

**RULES RELATING TO THE CONDUCT OF CONCILIATION AND ARBITRATION  
BEFORE THE LABOUR COMMISSIONER**

The Minister responsible for labour has, under section 135 of the Labour Act, 2007 (Act 11 of 2007), made the rules set out in the Schedule.

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**PART 1  
PRELIMINARY (rule 1)**

1. Definitions and interpretation

(1) In these Rules, any word or expression to which a meaning has been given in the Act bears that meaning, and unless the context otherwise indicates-

**"deliver"** means serve on other parties and file with the Labour Commissioner;

**"file"** means to lodge with the Labour Commissioner in terms of rule 8;

**"Office"** means any office of the Labour Commissioner and any labour office contemplated in sections 82(7)(a) and 86(1)(b) of the Act;

**"serve"** means to serve in accordance with rule 6; and

**"the Act"** means the Labour Act, 2007 (Act 11 of 2007).

(2) All numbered forms referred to in these rules are set out in Annexure 2, but a substantially similar form may be used.

**PART 2**  
**SERVING AND FILING DOCUMENTS (rules 2-10)**

2. Contact details of Offices

(1) The addresses, telephones and telefax numbers and email addresses of the Offices are listed in Annexure 1.

(2) Documents may be filed with the Labour Commissioner at any of the addresses or addresses or telefax numbers or email addresses listed in Annexure 1, provided, that the Labour Commissioner may issue instructions from time to time as to the filing of documents in a particular case.

3. Office hours

(1) The Office will be open every day from Monday to Friday, excluding public holidays, between the hours of 08h00 and 17h00, or as determined by the Labour Commissioner.

(2) Documents may be filed with the Labour Commissioner only during the hours referred to in subrule (1).

(3) Despite subrule (2), documents may be faxed to the Labour Commissioner at any time.

4. Calculation of time periods

(1) For the purpose of calculating any period of time in terms of these rules-

(a) "day" means any calendar day; and

(b) when any particular number of days is prescribed for the performance of any act, the same must, subject to subrule (2), be reckoned exclusive of the first and inclusive of the last day.

(2) The last day of any period must be excluded if it falls on a Saturday, Sunday or public holiday.

5. Signing of documents

(1) A document that a party must sign in terms of the Act or these rules may be signed by the party or by a person entitled in terms of the Act or these rules to represent that party in the proceedings.

(2) If proceedings are jointly instituted or opposed by more than one employee, the employees may mandate one of their number to sign documents on their behalf.

(3) A statement authorising the employee referred to in subrule (2) to sign documents must be signed by each employee and attached to the referral document or opposition, together with a legible list of their full names and addresses.

## 6. Service of documents

(1) Service of documents in terms of the Act or these Rules may be effected by the party to the proceedings, a person duly authorised in writing by the party to serve the process, or a messenger of the court appointed in terms of section 14 of the Magistrates Courts Act, 1944 (Act 32 of 1944).

(2) Subject to section 129 of the Act, a document may be served on the other parties-

(a) by handing a copy of the document to-

(i) the person concerned;

(ii) a representative authorised by the other person to accept service on behalf of that person;

(iii) a person who appears to be at least 16 years old and in charge of the person's place of residence, business or place of employment premises at the time; or

(iv) a person identified in subrule (3);

(b) by leaving a copy of the document at-

(i) an address chosen by the person to receive service;

(ii) any premises in accordance with subrule (4);

(c) by faxing or emailing a copy of the document to the person's fax number or email address or a fax number or email address chosen by the person to receive service; or

(d) by sending a copy of the document by registered post to the last known address of the party or an address chosen by the party to receive service.

(3) A document may also be served-

(a) on a company or other body corporate, by handing a copy of the document to a responsible employee of the company or body at its registered offices, its principal place of business in Namibia or its main place of business within the region in which the dispute first arose;

(b) on an employer, by handing a copy of the document to a responsible employee of the employer, at the workplace where the employees involved in the dispute ordinarily work or worked;

(c) on a trade union or employers' organisation, by handing a copy of the document to a responsible employee or official at the main office of the union or employers' organization or its office in the place where the dispute arose;

(d) on a partnership, firm or association, by handing a copy of the document to a responsible employee or official at the place of business of the partnership, firm or association or, if it has no place of business, by serving a copy of the document on a partner, the owner of the firm or the chairperson or secretary of the managing or other controlling body of the partnership, firm or association, as the case may be;

(e) on a local authority, by serving a copy of the document on the town clerk or chief executive officer or any person acting on behalf of that person;

(f) on a statutory body, by handing a copy to the secretary or similar officer of that body, or any person acting on behalf of that person; and

(g) on the State, a Regional Council, or a Minister, Deputy Minister or other official of the State in his or her official capacity, by handing a copy to a responsible employee at the offices of the Government Attorney, Regional Council, or the relevant Ministry or organ of the State respectively.

