

LRA Form 3.23
Section 62(1)
Labour Relations Act, 1995

APPLICATION ABOUT DEMARCATIION DISPUTE



Read This First



WHAT IS THE PURPOSE OF THIS FORM?

This form is an application by a party to the CCMA to determine a demarcation dispute.

The demarcation dispute could be-

- a) whether any employees or employers work in a sector or area;
- b) whether any provision in an arbitration award, collective agreement or sectoral determination is or was binding on any employee, employer or class of employees or employers.

WHO FILLS IN THIS FORM?

- Any registered trade union,
- Employee,
- Employer,
- Registered employers' organisation, or
- Council.

OTHER PARTIES

If more than one party is referring the dispute or if the dispute is referred against more than one party, write down the additional names and particulars on a separate piece of paper and attach details to this form.

1. APPLICANT DETAILS

Name: UNITED NATIONAL TRANSPORT UNION (UNTU)

Postal Address: 15 BRADFORD ROAD
BEDFORDVIEW
GERMISTON
2008

Tel : 011 728 0120 Fax:.....

Cell : 082 685 2799....E-Mail : dan@untu.co.za / disputes@untu.co.za

Contact Person : Dan Khumalo / Mxolisi Shabangu...

2. DETAILS OF OTHER PARTY(IES)

Name: PRASA CORPORATE

Address: 30 Wolmarans Street, Hillbrow, Johannesburg, 2017

Tel: 011 277 2008 E-Mail: Siphelele.Sifunda@prasa.com

Contact Person: Siphelele Sifunda

2. DETAILS OF OTHER PARTY

Name: South African Road Passenge Bargaining Council (SARPBAC)

Address: Ground Flow, Stone House, Stonefountain Terrace 95, Rondebosch,
Tel : 011 331 7013 E-Mail: Denise@sarpbac.org.za

Contact Person: Denise Pillay

Case Number

Please turn over →

NOTE!

This matter will not be set down for conciliation, but for in limine proceeding. Where possible in limine issues will be dealt with. **There is no need to bring witnesses to the in limine proceedings.**

OTHER INSTRUCTIONS

A copy of this form must be served on the other party.

Proof that a copy of this form has been served on the other party must be supplied by attaching any of the following:

- A copy of a registered slip from the Post Office; or
- A copy of a signed receipt if hand delivered; or
- A signed statement confirming service by the person delivering the form; or
- A copy of a fax confirmation slip; or
- A copy of an e-mail confirmation slip or sent e-mail; or
- Any other satisfactory proof of service.

The CCMA may be requested to assist with service.

Attach copies of relevant collective agreements and registration certificates of bargaining councils, if applicable.

WHERE DOES THIS FORM GO?

The Regional Office of the CCMA.

3. DETAILS OF SECTOR, INDUSTRY AND AREA INVOLVED IN THIS DEMARCATION APPLICATION

The main industry sector in which the employer, Passenger Rail Agency of South Africa (PRASA) is operating in, is the rail passenger sector the employees previously employed by Autopax were incorporated to PRASA in October 2024, and as such these employees do not fall under the scope of SARPBAC, they do not enjoy the conditions of employment and increases that is afforded to employees falling under SARPBAC and substantive conditions of employment are now negotiated at the PRASA Bargaining Forum. The employer, PRASA, is still deducting the SARPBAC levies from employees without complying to the SARPBAC Main agreement. The Employer has agreed on various occasions that the employees of the former Autopax business are no longer part of the SARPBAC or Autopax but no fall under the Long Distance Passenger Transport (LDPT) division within PRASA of which the vast majority of employees fall under the PBF and not SARPBAC.

4. WHAT IS THE PRIMARY NATURE OF THE BUSINESS

The primary nature of the disputes relates to under which sector the LDPT employees should be classified considering that the vast majority of the employees in PRASA fall under a different negotiation forum, the Prasa Bargaining Forum.

5. UNDER WHAT BARGAINING COUNCIL DOES THE BUSINESS FALL, IF ANY

PRASA does not fall under any bargaining council now but will soon be falling under the scope/ambit of the reconfigured Transnet Bargaining Council, which in future will consist of various employers, including PRASA and which would cover various other related employers/sectors.

6. DESCRIPTION OF ISSUE(S) IN DISPUTE

That PRASA is still deducting SARPBAC levies from employees despite PRASA not complying with the SARPBAC collective agreements. All the conditions of services that are negotiated at the PRASA Bargaining Forum is implemented to all the employees, including the LDPT employees which incorporated into PRASA since last year. This will include the most recent wage agreement which was implemented in terms of the PBF agreement and not the SARPBAC wage agreement.

Case Number

Please turn over →

CHECK!

Have you sent a copy of this completed form to the other party?
Have you included proof that you have sent a copy to the other party with this form?

7. DEMARCATION SOUGHT

The formerly Autopax employees who is now incorporated into PRASA, of which the vast majority of the business is Passenger rail related, must be demarcated to fall under the Prasa Bargaining Forum and not the SARPBAC. As such disputes should also be referred to the CCMA. Furthermore, PRASA must immediately stop deducting SARPBAC levies and refund employees the deductions that was made from the time that the defunct Autopax was incorporated into PRASA as a new division, Long Distance Passenger Transport which is a merged with Mainline Passenger Services

8. MOTIVATION FOR DETERMINATION SOUGHT

Is that PRASA is the second largest rail operator in South Africa, the majority of employees that work for PRASA falls under the rail sector, it is impractical to have the same group of employees fall under the scope of two different Bargaining Council. Since the majority of the PRASA employees currently fall under the ambit of the PBF, and will soon be falling under the ambit of the reconfigures Transnet Bargaining council it makes practical and logical sense to demarcate ALL the employees into the sector in which the Company has the most employees.

9. POPIA CONFIRMATION

By signing this document, I/we hereby grant my voluntary consent that my/our personal information may be processed, collected, used and disclosed in compliance with the Protection of Personal Information Act, 4 of 2013. I/we furthermore agree that my/our personal information may be used for the lawful and reasonable purposes in as far as the CCMA (responsible party) must use my/our information in the performance of its public legal duty. I/we understand that my/our personal information may be disclosed to a third party in as far as the CCMA must fulfil its public legal duty. I/we furthermore understand that there are instances in terms of abovementioned Act where my express consent is not necessary to permit the processing of personal information, which may be related to litigation or when the information is publicly available.

10. CONFIRMATION OF ABOVE DETAILS

Form submitted by:

(please print name)

Signature:.....

Position:

Date:

Place: