

REQUEST FOR S188A INQUIRY BY ARBITRATOR



Read This First



CAN TOKISO HEAR MY CASE?

Tokiso is accredited by the CCMA as a private agency. Tokiso is accredited to conduct Inquiry by Arbitrator cases.

If you need assistance, please contact Tokiso on 011 853 6300 or info@tokiso.com

WHO FILLS IN THIS FORM?

An employer requesting an inquiry.

WHERE DOES THIS FORM GO?

To Tokiso at info@tokiso.com. You may also file this referral form by filling it in online at www.tokiso.com.

WHERE WILL NOTIFICATIONS TO PARTIES GO?

To the email addresses provided on this form.

1. DETAILS OF EMPLOYER REQUESTING AN INQUIRY

Name of company: _____

Company registration number: _____

Company VAT number: _____

Number of employees employed by the employer: _____

Physical address: _____

Full name and surname of representative: _____

Tel: _____ Cell: _____

Email: _____ Position: _____

If a Temporary Employment Service (TES) is involved, the name of the TES: _____

2. EMPLOYEE DETAILS

Name: _____ Surname: _____

ID Number: _____ Length of service: _____

Salary gross: _____ Salary net: _____

Gender (M/F): ☐ Male ☐ Female ☐ Other Age: _____

Tel: _____ Cell: _____

Email: _____ Nationality: ☐ South African ☐ Other _____

Physical Address: _____

3. NATURE OF THE CASE

The employer intends to bring allegations against the employee concerning (*please tick*):

☐ Misconduct. Specify nature of misconduct: _____

☐ Incapacity – ill health

☐ Incapacity – poor performance

☐ Incapacity - incompatibility

4. LOGISTICS OF HEARING

Please select where you would prefer the inquiry to take place (*please tick*):

☐ Online

☐ Tokiso to arrange a venue. Give area: _____

☐ Employer Premises. Give address: _____

☐ Other. Give address: _____

This case is estimated to take _____ days.

Please indicate preferred date/s for hearing: _____

CONSENT TO ARBITRATOR

In terms of LRA Rule 34(5), Tokiso shall appoint the arbitrator unless the parties agree on who should be appointed as arbitrator.

WHICH ARBITRATOR CAN BE CHOSEN?

Parties may choose from Tokiso's full panel. Should Tokiso need to appoint, a CCMA accredited panellist will be appointed.

CONSENT TO AN IBA

An inquiry may only be conducted with the consent of the employee, or in accordance with a collective agreement, or where an employee, earning more than the threshold, has consented to the holding of the inquiry in a contract of employment.

If the IBA is brought against more than one employee, documents may be signed by an employee who is mandated by the other employees to sign documents. A list of the employees must be attached hereto.

SIGNATURE OF FORM

Tokiso LRA Rule 4 provides that a duly authorised person must sign this form.

PAYMENT AND FEES

Tokiso's invoice must be paid, or a purchase order received, before the inquiry is scheduled.

PROOF OF SERVICE ON EMPLOYEE

A copy of this form must be served on the employee, and proof thereof must be attached hereto.

WHAT WILL HAPPEN WHEN THIS FORM IS SUBMITTED?

Tokiso will send an invoice to the employer, and the matter will be scheduled within two days of receipt of payment or a purchase order.

5. ARBITRATOR & INTERPRETER

Have the parties agreed to an arbitrator from Tokiso's panel?

- ☐ No
- ☐ Yes Name of arbitrator: _____

Do you require an interpreter for your inquiry?

- ☐ No
- ☐ Yes Language/s: _____

6. CONFIRMATION AND CONSENT TO INQUIRY

Name of Employee: _____

I understand that an employee needs to consent to an Inquiry by Arbitrator ("IBA") process. Such consent can be given by:

1. Inclusion of an IBA clause in my contract of employment (if I earn over the annual threshold of R205 433.30); or
2. An applicable collective agreement provides for an IBA and I am covered by that collective agreement; or
3. I can sign a confirmation that I agree to the IBA process after I have been informed of the allegations against me.

My contract of employment does not provide for an IBA and I am not covered by a collective agreement.

I have been informed of the allegations against me. I hereby agree to the IBA process.

I confirm that the employer and I have agreed to the arbitrator provided above (if applicable).

Employee's Signature

Date

7. CONFIRMATION AND REQUIREMENTS

I confirm:

1. I am authorized to represent the employer and refer this IBA to Tokiso.
2. On submission of this form, Tokiso may send me an invoice which the employer will pay or provide a purchase order.

I attach (please tick if attached):

- ☐ a copy of the allegations of conduct or capacity.
- ☐ If the employee's consent is not signed above, a copy of the collective agreement or contract of employment confirming consent to the IBA.
- ☐ If agreed, and if the employee's consent is not signed above, a copy of the consent to the agreed arbitrator (if applicable).
- ☐ Proof of service of this form on the employee.

Employer Representative's Signature

Date