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Updated Directive in respect of access to the Commission for Conciliation, Mediation and Arbitration (“CCMA”) during the COVID-19 pandemic

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On 30 July 2020 the CCMA published a new Directive on how and under what conditions matters enrolled in the CCMA will be dealt with. The Directive must be read together with the Rules for the Conduct of Proceedings before the CCMA. The Directive replaces the CCMA Directives published on 8 May 2020 and 14 May 2020 and has come into effect on **1 August 2020**.

The following is a broad summary of the Directive:

- Access to the CCMA will be restricted;
- Parties may utilise the CCMA’s digital platform as contemplated in the previous directive (for more on the digital platform: <https://werksmans.com/legal-updates-and-opinions/ccma-digital-platforms/>);
- Specific procedures are set up for the following types of processes:
 - Conciliation hearings;
 - The facilitation of large-scale retrenchments as per section 189 of the Labour Relations Act 66 of 1995;
 - Application proceedings (i.e. condonation, rescission, variation, legal representation etc.); and
 - Arbitration proceedings and inquiries by arbitrators.
- The use of electronic means for conducting proceedings are preferred, however, the Directive does consider alternatives in cases where this may not be possible for the parties or based on the circumstances;
- Should parties be permitted to appear in person, the relevant restrictions and obligations imposed by Covid-19 Regulations and Directives must be complied with by them;
- In some cases, the parties are required or may be directed to attempt to reach an agreement on the way in which proceedings will be conducted;
- Communication between parties and the CCMA must be via electronic means; and
- The Directive sets out a strongly recommended protocol for Video-conference Hearings.

The full Directive may be accessed at: <https://www.ccma.org.za/Media/ArticleID/452/MEDIA-RELEASE-ON-CCMA%E2%80%99S-OPERATIONS-DURING-THE-COVID-19-PANDEMIC>.



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