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CCMA digital platforms

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On or about 8 May 2020 the Director of the Commission for Conciliation, Mediation and Arbitration ("**the CCMA**") issued an Urgent Directive in respect of access to the CCMA ("**the Directive**").

Through the Directive the CCMA introduced various measures in order to minimise exposure to COVID-19. These efforts include:

- The introduction of a digital case referral and application platform; and
- Where possible, conducting conciliation and arbitration hearings (other than mutual interest or public interest matters), telephonically or by way of digital platforms in order to avoid unnecessary physical contact among parties.

Since then the CCMA conducted a number of digital and telephonic hearings successfully.

In order to conduct hearings by way of digital platforms, some changes to the way parties to disputes previously conducted themselves are now necessary. These include:

- Forms can be signed digitally. Where a party cannot sign a form digitally, the form must be accompanied by a statement confirm the veracity of the information.
- The use of pre-arbitration conferences in order for the parties to endeavour to agree on the virtual aspects of a hearing (for example, which party is to provide digital platform facilities, what platform and protocols will be used, how a party who does not have access to digital platforms and/or data may be assisted and accommodated and the like). If one of the parties is recording the proceedings it can be sent to the Commissioner via an email. If the CCMA records the proceedings, it will also be saved to the normal CCMA recordings database.
- Endeavouring to make such arrangements so as to ensure that the parties are all able to be able to see witnesses if possible in order to avoid allegations that witnesses are being prompted (by others and/or by reading notes). Where this is not possible the Commissioner will take greater care to explain to the witnesses that they are under oath, what it entails and that they cannot be prompted.
- A Commissioner can direct the parties to file a Statement of Case in terms of Rule 19 of the Rules for the Conduct of Proceedings before the CCMA ("**the Rules**") in an effort to shorten hearings (whether physical or digital) insofar as is possible.
- Subpoenas may be served electronically and agreements can be signed electronically where possible. Commissioners must explore creative options when this is not possible, for example reading a settlement agreement into the record with all parties confirming same.

Whilst these measure may seem cumbersome, they can also assist with the resolution of disputes in an expedient manner by – for example – avoiding parties having to incur traveling and similar costs, being away from their work or other obligations for unnecessary periods of time and shortened proceedings.



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