(4) If no person identified in subrule (3) is willing to accept service, service may be effected by affixing a copy of the document to-

(a) the main door of the premises concerned; or

(b) if this is not accessible, a post-box or other place to which the public has access.

(5) The Labour Commissioner may order service in a manner other than prescribed in this rule.

## 7. Proof of service documents

(1) A party must prove to the Labour Commissioner that a document was served in terms of these rules, by providing the Labour Commissioner with an executed Form LG 36, and-

(a) with a copy of proof of mailing of the document by registered post to the other party;

(b) with a copy of the telefax or email transmission report indicating the successful transmission to the other party of the whole document; or

(c) if a document was served by hand-

(i) with a copy of a receipt signed by, or on behalf of, the other party clearly indicating the name and designation of the recipient and the place, time and date of service; or

(ii) with a statement confirming service signed by the person who delivered a copy of the document to the other party or left it at any premises.

(2) If proof of service in accordance with subrule (1) is provided, it is presumed, until the contrary is proved, that the party on whom it was served has knowledge of the contents of the document.

(3) The Labour Commissioner may accept proof of service in a manner other than prescribed in this rule, as sufficient.

#### 8. Filing of documents with the Labour Commissioner

(1) A party may file documents with the Labour Commissioner only by any one of the following means:

(a) by handing the document to any of the Offices at the address listed in Annexure 1;

(b) by sending a copy of the document by registered post to the head office of the Labour Commissioner at the address listed in Annexure 1;

(c) by faxing the document to the head office of the Labour Commissioner at a number listed in Annexure 1; or

(d) by emailing the document to the electronic address listed in Annexure 1.

(2) A document is filed with the Labour Commissioner when-

(a) the document is handed to an employee of the Office designated to receive documents;

(b) a document sent by registered post is received by the Office;

(c) the transmission of a fax is completed; or

(d) the transmission of an email is completed.

(3) A party must file the original of a document filed by fax or email, together with a report confirming transmission, if requested to do so by the Labour Commissioner, within five days after the request.

#### 9. Service by registered post

Any document or notice sent by registered post by a party or the Labour Commissioner is presumed, until the contrary is proved, to have been received by the person to whom it was sent

within the period contemplated in section 129(3) of the Act, but in any case within seven days after it was posted.

10. Condonation for late delivery of documents

(1) This rule applies to any referral document or application delivered outside of the applicable time period prescribed in the Act or these Rules.

(2) An application for condonation for late filing or delivery of documents must be made in the manner prescribed in rule 28.

(3) An application for condonation must be made on Form LC 38 accompanied by a supporting affidavit and must set out the grounds for seeking condonation and include details of the following:

- (a) the extent of lateness;
- (b) the reason for the lateness;
- (c) any prejudice to the other party; and
- (d) any other relevant factors.

(4) A party may oppose an application for condonation by filing its opposition on Form LC 39, together with a supporting affidavit, no later than seven days after the filing of the referral document.

(5) The Labour Commissioner may assist a party to comply with this rule.

**PART 3**  
**CONCILIATION OF DISPUTES (rules 11-13)**

11. Referral of dispute to conciliation

(1) A party that wishes to refer a dispute to the Labour Commissioner for conciliation must do so by delivering a completed Form LC 21 ("the referral document").

(2) The referring party must-

- (a) sign the referral document in accordance with rule 5;

(b) attach to the referral document written proof, in accordance with rule 7, that the referral document was served on the other parties to the dispute; and

(c) if the referral document is filed out of time, attach an application of condonation made in accordance with rule 10.

## 12. Notice of conciliation

The Labour Commissioner must give the parties at least seven days' written notice on Form LC 23, of a conciliation meeting, unless the parties agree to a shorter period.

## 13. Confidentiality of conciliation proceedings

(1) Conciliation proceedings are private and confidential and are conducted on a "without prejudice" basis.

(2) No person may refer to anything said at conciliation proceedings during any subsequent proceedings, unless the parties agree in writing.

(3) No person, including a conciliator, may be called as a witness during any subsequent proceedings or in any court to give evidence about what transpired during conciliation proceedings, except that disclosure may be ordered by a court-

(a) in the course of adducing evidence in any criminal proceedings; or

(b) when it is in the interests of justice that disclosure be made.

## **PART 4** **ARBITRATION OF DISPUTES (rules 14-23)**

## 14. Referral of dispute to arbitration

(1) A party that wishes to refer a dispute to the Labour Commissioner for arbitration must do so by delivering a completed-

(a) Form LC 12, in case of a dispute involving non-recognition as an exclusive bargaining agent as contemplated in section 64(6) of the Act; or

(b) Form LC 21, in case of any other dispute ("the referral document" in both cases).

(2) The referring party must-

- (a) sign the referral document in accordance with rule 5;
- (b) attach to the referral document written proof that the referral document was served on the other parties to the dispute in accordance with rule 7; and
- (c) if the referral document is served out of time, attach an application for condonation made in accordance with rule 10.

