an applicant withdraws a matter, that has not been settled in terms of subrule (2), the applicant cannot reinstate the matter at a later date, the matter must be re-referred to the Council as a new dispute.

Why the amendment/s?	The Amendment/s	Impact of the Amendment/s
This provision of a procedure for the withdrawal of matters in Council.	Addition of the rule above.	- Withdrawals happen on a regular basis; this rule provides for a procedure thereof. - To improve the dispute management of the Council.

RULE 36: HOW TO HAVE A SUBPOENA ISSUED AND SERVED TO SECURE THE PRESENCE OF A PERSON

36. How to have a subpoena issued and served to secure the presence of a person

- (1) Any party who requires the ~~panellist~~ Council or a commissioner to subpoena a person in terms of Section 142(1) of the Act, must file a completed subpoena form together with a written motivation setting out why the evidence of the person to be subpoenaed is necessary. A request for a subpoena does not apply to documents and material relevant to the dispute. Requests for documents and material must be made in terms of Rule 27.
- (1A) The Council or commissioner, in determining the request for the subpoena, may direct that –
 - (a) the party requesting the subpoena provide additional information within three (3) days.
 - (b) the other party provides a written response to the request for subpoena within five (5) days.

RULE 36: HOW TO HAVE A SUBPOENA ISSUED AND SERVED TO SECURE THE PRESENCE OF A PERSON

- (2) A party requesting the Council to waive the requirement for the party to pay witness fees in terms of section 142(7)(c) of the Act must set out the reasons for the request in writing at the time of requesting the Council to issue a subpoena in respect of that witness.
- (3) An application in terms of subrule (1) must be filed with the Council at least fourteen (14) days before a hearing, or as directed by the commissioner conducting the hearing.
- (4) The Council or commissioner may refuse to issue a subpoena if–
 - (a) the party does not establish why the evidence of the person is necessary;
 - (a) the party subpoenaed does not have a reasonable period in which to comply with the subpoena;
 - (a) the Council or commissioner is not satisfied that the party has made arrangements to pay the witness fees and the reasonable travel costs of the person subpoenaed.

RULE 36: HOW TO HAVE A SUBPOENA ISSUED AND SERVED TO SECURE THE PRESENCE OF A PERSON

(5) A subpoena must be served -

(a) by the person who has requested the issuing of the subpoena, by the Sheriff or by the Council, at least seven (7) days before the scheduled date of the arbitration; and

(b) if so directed by the Council or commissioner, it must be accompanied by-

(i) payment of the prescribed witness fees for one day^{*}; and

(i) the witnesses' reasonable travel costs, unless the Council has waived the requirement to pay witness fees.

^{*}In accordance with the tariff of allowances published by notice in the Government Gazette in terms of section 142(7) of the Act.

RULE 36: HOW TO HAVE A SUBPOENA ISSUED AND SERVED TO SECURE THE PRESENCE OF A PERSON

Why the amendment/s?	The Amendment/s	Impact of the Amendment/s
• Clarification, the request for a subpoena does not apply to documents and material to the dispute. • Differentiation of documents and material to be made in terms of Rule 27 (disclosure of documents). • Requesting additional information by Council and an opportunity to oppose the request by the other party. • The need to allow for witness and travel fees.	• Addition of subrule (1A). • Addition of subrule (5)(b).	• Subrule (1A) provides for the council or commissioner to request additional information by Council and an opportunity to oppose the request by the other party. • Subrule (5)(b) provision for the payment of witness cost unless the requirement is waived by the Council.

RULE 37: PAYMENT OF WITNESS FEES

- (1) A witness subpoenaed in any ~~proceedings~~ hearing in the Council must be paid a witness fee in accordance with the tariff of allowances published by notice in the Government Gazette in terms of Section 142(7) of the Act, provided that, if such witness is an employee of the State, such witness shall not be paid an allowance for the time that ~~they he/she~~ was required to be available to give evidence during such a ~~proceedings~~ hearing, unless ~~they he/she~~ can show that they will not be paid for such time.
- (2) The witness fee must be paid by –
 - (a) the party who requested the Council to issue the subpoena; or
 - (b) the Council, if the issuing of the subpoena was requested by a ~~panellist~~ commissioner or if the ~~Secretary Council~~ or ~~panellist~~ commissioner waives the requirement for the party to pay witness fees in terms of Section 142(7)(c) of the Act.
- (3) Despite subrule (1), the ~~a panellist~~ commissioner may, in appropriate circumstances, order that a witness receives no fee or only part of the prescribed fee.

