

# CCMA – A COMMENTARY ON THE RULES

## 5<sup>th</sup> EDITION

### *Amendments to the Rules*

Shortly after the 5<sup>th</sup> Edition was published the CCMA published further amendments to the CCMA Rules (in R194 dated 21 February 2020 in Government Gazette 43038, effective 1 March 2020). Most of them are of no particular consequence and do not have substantive implications, but the more notable changes are the following:

- a) **Rule 25 is amended to add federations of trade unions and federations of employers' associations to the list of who may represent their members at the CCMA.**
- b) **Rule 31B is amended to add the list of documents that must be attached to an application for a compliance order.**
- c) **Rule 40 is amended by providing that interest may be added to costs orders.**

We list below a summary of all the latest amendments. A full set of the latest rules may be [downloaded by clicking here](#).

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| Contents          | Rule 31A – insert the word 'urgent' before 'picketing rules'<br><i>[Editor's note: this insertion is not repeated in the heading of Rule 31A in the body of the Rules.]</i>                            |
| Rule 1(2)         | Delete the words 'Subject to Rule 7'   |
| Rule 5(1)(a)(iii) | Insert the word 'premises' after 'place of employment'   |
| Rule 5(2)(b)      | Replace the word 'employee(s)' with the word 'employees'   |
| Rule 5(2)(d)      | Delete the words 'partnership, firm or' after the words 'controlling body of the'  |
| Rule 7(1)(c)      | Replace the words 'of the CCMA using a fax' with the words 'at a'  |
| Rule 9(2)         | Delete the word 'late'   |
| Rule 9(3)(c)      | Delete the words 'or application'  |
| Rule 11(2)        | Replace 'a shorter notice period', where it first occurs, with the words 'a shorter period of notice', and, where it occurs a second time, with the words 'a shorter period'                           |
| Rule 13(1)        | Delete the words 'at conciliation'   |
| Rule 14A(2)       | Delete footnote 3  |
| Rule 14A(4)       | Replace the words 'the Employer party is the State' with the words 'the State is the employer party'   |
| Rule 17(3)(c)     | Replace the words 'a claim' with the word 'claims'   |
| Rule 20(8)        | Insert the words 'or the provisions of sub-rule' before '(4), (5) and/or (6)'  |
| Rule 24(1)        | Replace the word 'dispute' with the words 'cause of action'  |
| Rule 25(1)(a)(ii) | Insert, after the words 'in the Act', the words 'or an office bearer or official as defined in the Act of a registered federation of trade unions or registered federation of employers' associations' |

- Rule 25(1)(a)(iii) Insert, after the words ‘represent that party’, the words ‘or an office bearer or official as defined in the Act of a registered federation of trade unions and authorized to represent that party’
- Rule 25(1)(a)(iv) Insert, after the words ‘represent that party’, the words ‘or an office bearer or official as defined in the Act of a registered federation of employers’ organisations and authorized to represent that party’
- Rule 25(1)(d)(i) Delete ‘if the party is the employer,’
- Rule 25(1)(d)(ii) now reads: ‘any member, office bearer or official of that party’s registered trade union’
- Rule 25(1)(d)(iii) now reads: ‘any member, office bearer or official of that party’s registered union or registered employers’ organisation’
- Rule 26(6)(b) Delete ‘(1) (b)’ after ‘rule 25’
- Rule 28 Delete ‘(1)’ after the word ‘one’
- Rule 29(3) Replace the words ‘on his/her own accord’ with the words ‘at his own accord’
- Rule 30(3) Replace the words ‘within fourteen (14) days’ with the words ‘within 14 days’
- Rule 31A(2) Footnote 4 becomes footnote 3
- Rule 31(2) Delete the word ‘and’ before the words ‘on notice’
- Rule 31B(2) Footnote 5 becomes footnote 4, and sub-rule (2) now reads:  
 ‘(2) An application must be brought in a prescribed form<sup>4</sup>, to which the following documents must be attached:  
 (a) a copy of the undertaking or compliance order;  
 (b) in the case of a compliance order, proof that the compliance order was served on the employer in accordance with the BCEA;  
 (c) Any documents related to the securing an Undertaking or issuing of a Compliance order, including, a complaint or grievance, an inspection report or other notes made during an inspection and any relevant records of the employer.  
 (d) Inspector Confirmatory Affidavit, if the inspector is not the one signing the prescribed form.  
 (e) Supporting witness or third party affidavits, where applicable.  
 (f) Any other relevant documents.’
- Rule 31B(4) is re-numbered 31(3), and replace the words ‘by the applicant’ with the words ‘by the referring party’
- Rule 31B(5) is re-numbered 31B(4), and replace the words ‘grounds for objection’ with the word ‘objections’
- Rule 31B(6) is re-numbered 31B(5), and replace the words ‘sub-rule (5)’ with the words ‘sub-rule (4)’
- Rule 31B(7) is re-numbered 31B(8), and replace the words ‘the time period within which a reply may be delivered’ with the words ‘the time limit for delivering a reply’
- Rule 31B(10) is re-numbered 31B(9), and replace the words ‘sub-rule (9)’ with the words ‘sub-rule (7)’
- [Editor’s note: wording as it appears in the Government Gazette.]
- Rule 33(6) now reads: ‘In the event that the request has been granted, the party who applied for the referral by the director must refer the matter to the Labour Court in line with rule 11 of the Labour Court rules.’
- Rule 34(2) footnote 6 becomes footnote 5

- Rule 37(4)(b) Replace the words 'within which' with the words 'in which'
- Rule 37(5)(b)-(d) Insert 'by' at the beginning of the sub-rule  
*[Editor's note: wording as it appears in the Government Gazette.]*
- Rule 39(10)(h) Replace the word 'factors' with the word 'factor'
- Rule 39(4) Replace the words 'in respect of a legal practitioner' with the words 'in terms of sub-rule (3)'
- Rule 40(1)(a) Delete the word 'issued'
- Rule 40(1)(B) Replace the words 'award issued in an arbitration' with the words 'award in arbitration'
- Rule 40(3) now reads: 'For the purposes of sub-rule (2), an arbitration award includes an award of costs in terms of Section 138(10), a taxed bill of costs in respect of an award of costs and an arbitration fee charged in terms of Section 140(2).'
- Rule 40(4) now reads: '(4) The amount of money that may be enforced through execution by the Sheriff  
in terms of this Rule includes–  
(a) The amount that is ordered to be paid in terms of the award;  
(b) Any interest on that amount calculated in terms of section 143(2);  
(c) The Sheriff's costs permitted in terms of the Magistrate's Court Tariff for Sheriffs.'
- Old Rule 40(4) is renumbered 40(5)
- Rule 40A(1)(b) Replace the words 'fourteen (14) days' with the words '14 (fourteen) days'
- Rule 41(1)(a)-(p) are renumbered 41(2) to (17) respectively.
- New Rule 41(18) '**Taxing officer**' means any employee of the Commission appointed by the Director in terms of Rule 39.  
*[Editor's note: wording as it appears in the Government Gazette.]*