

Section 135
Labour Relations Act 1995
Section 191(5A)

DATE OF REFERRAL

Dismissal disputes must be referred (i.e. received by the Transnet Bargaining Council) within **30 Days** of dismissal or, if it is a later date, within 30 days of the employer making a final decision to dismiss or to uphold the dismissal. If more than 30 days has elapsed since the date of your dismissal, you are required to apply for condonation.

Tick the correct box

Tick the correct box

If necessary write the details on a separate page and attach to this form.

PART B
ADDITIONAL FORM FOR
DISMISSAL DISPUTES ONLY



1. COMMENCEMENT OF EMPLOYMENT

When did you start working at the company?

2. NOTICE OF DISMISSAL

When were you dismissed (date)?

How were you informed of your dismissal?

In writing

Orally

Other (*please describe*)

3. REASON FOR DISMISSAL

Why were you dismissed?

Misconduct

Incapacity

Operational Requirements
(Retrenchment)

Unknown

Constructive

Other (please describe)

4. WAS THE DISMISSAL RELATED TO PROBATION YES NO

5. FAIRNESS / UNFAIRNESS OF DISMISSAL

(a) Procedural Issues

Was the dismissal procedurally unfair? YES NO

If yes, why?

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.....
.....

(b) Substantive Issues

Was the reason for the dismissal unfair? YES NO

If yes, why?

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.....
.....

Labour Relations Act, 1995
Sections 64(1)(a)(i)
135(5)(a)
136(1)(a)

CERTIFICATE OF OUTCOME OF DISPUTE REFERRED TO CONCILIATION AT THE TRANSNET BARGAINING COUNCIL

I certify that the dispute between:

CASE NUMBER:

.....
and
.....
(referring party) (other party/parties)

Referred to conciliation on:

.....
(give date)
Concerning

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

Was resolved on the or Remains unresolved as at
(give date) (give date)

Condonation:

Granted	Not applicable
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**If this dispute remains unresolved, it
Can be referred to:**

Arbitration	Labour Court	Strike/ Lockout	None
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Official stamp of the Transnet Bargaining Council

Name of Commissioner
Signature of Commissioner
Place
Date

Section 136
Labour Relations Act,
1995

REQUEST FOR ARBITRATION



IMPORTANT

READ THIS FIRST



WHAT IS THE PURPOSE OF THIS FORM?

This form assists a person or organisation refer a dispute to the TBC.

WHO FILLS IN THIS FORM?

Employer or Union or employee or in the case of non-unionised employees

WHERE DOES THIS FORM GO?

To the Secretary, Transnet Bargaining Council, P.O. Box 2951, Houghton, 2041, Fax no.: (011) 486-1226 via the Union Head Office if the employee is a member of a recognised Trade Union.

OTHER INSTRUCTIONS

When you refer the request for arbitration to the TBC, the Secretary will appoint an arbitrator in terms of the relevant clause of the Constitution.

1. DETAILS OF PARTY REQUESTING ARBITRATION

Name:

.....

Postal Address:

.....

.....

Tel: Fax:

Cell: Email:

2. DISPUTE DETAILS

Case Reference Number:

The case between and
(party) (other party)

was referred for conciliation, but remains unresolved.

The certificate confirming the failure of conciliation is attached.

In terms of Section I/we now request
(see chart on page 3)
that the matter be resolved through arbitration.

The issue in dispute are

.....

.....

.....

.....

(Give a brief description. The commissioner may require a more detailed statement of case later)

TBC Ref. Number

Please turn over →

OTHER INSTRUCTIONS

A copy of this form must be served on the other party.

Proof that a copy of this form has been served on the other party must be supplied by attaching:

- ◆ A copy of a registered slip from the Post Office;
- ◆ A copy of a signed receipt if hand delivered;
- ◆ A signed statement confirming service by the person delivering the form;
- ◆ A copy of a fax confirmation slip; or
- ◆ Any other satisfactory proof of service.

The certificate confirming that the dispute was unresolved through conciliation must also be attached to this form.

If a party does not want the commissioner who conducted the conciliation proceedings to arbitrate this dispute, that party must fill in the notice of objection form.

If both parties agree on a particular commissioner to arbitrate then they must inform the Transnet Bargaining Council within 48 hours of the dispute being certified as unresolved.

Check!

Have you sent a copy of this completed form to the other party?

Have you included proof (that you have sent a copy to the other party) with this form?

Have you attached the certificate confirming that the dispute was unresolved through conciliation?

3. WHAT DECISION WOULD YOU LIKE THE ARBITRATOR TO MAKE:

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The Arbitrator may require a more detailed statement of case later.

4. CONFIRMATION OF ABOVE DETAILS:

Form submitted by (name):

Signature:

Designation:

Date:

Place:

This form must be signed by the referring party or a person entitled to represent the party in the arbitration proceedings.

5. DETAILS OF OTHER PARTY

Name:

Designation:

Postal Address:

.....

.....

Tel: Fax:

Cell: Email:

**Section 136(3)
Labour Relations Act,
1995**

NOTICE OF OBJECTION TO ARBITRATION BY SAME ARBITRATOR



READ THIS FIRST

**WHAT IS THE PURPOSE
OF THIS FORM?**

This form notifies the TBC that a party objects to an arbitrator who is the same commissioner who led the conciliation process.