RULE 38: ORDER OF COSTS IN A HEARING

38. Order of costs in a hearing

- (1) In a hearing, the commissioner may make an order for the payment of costs according to the requirements of law and fairness and when doing so shall have regard to –
- (a) the measure of success that the parties achieved;
 - (b) considerations of fairness that weigh in favour of or against granting a cost order;
 - (c) any with prejudice offers that were made with a view to settling the dispute;
 - (d) whether a party or the person who represented that party in a hearing acted in a frivolous and vexatious manner –
 - (i) by proceeding with or defending the dispute in a hearing, or
 - (ii) in its conduct during a hearing;
 - (e) the effect that a cost order may have on a continued employment relationship;

RULE 38: ORDER OF COSTS IN A HEARING

- (f) any agreement concluded between the parties to a hearing concerning the basis on which costs should be awarded;
 - (g) the importance of the issues raised during a hearing to the parties as well as to the labour community at large; and
 - (h) any other relevant factor(s).
- (2) A commissioner may make an award of costs in favour of a party who appears or is represented in arbitration by a person contemplated by rule 22(4) in respect of reasonable disbursements actually incurred in the conduct of its case in the arbitration. A commissioner who makes an award in terms of this provision must clearly specify the items and amounts in respect of which costs are ordered.
- (3) A commissioner may make an award of costs in respect of the legal fees of a party that is represented in an arbitration by a legal practitioner or candidate attorney, only if the other parties to the arbitration were represented by a legal practitioner or candidate attorney.
- (4) The legal fees in respect of subrule (3), will be determined by the Council from time to time.

RULE 38: ORDER OF COSTS IN A HEARING

Why the amendment/s?	The Amendment/s	Impact of the Amendment/s
• A guide for commissioners when ordering costs.	• Addition of the rule as seen above.	• Improved administrative process by the Council. • Holding accountable of the relevant parties, where ordering of costs is justifiable.

RULE 39: CERTIFICATION AND ENFORCEMENT OF ARBITRATION AWARDS

39. Certification and enforcement of arbitration awards

- (1) An application to have an arbitration award certified must be made on LRA Form 7.18A and filed with the Council in terms of these Rules.
- (2) Any arbitration award that has been certified in terms of Section 143 of the Act that –
 - (a) orders the payment of an amount of money may be enforced by execution against the property of the employer party by the Sheriff of the court in the Magisterial district where the employer party resides, or conducts business; and/or
 - (b) orders the performance of an act other than that payment of money may be enforced by way of contempt proceedings instituted in the Labour Court.

RULE 39: CERTIFICATION AND ENFORCEMENT OF ARBITRATION AWARDS

Why the amendment/s?	The Amendment/s	Impact of the Amendment/s
Aligning with LRA amendments.	Addition of the rule as seen above.	To improve the enforcement process of awards.

RULE 40: WHAT WORDS MEAN IN THESE RULES

40. What words mean in these ~~r~~Rules

Any expression in these ~~r~~Rules that is defined in the Labour Relations Act, 1995 (Act No. 66 of 1995, ~~as amended~~), has the same meaning as in the Act except that, if such expression is defined in the constitution or the dispute resolution procedure of the Council, it shall have the same meaning as in the constitution or dispute resolution procedure.

“**Act**” means the Labour Relations Act 66 of 1995 ~~as amended~~, and includes any regulation made in terms of that Act.

“**Deliver**” means serve on other parties and file with the ~~Commission~~ Council.

“**Candidate attorney**” refers to someone who has obtained their four-year LLB degree and is busy with their articles of clerkship, with the intent of becoming a registered attorney.

“**Commissioner panellist**” means a person appointed in terms of the ~~constitution of the Council and~~ Dispute Resolution Procedure to handle disputes as conciliators or arbitrators.

RULE 40: WHAT WORDS MEAN IN THESE RULES

"Council" means the Public Services Co-ordinating Bargaining Council as established by Section 36 of the Act.

"Data subject" in terms of the application of the Protection of Personal Information Act, 4 of 2013 (POPIA), mean a person to whom personal information relates.

"Employer" means the State as employer falling within the registered scope of the Council.

