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## CON-ARB PROCESS EXPLAINED

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In this edition, I aim to shed light on the Con-Arb process, a streamlined approach to dispute resolution under the provisions of section 191(5A) of the Labour Relations Act 66 of 1995 (LRA).

### Unveiling the Con-Arb Process

Con-Arb, a fusion of Conciliation and Arbitration, signifies a process where the arbitration hearing is scheduled immediately after the conciliation hearing. If parties fail to reach a resolution during conciliation, the arbitration takes place on the same day. This method is designed to save time and costs, optimizing the resources of the CCMA or a bargaining council.

### Why Con-Arb?

Con-Arb addresses challenges associated with fading memories, losing contact with witnesses, and safeguarding against missing documentary evidence. It follows the same procedural steps as traditional conciliation and arbitration, requiring parties to come prepared for the possibility of arbitration if conciliation fails.

### When is Con-Arb Used?

The Con-Arb process is specifically tailored for unfair dismissal and unfair labour practice (ULP) disputes. However, its application is not universal.

### Compulsory Con-Arb

- Dismissals related to probation.
- Unfair labour practices related to probation.

## Excluded Disputes

- Dismissals in breach of freedom of association principles.
- Automatically unfair dismissals.
- Dismissals based on operational requirements where Labour Court adjudication applies.

## Optional Con-Arb

In other dismissal and ULP disputes, parties have the choice to opt for Con-Arb or follow conciliation and arbitration as separate processes. Objections to Con-Arb must be raised at least seven days before the scheduled hearing.

Disputes Under Optional Con-Arb Include:

- Dismissal related to conduct or capacity.
- Constructive dismissal.
- Operational requirements (retrenchment) of one employee or more (if the employer employs less than 10 people).
- Cases where the employee does not know the reason for dismissal.
- Unfair labour practices under section 186(2) (a) to (c) of the LRA.

## When to Object to Con-Arb?

Employers may choose to object to Con-Arb if uncertainty exists regarding the allegations or if the cost of bringing witnesses is high. Objections must be made at least seven days before the scheduled hearing, providing ample time for preparation and filing proof of objection with the CCMA or bargaining council.

In conclusion, Con-Arb is a valuable tool in dispute resolution, offering efficiency and expediency. Stay informed, stay prepared.

A handwritten signature in black ink that reads "Judy Ward". The signature is written in a cursive, flowing style.

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