**WHO FILLS IN THIS
FORM?**

Objecting party.

**WHERE DOES THIS FORM
GO?**

To the Secretary, Transnet Bargaining Council, P.O. Box 2951, Houghton, 2041, Fax no.: (011) 486-1226 via the Union Head Office if the employee is a member of a recognised Trade Union.

OTHER INSTRUCTIONS

A copy of this form must be served on the other party.

Proof that a copy of this form has been served on the other party must be supplied by attaching:

- ◆ A copy of a registered slip from the Post Office;
- ◆ A copy of a signed receipt if hand delivered;
- ◆ A signed statement confirming service by the person delivering the form;
- ◆ A copy of a fax confirmation slip; or
- ◆ Any other satisfactory proof of service.

This form must be submitted to the Transnet Bargaining Council within 7 days after the date of issue of the certificate.

1. PARTY DETAILS:

Name:

Postal Address:

Tel: Fax:

Cell: Email:

Person dealing with the application:

Reference Number:

2. DETAILS OF THE OTHER PARTY

Name:

Postal Address:

Tel: Fax:

Cell: Email:

Person dealing with the application:

Reference Number:

3. OBJECTION DETAILS

I/we
(names)

object to the Arbitrator
(name)

who conciliated the
(name of dispute/matter)

arbitrating the same dispute.

Therefore we request the Transnet Bargaining Council to appoint a different Arbitrator.

4. CONFIRMATION OF ABOVE DETAILS

Form submitted by (name):

Position:

Signed:

Date:

TBC Ref. Number

Please turn over →

Section 142(1)(a),(b)&(c)
Labour Relations Act,

SUBPOENA



To: _____
(Name of Subpoenaed Person)

(Organisation of Subpoenaed Person)

(Address of Subpoenaed Person)

A Commissioner has been appointed to attempt to resolve a dispute in terms of the Labour Relations Act, 1995 (No. 66 of 1995)

Commissioner _____ has been appointed.
(Name of Commissioner)

The dispute is between _____
(Names of Parties)

(Issue of Dispute)

You are required in terms of Section 142 of the Labour Relations Act 1995 to appear before the Commissioner at _____
(Address where hearing is being held)

On _____ at _____
(Date of Hearing) (Time of Hearing)

You are subpoenaed:

- for questioning in terms of Section 142(1)(a)
- to produce any book, document or object in terms of Section 142(1)(b)
- to give expert evidence in terms of Section 142(1)(c)

(Highlight/mark appropriate block)

You must bring and produce the books, documents or objects listed below:

(List books, documents and objects)

- The party requesting the subpoena has been directed to furnish you with the first day witness fees together with the reasonable travel expenses to attend the hearing.

(Signed by TBC)

(Date)

(Place)

T B C REF. NO. : _____

Section 188A
Labour Relations Act,

REQUEST FOR PRE-DISMISSAL ARBITRATION



Read this First



WHO FILLS IN THIS FORM?

An employer requesting a pre-dismissal arbitration.

WHERE DOES THIS FORM GO?

To the Secretary, Transnet Bargaining Council. Please refer to the last page for details.

CONSENT

A pre-dismissal arbitration may only be conducted with the consent of the employee, or where an employee earning more than R89 499 per annum has consented to the holding of the pre-dismissal arbitration in a contract of employment

1. DETAILS OF EMPLOYER REQUESTING PRE-DISMISSAL ARBITRATION

Name:

Postal Address:

Contact Person:

Tel: Fax:

Cell: Email:

2. REQUEST DETAILS

The conduct of a pre-dismissal arbitration against

(Name of Employee)

for misconduct / incapacity.

Full name of employee:

Postal address:

Tel: Fax:

Cell: Email:

3. ALLEGATIONS ABOUT CONDUCT OR CAPACITY

Attach a copy of the charges to this form.

4. CONFIRMATION AND CONSENT TO PRE-DISMISSAL ARBITRATION

I

(Name of Employee)

Confirm that I have been advised of the allegations against me; and

(a) I consent to the process; or

(b) I earn more than 89 499 per annum and have consented to the process in my contract of employment. A copy of the contract of employment is attached hereto.

EMPLOYEES SIGNATURE

WITNESS

Please turn over →

FEES PAYABLE

Proof of payment of the prescribed fee must accompany this form.

Payment may only be made by:

- ◆ Bank guaranteed cheque;
- ◆ Direct electronic payment into the Transnet Bargaining Council's bank account.

OTHER INSTRUCTIONS

A copy of this form has been served on the other party.

Proof that a copy of this form has been served on the other party must be supplied by attaching:

- ◆ A copy of a registered slip from the Post Office;
- ◆ A copy of a signed receipt if hand delivered;
- ◆ A signed statement confirming service by the person delivering the form;
- ◆ A copy of a fax confirmation slip; or
- ◆ Any other satisfactory proof of service.

Tick the correct box

5. PAYMENT OF FEES:

Proof of payment of the prescribed fee of R3 420 (R3 000 plus VAT) is attached.

6. PLACE OF HEARING

Please select where you would like the pre-dismissal arbitration hearing to take place.

- Transnet Bargaining Council Premises
- Employer Premises

If you select employer premises, please provide address of employer premises

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7. CONFIRMATION OF ABOVE DETAILS:

Form submitted by (name):

Signature:

Position:

Date:

Place: