

# CCMA FEES AND COSTS

## FEES

The CCMA does not generally charge fees for its dispute resolution work, but may do so in exceptional circumstances as outlined below. Fees are charged in accordance with the tariff of fees established by the CCMA Governing Body and published in the Government Gazette.

## WHEN CAN THE CCMA CHARGE FEES?

Fees that may be charged by the CCMA are set by the Governing Body from time to time. The fees reflected herein are those published. (see tariff of fees overleaf)

The CCMA may charge fees in the following circumstances:

When conducting, overseeing or scrutinising any election or ballot at the request of a registered trade union or employers' organisation.

When providing advice or training to employees, employers, registered trade unions, federations of trade unions, registered employers' organisations, federations of employers' organisations, or councils relating to the primary objects of the Labour Relations Act or any other employment law. This fee would include (but is not limited to) the following-

- establishing collective bargaining structures;
- designing, establishing and electing workplace forums and creating deadlock-breaking mechanisms;
- the functioning of workplace forums;
- preventing and resolving disputes and employees' grievances;
- disciplinary procedures;
- procedures in relation to dismissals;
- the process of restructuring the workplace;
- affirmative action and equal opportunity programmes; and
- the prevention of sexual harassment in the workplace.

In terms of section 140(2) of the Labour Relations Act (LRA) the CCMA may charge an employer an arbitration fee in dismissal

matters, where the commissioner finds that the dismissal was procedurally unfair. This fee is in addition to any compensation awarded to the employee in terms of section 194(1).

The CCMA may charge a fee for each day or part thereof when hearing a dispute about the interpretation of a collective agreement when -

- the collective agreement does not provide a procedure for resolving that dispute;
- the procedure provided in the collective agreement is not operative;
- a party to a collective agreement has frustrated the resolution of the dispute;
- resolving a dispute between parties to a council, or parties who fall within the registered scope of a council, if the council's dispute resolution procedures are not operative;
- resolving a dispute between parties to a collective agreement that provides for the resolution of that dispute by an accredited agency, where the agency's dispute resolution procedures are not operative.

The CCMA may charge a fee per day for resolving a dispute by Inquiry by Arbitrator (previously known as Pre-Dismissal Arbitration) in terms of section 188A of the LRA.

## WITNESS FEES?

Where a party wishes to subpoena a witness, it will be required to pay a witness fee to that witness together with the witness's reasonable travel and subsistence expenses. The CCMA may waive the requirement for payment of witness fees on motivation.

## WHEN AND WHERE DO YOU PAY CHARGES / FEES?

You would pay only after receiving an invoice issued by the provincial CCMA Finance Department. Payment must be paid to that office, and no person is authorised by the CCMA to collect such charges from the party's premises.

Witness fees must be paid directly to the witness.

## TABLE – TARIFF OF FEES AS AT 01 JUNE 2020

SECTION	SERVICE	TARIFF OF FEES
	<b>Advice and training</b>	
1	Training and Advice in terms of section 115(3)	R3175.08 – R7214.43
1A	Administration fee for the coordination and/ or preparation of training to be delivered in terms of section 115(3)	PLUS 50% of all direct variable costs
2	Conducting, overseeing or scrutinizing any election or ballot of a registered trade union or registered employers' organisation in terms of section 123(1)(b)	R3175.08 – R7214.43 PLUS 50% of all direct variable costs
3	Costs where a dismissal is found to be unfair only because the employer did not follow a fair procedure in terms of section 140(2)	R3175.08 – R7214.43 PLUS 50% of all direct variable costs.
4	Resolving a dispute about the interpretation or application of a collective agreement under section 147(1)	R3806.98 - R7214.43 PLUS 50% of all direct variable costs
5	Resolving a dispute between parties to a council if the council's dispute resolution procedure are not operative in terms of section 147(2)	R3175.08 – R7214.43 PLUS 50% of all direct variable costs
6	Resolving a dispute between parties who fall within the registered scope of a council if the council's dispute resolution procedures are not operative in terms of section 147(3)	R3175.08 – R7214.43 PLUS 50% of all direct variable costs.
7	Resolving a dispute between parties to a collective agreement in terms of section 147(5)	R3175.08 – R7214.43 PLUS 50% of all direct variable costs.
8	Resolving a dispute by inquiry by Arbitrator in terms of section 188A	R3175.08 – R7214.43 PLUS 50% of all direct variable costs.

# CCMA FEES AND COSTS

## COSTS

The term costs refers to an order by a commissioner for a party to pay the other party for certain expenses incurred in having the dispute resolved through the CCMA e.g. legal costs and disbursements for subsistence and travelling. Costs can only be awarded in respect of arbitration and similar hearings, not conciliation proceedings.

A commissioner may make an order for the payment of costs according to the requirements of law and fairness in accordance with rules made by the Commission in terms of section 115(2A)(j) and having regard to any relevant Code of Good Practice and any relevant guidelines which may be issued by the CCMA itself.

The Courts have explained the meaning of “law and fairness” as follows: costs may be awarded in the discretion of the decision-maker. Generally costs should follow the result (i.e. the loser should pay the winner’s costs), but (particularly in the CCMA) regard should be had to additional considerations, namely that parties should not be discouraged from invoking the dispute resolution mechanisms of the LRA; that costs should not be lightly ordered if a party acts in good faith, especially where the matter involves issues of importance to the wider industrial relations community; that a costs award should not damage an ongoing relationship between the parties; and that the conduct of the parties should be taken into account.

## CCMA RULE 39

This Rule sets out the factors that a commissioner should take into account in deciding whether or not to award costs.

- (1) In any arbitration proceedings, the commissioner may make an order for the payment of costs according to the requirements of law and fairness and when doing so should 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 the arbitration proceedings acted in a frivolous and vexatious manner -
  - i. by proceeding with or defending the dispute in the arbitration proceedings, or
  - ii. in its conduct during the arbitration proceedings;
- e) the effect that a cost order may have on a continued employment any agreement concluded between the parties to the arbitration concerning the basis on which costs should be awarded;
- f) the importance of the issues raised during the arbitration to the parties as well as to the labour community at large;
- g) any other relevant factor.

(2) A commissioner may make an award of costs in favour of a party who 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.

(3) An award for costs in terms of sub-rule (3) must be in the amount of –

- (a) in respect of the first day of an arbitration (including any arbitration concluded in a single hearing) – R7 000-00 (VAT inclusive);
- (b) in respect of each additional day of an arbitration – R4700-00 (VAT inclusive).

(4) An award for costs in respect of a candidate attorney must be 50 percent of the amount set out in sub-rule (4).

## RELEVANT LEGISLATION

- Labour Relations Act 66 of 1995 as amended (2018)
- CCMA Tariff of fees (1 June 2020)

- Rules for the Conduct of Proceedings before the CCMA. As amended (2020).