



1 MAY 2020

URGENT ADVISORY TO ALL CCMA STAFF, USERS AND STAKEHOLDERS

SUBJECT: CCMA'S OPERATIONS DURING SOUTH AFRICA'S COVID – 19 LOCKDOWN LEVEL 4

As you are aware, the whole world is confronted by the COVID – 19 pandemic, which has seen many countries across the world, including South Africa, implementing national lockdowns, in a bid to contain the virus. As you will recall, South Africa's lockdown was effected on 26 March 2020. In response, the Commission for Conciliation, Mediation and Arbitration (CCMA) issued a directive implementing measures to contribute towards national and international efforts to contain COVID – 19 and minimise its further spread, as guided by the National Institute for Communicable Diseases (NICD), the Department of Health (DEH), and Department of Public Service and Administration (DPSA), amongst others. Consideration of actions taken by the High Court, Labour Court and the Labour Appeal Court were also taken into account.

The issued directive suspended all points of referral, requiring face-to-face interaction. It also prohibited walk - ins into any of the CCMA offices, either for the purposes of making enquiries and/or for serving/delivering any processes or documents. It also suspended all discretionary functions, such as training and conferences, as provided for in section 115 of the Labour Relations Act 66 of 1995 (LRA). There was also encouragement of alternative means of non - contact referral, such as *email or fax*, as contained in Rule 7 of the CCMA Rules.

In line with South Africa's risk – adjusted strategy, South Africa, effective from 1 May 2020, eased its COVID – 19 lockdown level from level 5 to level 4, as per the regulations gazetted on 29 April 2020. Level 4 of the lockdown allows for some economic activity to resume, with a number of industries and sectors being permitted to gradually resume operations, with strict restrictions. The stringent terms and conditions are aimed at protecting the health and safety of South Africans, whilst reviving economic activity.

The CCMA is conscious of the fact that the lockdown has had a negative impact on economy, placing many workers and businesses in distress. The gradual return of declared industries and sectors therefore means that some labour activity will resume. By implication, this means that some referrals to the CCMA for varying reasons may be necessary.

The CCMA has noted, with great regret, recent reports of some media houses and key labour market players, that cases have been strike off the roll and that the CCMA is not coping with its caseload. It is put on record, that there is absolutely no truth in the expressed sentiments, that no such decision was taken by the CCMA Executive Committee or the Governing Body to dismiss referred or scheduled matters. Matters initially scheduled for the

week of 4 – 8 May 2020, had to be rescheduled due to the regulations gazetted on 29 April 2020 for the effecting of lockdown level 4, which do not declare the CCMA an essential or related service, and which do not make clear provision for the re – opening of the CCMA and its services. The regulations also do not provide for users or stakeholders to access CCMA offices. At this stage, gazetted regulations only allow users and stakeholders to only go to work and access services declared as essential and related services.

As such, as a law abiding and responsible institution, the CCMA cannot open its premises and resume full – scale operations without a clear directive to do so. The CCMA will, at no means, encourage the contravening of regulations by its employees, users and stakeholders, or any activity that will prejudice their safety and well – being.

Consultations are currently being conducted and guidance sought from relevant authorities in this regard. Guidance is also taken from the environment in which the CCMA is operating in, such as sentiments, instructions and plans of the Departments of Cooperative Governance and Traditional Affairs, Employment and Labour, Basic and Higher Educations, as well as Transport, amongst others. Once a clear mandate is established and clarity is provided as to whether the functions of the CCMA fall within the ambit of an essential services or services supporting essential services, a clear directive will be issued to staff, users and stakeholders.

Whilst awaiting a response, the CCMA continues to observe the over-all principle that physical contact amongst persons must be eliminated or restricted. This means that at this stage, CCMA services will continue to be offered at a minimal scale only. The CCMA will continue to accept referrals through non-contact methods such as email or fax as contained in rule 7 of the CCMA Rules, as mentioned earlier. All matters referred and scheduled (or re – scheduled) before and during the lockdown, will be prioritised. Pre-conciliations shall continue by means of telephone. Conciliations shall continue to be conducted telephonically if agreed to by the parties and the CCMA. In terms of discretionary functions and other identified matters of interest, such as large scale dismissals (S189A) and Inquiry by Arbitrator processes (S188A) processes, amongst others, the CCMA may approve, subject to written agreement by parties, that these matters be heard at alternative venues, other than CCMA venues, subject to strict health and safety conditions being satisfied. Whilst the CCMA remains committed to expeditious service delivery and social justice, such cannot be delivered at the expense of the health and life of employees, users and stakeholders.

The COVID – 19 pandemic challenges the CCMA to review its service delivery model, including digitalisation of referral forms, conducting web – based hearing, conducting hearings at employers'/union offices and state – owned offices, as well as the establishment and dispatching of rapid response teams and specialist panels, amongst others.

In preparation of re – opening, the CCMA is aiming to ensure full compliance with relevant occupational health and safety requirements, as set out in the Disaster Management Act (57/2002) and all Regulations, directives and guidelines. The priority of the CCMA in this regard is to establish and maintain a safe and healthy work environment for employees, users and stakeholders. Such means includes the continuous sanitation of all CCMA offices, adequate queue management and re – configuration of CCMA offices to ensure social distancing, screening of all persons entering CCMA offices, and provision of personal protective equipment, amongst others. A directive will be issued in this regard in due course.

The CCMA appeals for all social partners to continue to observe and abide by all employment laws, requesting for humanity, relationship building and collaborative problem solving during this difficult time. The CCMA also appeals to all workers across all essential services industries and services supporting essential services, to refrain from any unprotected industrial action during the period of the lockdown.

In conclusion, please note the following summary:

- Internal and external stakeholder consultations are being conducted to ensure inclusivity and consideration of all factors in preparing for the CCMA's re – opening.
- The Commission Staff Association (CSA), the CCMA's staff association, will also be engaged on all return to work arrangements.
- At this stage, for the health and safety of employees, users and stakeholders, the CCMA will not welcome any face to face interactions or walk - ins to any of its offices, even during level 4 lockdown. This decision may be reviewed after receiving a clear directive from the Department of Employment and Labour in this regard.
- All measures are being put in place to ensure that the CCMA is compliant to occupational health and safety regulations and guidelines. No CCMA office shall open and be fully operational unless there is adequate assurance and satisfaction that health and safety risks are mitigated as far as possible, for employees, users and stakeholders.
- The CCMA's services will continue to operate at minimal as outlined in earlier sections of this advisory.
- Alternative methods of hearing matters such as web – based hearing and pre – conciliations, amongst others, will continue, as contained in earlier sections of this advisory.
- On consent by all parties, matters may be heard at alternative venues outside CCMA offices, such as employer/union venues, subject to all health and safety requirements being met, as earlier indicated.
- Only communiqué issued via official CCMA platforms should be regarded as official and correct.

The CCMA will continue to monitor the situation actively and take appropriate measures, continuously updating employees, users and stakeholders, as the situation evolves. Please refer to the CCMA communication platforms (website, social media and *CCMAConnect*) for official and up-to-date correspondence. A CCMA business whatsapp account will also be created soon for timeous communication.

All enquiries concerning relating to this directive, please direct your enquiries to the following email address: covid19enquiries@ccma.org.za. Please send all media enquiries to mediarelations@ccma.org.za and all service delivery related complaints to complaints@ccma.org.za. For any suggestions, please send your inputs to DirectorsOffice@ccma.org.za.

The CCMA wishes everyone well during these trying time.

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