"Employment law" for the purposes of these Rules includes the Labour Relations Act, and any other Act of which the administration has been assigned to the Minister of Employment and Labour and any of the following Act -

- (a) the Basic Conditions of Employment Act, 75 of 1997;
- (b) the Employment Equity Act, 55 of 1998;
- (c) the Mine Health and Safety Act, 29 of 1996;
- (d) the National Minimum Wage Act, 9 of 2019;
- (e) the Skills Development Act, 97 of 1998.

RULE 40: WHAT WORDS MEAN IN THESE RULES

“e-Referral platform” means an electronic referral form which is a web-based link.

“File” means to lodge with the Council in terms of rule 7.

“General Secretary” means the General Secretary of the Council in terms of clause 14 of the Council constitution.

“Labour Court” means the Labour Court established by Section 151 of the Act and includes any judge of the Labour Court.

“Legal practitioner” means any person admitted to practise as an advocate or an attorney in the Republic.

RULE 40: WHAT WORDS MEAN IN THESE RULES

“Office-bearer” means a person who holds office in a trade union, employers' organisation, federation of trade unions, federation of employers' organisations or council and who is not an official.

“Official”, in relation to a trade union, employers' organisation, federation of trade unions or federation of employers' organisations means a person employed as the secretary, assistant secretary or organiser of a trade union, employers' organisation or federation, or in any other prescribed capacity, whether or not that person is employed in a full-time capacity. And, in relation to a council means a person employed by a council as secretary or in any other prescribed capacity, whether or not that person is employed in a full-time capacity.

“Party” means any party to ~~proceedings~~ **hearings** before the Council and may be organisations and /or individuals.

RULE 40: WHAT WORDS MEAN IN THESE RULES

“Personal information” (in terms of the application of POPIA) means “information relating to an identifiable, living natural person or juristic person as far as applicable, and an identifiable, existing juristic person including, but not limited to –

- (a) information relating to the race, gender, sex, pregnancy, marital status, national, ethnic or social origin, colour, sexual orientation, age, physical or mental health, wellbeing, disability, religion, conscience, belief, culture, language and birth of the person;
- (b) information relating to the education or the medical, financial, criminal or employment history of the person;
- (c) any other identification number, symbol, email address, physical address, telephone number, location information, online identifier or other particular assignment to the person;
- (d) the biometric information of the person;
- (e) the personal opinions, views, or preferences of the person;
- (f) correspondence sent by that person that is implicitly or explicitly of a private or confidential nature or further correspondence that would reveal contents of the original correspondence;
- (g) the view or opinions of another individual about the person; and
- (h) the name of the person if it appears with other personal information relating to the person or if the disclosure of the name itself would reveal information about the person.”

RULE 40: WHAT WORDS MEAN IN THESE RULES

“Processing” (in terms of the POPIA) means any operation or activity or any set of operations, whether or not by automatic means, concerning personal information, including –

- (a) the collection, receipt, recording, organisation, collation, storage, updating or modification, retrieval, alteration, consultation or use;
- (b) dissemination by means of transmission, distribution or making available in any other form; or merging, linking as well as restriction, degradation, erasure or destruction of information.

“PSCBC Portal” means an extension hosted through the Collaborator system on the Cloud that extends the on-premise Collaborator solutions to the public internet.

“Public holiday” means a public holiday referred to in Section 1 of the Public Holidays Act, 1994 (Act No. 36 of 1994).

“Rules” means these Rules and includes any footnote to a rule.

“Serve” means to serve in accordance with rule 5 and “service” has a corresponding meaning.

RULE 40: WHAT WORDS MEAN IN THESE RULES

“Trade union” means an association of employees whose principal purpose is to regulate relations between employees and employers, including any employers' organisations.

“Trade union representative” means a member of a trade union who is elected to represent employees in a workplace.

“Venue” means a location determined by the Council, where a hearing must take place, either physical or virtual.



Q & A





PSCBC RESOLUTION 3 OF 2023

ENFORCEMENT OF COLLECTIVE AGREEMENTS IN THE PUBLIC SERVICE



RESOLUTION 3 OF 2023

ENFORCEMENT OF COLLECTIVE AGREEMENTS IN THE PUBLIC SERVICE

The difference between an interpretation and application / enforcement / unfair labour practice dispute?

