In South Africa, the Constitution and the law provide domestic workers with a number of important rights and legal protections. There are also laws that ensure that employers comply with labour laws and can be held accountable for their actions. One of these laws is the Labour Relations Act 66 of 1995. This law makes provision for the creation of the Commission for Conciliation, Mediation and Arbitration (CCMA), an independent body that tries to resolve labour disputes between employers and employees.

This factsheet explains what the CCMA is, how it works, and how domestic workers can make use of the CCMA to resolve disputes with their employers. The information in this factsheet comes from the Socio-Economic Rights Institute of South Africa (SERI)’s Domestic Workers’ Rights: A Legal and Practical Guide, which can be downloaded here.

What is the CCMA and when can it be used?

Domestic workers can go to the CCMA when they have a dispute with their employers over their working conditions or employment benefits. If a dispute arises, domestic workers should first attempt to come to an agreement with their employers about their working conditions. However, if after all efforts to resolve the dispute an employer refuses to follow the law and give the domestic worker the minimum conditions of employment set out in Sectoral Determination 7, a domestic worker can approach the CCMA to resolve the dispute.

How does the CCMA try to resolve disputes?

There are different ways to resolve disputes, including negotiation, mediation, arbitration or going to court. Some of the ways to resolve a dispute may be informal (for example negotiation, where people informally sit down and discuss an issue) or formal (for example going to court, where lawyers are present and certain strict procedures have to be followed). In the context of labour rights, there are alternative dispute resolution mechanisms. These are ways of resolving a dispute that do not require the parties to go to court. These mechanisms include negotiation, mediation and arbitration. The CCMA uses these dispute resolution mechanisms to solve problems between domestic workers and employers.
**Tips for going to the CCMA**

It is important to take steps as soon as possible because there are deadlines for when a domestic worker can open a case at the CCMA. For example, if a domestic worker wants to challenge an unfair dismissal, he or she only has 30 days from the day that he or she was dismissed to open a case. If a domestic worker wants to challenge unfair treatment by their employer such as an employer refusing to grant the domestic worker the leave they are entitled to, then the domestic worker has 90 days to open a case. If a domestic worker wants to challenge unfair discrimination by an employer, the domestic worker has 6 months to open a case.

If a domestic worker misses the deadline to open a case at the CCMA, they can still apply for “condonation” to have their case heard by signing an affidavit (a sworn statement) that is available at the CCMA. To apply for condonation the domestic worker has to explain why he or she was unable to open a case within the deadline. When deciding whether to allow the worker to open a case, the CCMA commissioner will take into account how late the application is; the reason the domestic worker gave for the late application; whether the case has the potential to be successful; and how important the matter is to both parties.

**Domestic workers should try to get advice from people who have experience with the CCMA**

When a domestic worker is thinking about taking a dispute to the CCMA, it might be a good idea to seek advice from people who have experience with the CCMA. Domestic workers can get advice from their unions (if they are part of a union), their nearest community advice office or community-based paralegal (these are organisations or individuals that promote human rights and offer free legal advice to people within their communities), or other domestic workers who have gone to the CCMA.
It may, however, be difficult to get a lawyer, paralegal or community advice office. A domestic worker could therefore also get any other person who they trust to represent them at the CCMA (although this is not part of the CCMA's official processes, CCMA commissioners have allowed workers to be represented by people who are not a lawyer or union representative).

**PHASE 1: APPLICATION**

**STEP 1:** At the CCMA offices you will be asked to fill in a form called the CCMA case referral form. This form is also found online on the CCMA website.

**STEP 2:** Once you have completed the form you need to share it with your employer and you must be able to prove that a copy was sent. You can fax your employer a copy (making sure you keep the fax slip) or by posting it (making sure you keep the postal receipt) or you can deliver it to your employer in person and asking him or her to sign for it.

**STEP 3:** Once you have filled it in you do not have to bring the form to the CCMA in person. You may also fax the form or post it to the CCMA. Make sure that a copy of the proof that the form had been given on the other party is also enclosed.

**STEP 4:** The CCMA will inform both parties as to the date, time and venue of the first hearing.

**PHASE 2: THE HEARING**

**STEP 5:** The first hearing is called conciliation and only you (and a person from an advice office or another trusted individual) and your employer (and their employer’s organization) and the CCMA commissioner are allowed to attend. Legal representation is not allowed. The purpose of the hearing is to reach an agreement which both you and your employer agree with.

**STEP 6:** If you do not reach an agreement, the commissioner will issue a certificate. Depending on the nature of the dispute, the case may be referred to the CCMA for arbitration or the Labour Court as the next step.

**PHASE 3: ARBITRATION**

**STEP 7:** In order to have an arbitration hearing, you have to fill in another form called a request for arbitration form. Same as in step 3, you need to send a copy to your employer and be able to prove that you have done so. Arbitration should be applied for within three months from the date on which the commissioner issued the certificate.

**STEP 8:** Arbitration is a more formal process. You may need to produce evidence, including witnesses and documents to prove your case. Your employer (or his or her representatives) may be allowed to cross examine you, which means they ask questions to check or discredit your testimony. Legal representation may be allowed. The commissioner will make a final and binding decision, called an arbitration award, within 14 days.

**STEP 9:** If you or your employer do not obey with the arbitration award, it may be made an order of the Labour Court.

**Useful contact details:**

- Contact the CCMA National Office (Johannesburg) by going to the CCMA’s website ([https://www.ccma.org.za/](https://www.ccma.org.za/)) or by calling 011 377 6650 or emailing ho@ccma.org.za.