



## APPLICATION FOR CONDONATION FORM

Case Number: .....

.....  
(Applicant/Employee)

and

.....  
(Respondent/Employer)

### AFFIDAVIT

I, the undersigned, .....  
(full name of Applicant/Respondent)

do hereby make oath and say:

**1. Background**

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

**2. 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 whichever 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.....  
.....  
.....  
.....

**5. Prejudice**

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

As the respondent (employer), 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 an application for condonation by the applicant.**

**8. The respondent must forward a copy of the affidavit to the other party, as well as to the Council, within the stipulated 14 days. Proof must be attached to show that the affidavit has been forwarded to the other party. This would be in the form of either a registered slip, fax transmission slip or an affidavit of hand delivery.**

.....  
Applicant Respondent

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

Commissioner of Oaths .....  
Name .....  
Address.....  
.....  
.....  
Capacity .....

## **GUIDELINES TO COMPLETING AND RESPONDING TO CONDONATION APPLICATIONS**

The Labour Relations Act gives timeframes 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 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 will need to complete Section C 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 is also required. For example, just stating you were in hospital without proof does not carry much weight. If proof cannot be supplied, give reasons 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. Reasons 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 or public interest, 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 document that supports your application.

### **THE RESPONDENT (Employer)**

Should you wish to respond to the applicant's affidavit, it must reach the offices of the Bargaining Council **within 14 days** of receiving the application. 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.

**NOTE:** Any party experiencing difficulty with the process must obtain assistance from a knowledgeable person or organisation. The council is not legally permitted to assist with the **substance** of your application. If you have any queries on the **process**, you may contact the Bargaining Council. **AS CONDONATION IS DEALT WITH ON PAPERS, THE PARTIES ARE REQUIRED TO GIVE AS MUCH INFORMATION AS POSSIBLE.**