- In *MEC For Economic Development Environment and Tourism*, the employee instituted a claim in the Limpopo Regional Court to enforce payment of leave credits in terms of Resolution 7 of 2000, however, the Court dismissed the claim.
- The employee appealed to the Limpopo Provincial Division of the High Court and the appeal was upheld. The employer took the matter on appeal to the Supreme Court of Appeal (SCA).
- On appeal, the employer argued that the matter should have been referred to the PSCBC as an interpretation and application dispute and dealt with in terms of the Council's dispute resolution procedure.

RESOLUTION 3 OF 2023

ENFORCEMENT OF COLLECTIVE AGREEMENTS IN THE PUBLIC SERVICE

The difference between an interpretation and application / enforcement / unfair labour practice dispute?

- The employer argued that the Regional Court which dealt with the claim at the inception did not have jurisdiction to deal with the interpretation and application dispute.
- The SCA disagreed and held that the dispute was not an interpretation and application dispute, but an enforcement of what the parties had agreed to, in the collective agreement.
- The SCA found that enforcement simply means to compel compliance with what parties have agreed to in the collective agreement.

RESOLUTION 3 OF 2023

ENFORCEMENT OF COLLECTIVE AGREEMENTS IN THE PUBLIC SERVICE

The difference between an interpretation and application / enforcement / unfair labour practice dispute?

- Therefore, section 24 disputes cannot be utilised to enforce compliance with Collective Agreements. Where the issue in dispute involves the fairness or a discretionary decision of the employer, such a dispute may be referred to the relevant sectoral bargaining council as an unfair labour practice dispute.
- If the issue is purely regarding the enforcement / non-compliance of a Collective Agreement, then the PSCBC enforcement and compliance procedure may be applied.

RESOLUTION 3 OF 2023

ENFORCEMENT OF COLLECTIVE AGREEMENTS IN THE PUBLIC SERVICE

- The parties to the PSCBC negotiated and concluded *Resolution 3 of 2023: Enforcement of Collective Agreements in the Public Service*.
- The agreement gives effect to sections 33 and 33A of the Labour Relations Act 66 of 1995, as amended (the Act) and the Constitution of the PSCBC.
- Section 33 of the Act as amended, empowers the Minister of Employment and Labour at the request of a bargaining council to appoint any person as a designated agent of a bargaining council to monitor and enforce compliance with collective agreements concluded in a bargaining council.

