

**APPLICATION FOR CONDONATION IN RESPECT
OF UNFAIR DISMISSAL DISPUTE**

CASE NUMBER: DIS/_____

(Applicant/Employee)

and

(Respondent / Employer)

AFFIDAVIT

I, the undersigned, _____
(Full name of Applicant/Respondent)

do hereby make oath and say:

1. BACKGROUND

Applicant was dismissed on : _____

Respondent refused to reinstate application and _____

The dispute arose on: _____ after all attempts to negotiate or follow other internal procedures at the respondent failed (appeal)

2. THE DEGREE OF LATENESS

2.1 The referral is _____ days late.

2.2 Applicant did the following to pursue his/her rights after his/her dismissal.

2.2.1 Applicant went to his/her Union/Department of Labour/Community Advice Centre/ Legal Advice Centre(delete which is not applicable) on _____

2.2.2 Applicant telephoned : _____

On _____

2.2.3 Applicant signed the referral form on : _____

3. REASONS FOR LATENESS

The reason/s that applicant referred the matter late is _____

4. PROSPECTS OF SUCCESS

Applicant believes that he/she has good cause because (explain with full reasons why dismissal is unfair) _____

5. PREJUDICE

As the applicant (employee), if condonation is not granted, I will be prejudiced because

As the respondent (employer party), if condonation is granted, I will be prejudiced because

6. GENERAL

Any other relevant information _____

7. The Respondent must within 14 days of receipt of this affidavit from the Applicant, file an affidavit opposing the application for condonation by the applicant.

8. The Respondent must forward a copy of the affidavit opposing the application for condonation to the other party and the National Bargaining Council for the Hairdressing Cosmetology, Beauty & Skincare Industry within the stipulated 14 days. Proof of service must be attached to show that the affidavit has been forwarded to the other party (*ie: by hand – use the proof of receipt template, by fax – fax transmission slip or registered mail – registered slip*).

Applicant Signature

Respondent Signature

Signed before me on _____ at _____ by
the deponent who acknowledges that he/she knows and understands the contents of the affidavit,
had no objection to taking the oath/affirmation and considers it binding on his/her conscience.

Commissioner of Oaths Name: _____ Capacity: _____

Address _____

GUIDELINES TO COMPLETING AND RESPONDING TO CONDONATION APPLICATIONS

The Labour Relations Act and the National Bargaining Council for the Hairdressing Cosmetology, Beauty & Skincare Industry (adopted from the CCMA Rules) give time frames for the submission of referrals, applications and other documents. A Condonation Application needs to be completed where the timeframes for submissions are not met. The most common type of Condonation Application is for the late submission of the referral form.

(i.e. the referral is served on the National Bargaining Council for the Hairdressing Cosmetology, Beauty & Skincare Industry more than 30 days after the date of dismissal or after 90 days after the alleged Unfair Labour Practice).

If you refer your case outside of the timeframes which are indicated, you need to complete Section 4 of this referral form and send it together with your referral form. These guidelines should assist you.

THE APPLICANT (REFERRING PARTY)

The application must be in the form of a sworn affidavit and the application form is in this format to assist you.

The following issues must be dealt with in your application:

1. The degree of lateness and the reason(s) for the delay.

You must give reasons for the lateness that account for the full period that the referral was late. It is for example, not sufficient to say you were in hospital for a week if the referral is 6 weeks late. This would explain only the one weeks' lateness and not the other 5 weeks.

Proof of this is also required. For example, by stating that you were sick in hospital without proof thereof does not carry much weight. If proof cannot be supplied, give reason why not.

If the referral has been incorrectly made to the CCMA or another Bargaining Council, the reason for the mistake must be given.

2. Prospects of Success

You must state why there is a good chance of your case being successful should it eventually go for arbitration or to the Labour Court. Enough detail must be given to allow the employer to respond, for example, just stating that the chair of the disciplinary hearing was biased is not enough. Reason for and if available, proof of the allegation must be given.

3. **Prejudice**

Personal circumstances and whether you have obtained other employment are important. Any other circumstances must also be mentioned.

4. **The Importance of the matter**

If the matter is important from a general policy viewpoint, such as potential unrest, it must be stated.

5. **Any other information that is important**

You can give any other information that you think supports your application. Please attach any documents that support your application.

THE RESPONDENT

Should you wish to respond to the applicant's affidavit, it must reach the offices of the National Bargaining Council for the Hairdressing Cosmetology, Beauty & Skincare Industry within 14 days of receiving the application for condonation. It should deal with the issues raised in the application and must also be in the form of an affidavit. Proof of service must be attached.

The applicant then has 7 days to respond to the respondent's affidavit.

The National Bargaining Council for the Hairdressing Cosmetology, Beauty & Skincare Industry may request additional information or it may call the parties to a hearing if there is insufficient information or if it will assist the Council in making an appropriate decision.

NB: Any party experiencing difficulty with the process must obtain assistance from a knowledgeable person or organization. The Council is not legally permitted to assist with the substance of your application. Should you have any queries on the process, you may contact the National Bargaining Council for the Hairdressing Cosmetology, Beauty & Skincare Industry.

NATIONAL
BARGAINING  **COUNCIL**
for the Hairdressing • Cosmetology • Beauty & Skincare Industry

Fax: 0865850314
POSTNET SUITE 127,
X504 SINOVILLE

Tel: 0814446760
860 MILKPLUM AVENUE, MONTANA, 0129

**PROOF of RECEIPT OF
DISPUTE REFERRAL &
CONDONATION APPLICATION**

CASE No. : DIS/ _____

Received By:

ESTABLISHMENT's NAME:

ESTABLISHMENT ADDRESS:

.....

.....

PRINT NAMES IN FULL :

POSITION :

SIGNATURE OF RECEIPT :

DATE :

SWORN AFFIDAVIT

I, _____, ID No: _____,

Address: _____

Tele/Cell No: _____

do hereby make oath and say that I hand delivered a copy of a:

Dispute Referral	Condonation Application
✓	✓

(Please tick the applicable box/es)

in respect of HCSBC Case No: DIS/

to _____
(full name)

(designation)

of _____
(company name if applicable)

at _____
(full address of company)

on _____ at _____
(date) (time)

The above-mentioned person refused to accept or sign for the forms. I left a copy of the forms with the above-mentioned person.

I know and understand the contents of the declaration. I have no objection to taking the prescribed oath. I consider the prescribed oath as binding on my conscience.

DEPONENT

COMMISSIONER OF OATHS

Signed before me on the _____ of _____ 20_____
(date) (month) (year)