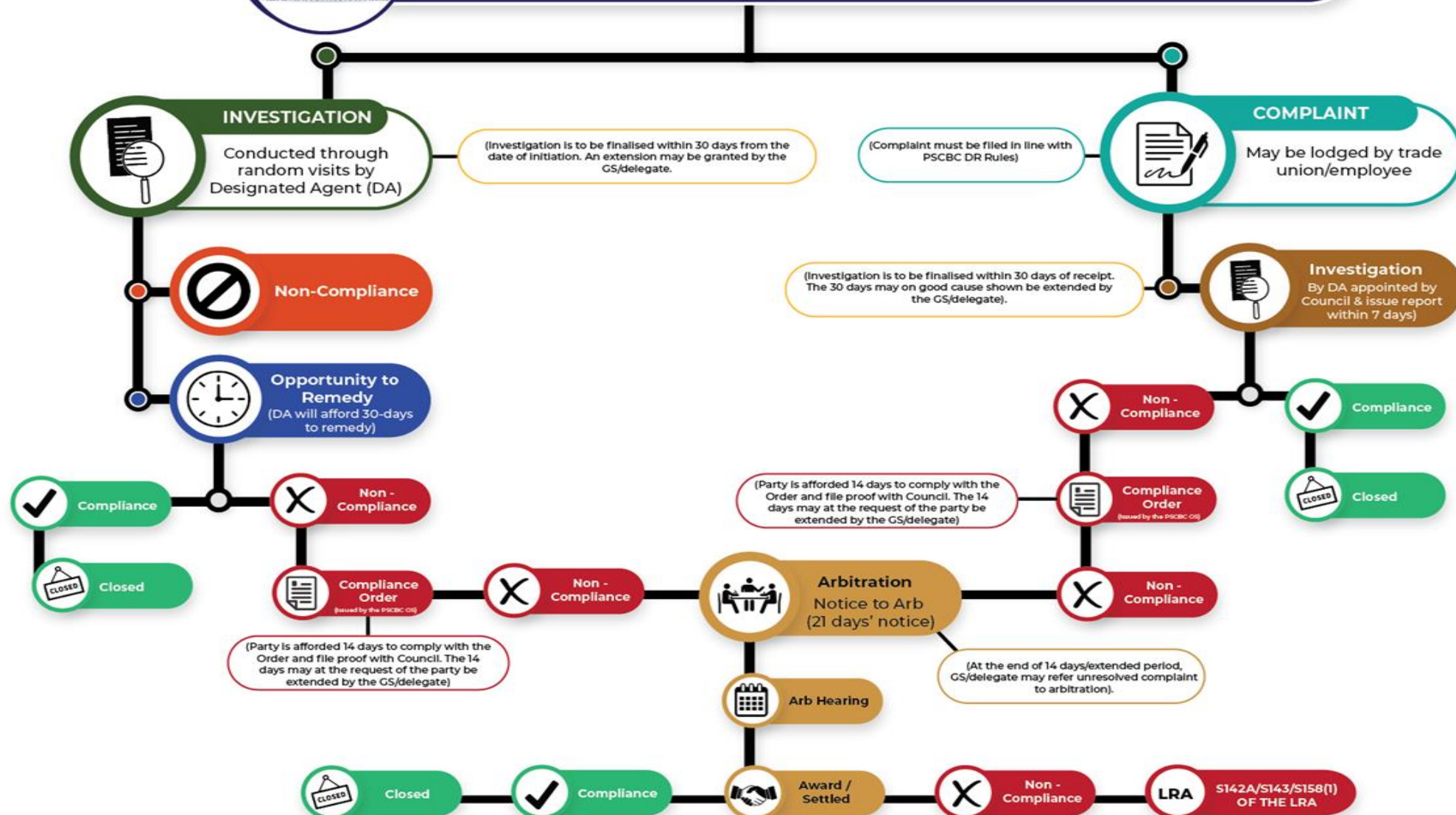
RESOLUTION 3 OF 2023

ENFORCEMENT OF COLLECTIVE AGREEMENTS IN THE PUBLIC SERVICE

- Section 33A of the Act mandates a bargaining council to monitor and enforce compliance with its collective agreements;
- Clause 4 of the constitution of the PSCBC empowers the Council to monitor and enforce its collective agreements and to exercise any other power or duty that may be necessary or desirable to achieve the objectives of the Council.
- A designated agent has been appointed by the Minister of Employment and Labour in line with section 33 of the Act.



FLOWCHART - ENFORCEMENT PROCEDURE – S33 & S33A OF THE LRA



*Compliance/settlement may be achieved at any stage of the above process.

RESOLUTION 3 OF 2023

ENFORCEMENT OF COLLECTIVE AGREEMENTS IN THE PUBLIC SERVICE

- The role of the designated agent is to monitor and enforce compliance with the Council's collective agreements.
- The designated agent may secure compliance with the Council collective agreements, publicise the contents of the collective agreements, conduct inspections, investigate complaints, issue compliance orders, and perform any other functions that are conferred or imposed on the designated agent.

RESOLUTION 3 OF 2023

ENFORCEMENT OF COLLECTIVE AGREEMENTS IN THE PUBLIC SERVICE

- The designated agent may further:
 - Require the designated employee/s of a department to disclose information, either orally or in writing, and either alone or in the presence of witnesses, on a matter to which a collective agreement relates, and require that disclosure be under oath or affirmation;
 - Question designated employee/s of a department about any record or document to which a collective agreement relates;

RESOLUTION 3 OF 2023

ENFORCEMENT OF COLLECTIVE AGREEMENTS IN THE PUBLIC SERVICE

- Request a copy of any record or document or remove such to make copies or extracts, which relates to the implementation of a collective agreement;
- Require the designated employee/s of a department to produce or deliver to a place specified by the agent any record or document for inspection which relates to the implementation of a collective agreement; and
- Be accompanied by an interpreter and/or any other person that could be reasonably required to assist in conducting an inspection.

RESOLUTION 3 OF 2023

ENFORCEMENT OF COLLECTIVE AGREEMENTS IN THE PUBLIC SERVICE

Lodging a complaint -

- An employee or a trade union representing the employee may lodge a complaint to the Council by completing the relevant form through the online platforms; (parties to Council – portal to parties and individual employees & non-party trade unions on the PSCBC referral links).
- A party referring a complaint must satisfy the Council that a copy of the complaint form has been served on the other party in line with the Rules for the Conduct of Proceedings before the PSCBC.

RESOLUTION 3 OF 2023

ENFORCEMENT OF COLLECTIVE AGREEMENTS IN THE PUBLIC SERVICE

PSCBC COMPLAINT REFERRAL FORM

PSCBC COMPLAINT REFERRAL
FORM
C2

READ THIS FIRST



REFERRING OF A COMPLAINT IN TERMS OF S33 & S33A OF THE LRA



PURPOSE OF THIS FORM?

To refer a complaint in terms
PSCBC Resolution 3 of 2003

WHO COMPLETES THIS FORM?

- Union Official (on behalf of
complainant/employee)
- Complainant(s)/employee/s

WHERE DO YOU SEND THIS COMPLAINT REFERRAL FORM?

The complaint referral form must
be served on the employer party
and on to the Chief Negotiator of
the State.

The complaint referral form must be
filed with the Council on either one
of the following methods-

Physical address:
PSCBC Offices, 260 Basden
Avenue Street, Lyttelton, 0176

Postal address:
PO Box 3123, Lyttelton South, 0176

Fax: (012) 664 5834
Email: info@pscbc.org.za

PSCBC Portal Link:
<https://labourmet.collaboratoronline.com/>

PSCBC e-Referral:
<https://pscbc.co.za/index.php/e-Referral/complaintreferral>

IMPORTANT

It is the responsibility of the party
lodging the complaint to ensure that this
form is fully completed and that all
information provided is true and correct.

False and incorrect information may
lead to your complaint being declared
null and void.

Incomplete documentation may delay
the processing of the complaint.

1.DETAILS OF A PARTY REFERRING A COMPLAINT

Tick the correct box ☒

As the referring party, are you?

- ☐ An employee ☐ A trade union

Name: _____

Physical Address: _____

Tel: _____

Cell: _____

Fax: _____

Email: _____

Contact Person: _____

How many employees are affected by this complaint referral: _____

2. DETAILS OF THE OTHER PARTY

Department: _____

Province: _____

Physical Address: _____

Tel: _____

Cell: _____

Fax: _____

Email: _____

Contact Person: _____

3. DETAILS OF THE COMPLAINT

Non-compliance to which PSCBC Resolution: -

PSCBC Resolution _____ of _____

Clause/s in the above-mentioned PSCBC Resolution

RESOLUTION 3 OF 2023

ENFORCEMENT OF COLLECTIVE AGREEMENTS IN THE PUBLIC SERVICE

PSCBC COMPLAINT REFERRAL FORM

Page 2

This section must
be completed!

Give a summary of the facts of the complaint:

The date the non-compliance arose on:
(date)

Where the non-compliance arose:
(Town)

4. OUTCOME REQUIRED

What outcome do you require?

5. POPIA CONSENT

By signing and filing the complaint referral form with the PSCBC, you therefore agree, that the PSCBC can process personal information on the terms and conditions set forth in PSCBC's privacy policy, available at: <https://pscbbc.co.za/pscbbc-privacy-policy-manual>

I, _____ herewith confirm that the information provided within
(full name and surname)
this form is true and correct.

Signature: _____ Date: _____

RESOLUTION 3 OF 2023

ENFORCEMENT OF COLLECTIVE AGREEMENTS IN THE PUBLIC SERVICE

Processing of the complaint

- Upon receipt of a complaint, the designated agent shall finalise the investigation within 30 days from the date of receipt.
- The agent must issue an investigation report in respect of the complaint, where the investigation finds non-compliance, the General Secretary may issue a compliance order.
- A party against whom a compliance order has been issued shall within 14 days of the date the compliance order was served, comply with the order and file proof of compliance with the Council.

RESOLUTION 3 OF 2023

ENFORCEMENT OF COLLECTIVE AGREEMENTS IN THE PUBLIC SERVICE

Arbitration of unresolved complaints-

- Following an investigating, a designated agent may issue a compliance order.
- Where there is non-compliance to a compliance order, the General Secretary may direct that the matter be referred to arbitration.
- An arbitrator conducting an arbitration concerning compliance with a collective agreement has the powers of an arbitrator in terms of Section 142 of the Act - *powers of the commissioner when attempting to resolve a dispute.*

RESOLUTION 3 OF 2023

ENFORCEMENT OF COLLECTIVE AGREEMENTS IN THE PUBLIC SERVICE

Arbitration of an unresolved complaints-

- An arbitrator may make an appropriate arbitration award, including -
 - ordering compliance,
 - ordering a party to pay an amount owing in terms of a collective agreement,
 - imposing a fine for failure to comply with a collective agreement,
 - charging a party an arbitration fee,
 - ordering a party to pay the costs of arbitration and confirming,
 - varying or setting aside a compliance order issued or
 - any award contemplated in section 138(9) of the Act.

RESOLUTION 3 OF 2023

ENFORCEMENT OF COLLECTIVE AGREEMENTS IN THE PUBLIC SERVICE

Enforcement arbitration award -

- An arbitration award concerning compliance with a collective agreement is final and binding and may be enforced in terms of Section 143 of the Act.
- If the Employer upon whom a fine has been imposed in terms of the arbitration award files an application to review and set aside an arbitration award, any obligation to pay a fine is suspended pending the outcome of the review application.
- The General Secretary may apply to the Labour Court to make an arbitration award issued in terms of this agreement an order of the Labour Court in terms of section 158(1) of the Act.



Q & A





PSCBC RESOLUTION 14 OF 2002

GRIEVANCE PROCEDURE IN THE PUBLIC SERVICE, clause F8 & F11



RESOLUTION 14 OF 2002

GRIEVANCE PROCEDURE IN THE PUBLIC SERVICE

- The parties at the PSCBC concluded a collective agreement dealing with the Grievance Procedure in the Public Service.
- The purpose of the grievance procedure is to advance sound labour peace by promoting speedy, impartial and equitable handling of disputes; sound labour relations and resolution of individual grievances at the lowest possible level in the department.
- Clause, F8 states that the department has 30 days to deal with the grievance.

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GRIEVANCE PROCEDURE IN THE PUBLIC SERVICE

- Clause, F11 states that, if there is a failure on the part of the department to respond to the grievance within the period referred to in clause F8, the aggrieved officer (employee) may lodge his or her grievance with -
 - The Commission directly; or
 - In the case of an alleged unfair labour practice, with the PSCBC or the relevant sectoral council (whichever is applicable) in terms of the dispute resolution procedure.
- The PSCBC has been receiving and dealing with disputes relating to the grievance procedure, particularly the non-adherence to the 30 days specified in the Resolution.
- Clause F11, remains the only applicable recourse in a case of the failure by the department to respond to the grievance within the specified time period.



Q & A





HOSPERSA OBO TSHAMBI V DEPARTMENT OF HEALTH, KWAZULU-NATAL (DA1/2015) [2016] ZALAC 10; [2016] 7 BLLR 649 (LAC); (2016) 37 (ILJ) 1839 (LAC) (24 MARCH 2016)

**HOSPERSA OBO TSHAMBI V DEPARTMENT OF HEALTH, KWAZULU-NATAL (DA1/2015)
[2016] ZALAC 10; [2016] 7 BLLR 649 (LAC); (2016) 37 (ILJ) 1839 (LAC) (24 MARCH 2016)**

TIMEFRAMES APPLICABLE WHEN REFERRING AN INTERPRETATION/APPLICATION DISPUTE TO THE COUNCIL

- The Act does not prescribe a timeframe for referring a dispute relating to the interpretation/application disputes of the Act.
- The Court found that in dealing with true labour disputes, the provisions of section 191(1) of the Act are a more obvious general 'yardstick' to test what is a reasonable time for a referral.
- The absence of a prescribed period does not automatically allow for a longer period than is the norm for other labour disputes.

**HOSPERSA OBO TSHAMBI V DEPARTMENT OF HEALTH, KWAZULU-NATAL (DA1/2015)
[2016] ZALAC 10; [2016] 7 BLLR 649 (LAC); (2016) 37 (ILJ) 1839 (LAC) (24 MARCH 2016)**

**TIMEFRAMES APPLICABLE WHEN REFERRING AN INTERPRETATION/APPLICATION
DISPUTE TO THE COUNCIL**

- The Court held that in labour disputes, the expedition is key, not simply because it is a good idea, but because the prejudice of delay in matters concerning employment often is not capable of remedial action. This applies to both employees and employers.
- Therefore, 90 days from the date the employee becomes aware of the act or omission by the employer, is regarded as a reasonable timeframe to refer a dispute relating to interpretation/application.



Q & A





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