15. Notice of arbitration

The Labour Commissioner must give the parties at least 14 days notice of an arbitration hearing on Form LC 28, unless the parties agree to a shorter period.

16. Consolidation of disputes by the Labour Commissioner or arbitrator

The Labour Commissioner, or after the commencement of the arbitration, the arbitrator, may, of his or her own accord or on application, consolidate more than one dispute so that the disputes may be dealt with in the same proceedings.

17. Referral of class disputes to arbitration

(1) One or more members of a class of employers or employees (hereinafter referred to as a "representative party") may refer a dispute to arbitration (hereinafter referred to as a "class dispute") on behalf of all members of such a class, and must, in addition to complying with rule 14, file with the Labour Commissioner and serve the respondent with an application for class certification on Form LC 38.

(2) The application for class certification referred to in subrule (1) must describe the class and contain sufficient particulars to establish that-

- (a) the members of the class in question are such a number that joinder of all such members is impracticable;
- (b) there are questions of law or fact common to the class;
- (c) the dispute referred by the representative party or parties is of a similar nature as the disputes to which the other members of the class are parties;
- (d) the representative party or parties will fairly and adequately protect the interests of the other members of the class;
- (e) the hearing of separate disputes and before different arbitrators will likely create the risk of inconsistent or varying decisions of the arbitrators;
- (f) the respondent or respondents against whom a class dispute has been referred has acted or refused to act on grounds generally applicable to the class; and

(g) the question of law or fact common to members of the class predominate over any questions affecting only some members, and a class arbitration is superior to other available methods for the fair and efficient resolution of the issues.

(3) On service of the application, the respondent or respondents has 14 days to file opposing affidavits or statements, if any, and the representative party has five days to reply.

(4) The representative party must apply for a hearing date on the application for class certification at the time of filing and must notify the respondent or respondents of the date.

(5) The application must be heard by the arbitrator designated to hear the dispute.

(6) If the arbitrator decides to hear the dispute as a class dispute, the Labour Commissioner must fix a hearing date, not later than 30 days after he or she has decided to hear the dispute, and must give notice thereof on Form LC 37 to such members of that class as is practicable in the circumstances of the case.

(7) The notice referred to in subrule (6) must inform such members that-

(a) the arbitrator will exclude any member from the class if the member so requests by a date specified in such notice;

(b) the award of the arbitrator, whether favourable or not, will be binding on all members who do not request exclusion under paragraph (a); and

(c) any member who does not request exclusion under paragraph (a) may, if the member so desires, appear personally or through a duly authorized representative at the hearing of such a dispute.

(8) The arbitrator may make appropriate orders or rulings determining the course of proceedings or prescribing measures to prevent undue repetition or duplication in the presentation of evidence or argument in the hearing of a class dispute.

(9) A class dispute may not be settled without the approval of the arbitrator and notice of the proposed settlement must be given to the members of the class in such manner as the arbitrator may direct, and thereupon such settlement is, for all purposes, deemed to be an award of the arbitrator.

## 18. Conduct of arbitration proceedings

(1) The arbitrator must conduct the arbitration in a manner contemplated in section 86(7) of the Act and may determine the dispute without applying strictly the rules of evidence.

## 19. Effect of complaint lodged with Labour Court upon pending arbitration

(1) If, after a labour dispute concerning a violation of Chapter 3 of the Namibian Constitution or any of the fundamental rights and protections in terms of the Act has been referred to the Labour Commissioner for arbitration, any party to the dispute lodges a complaint with the Labour Court in respect of the same dispute, the Labour Commissioner or arbitrator must-

- (a) suspend the arbitration proceedings, if evidence has not yet been led; or
- (b) continue with the arbitration proceeding until its conclusion, including issuing an award, if evidence has already been led.

(2) Nothing in subrule (1) precludes a party from requesting a postponement of an arbitration in order to lodge a complaint with the Labour Court before evidence is presented to the arbitrator.

## 20. Arbitrator must attempt to conciliate a dispute

(1) Unless a dispute has already been conciliated, the arbitrator must attempt to resolve the dispute through conciliation before beginning the arbitration.

(2) In such conciliation, the arbitrator must attempt to assist the parties to reach consensus on issues to shorten the proceeding, including-

- (a) facts that are agreed between the parties;
- (b) facts that are in dispute;
- (c) the issues that the arbitrator is required to decide;
- (d) the precise relief claimed and if compensation is claimed, the amount of the compensation and how it is calculated;
- (e) the sharing and exchange of relevant documents;
- (f) whether an onsite visit is needed;
- (g) whether evidence on affidavit will be admitted with or without the right of any party to cross-examine the person who made the affidavit;
- (h) which party must present its case first;
- (i) the resolution of any preliminary points that are intended to be taken; and
- (j) any other means by which the proceedings may be shortened.

## 21. Arbitration award

(1) The arbitrator must, within 30 days of the conclusion of the arbitration proceedings, deliver an award giving concise reasons and he or she must sign and date the award.

(2) The award must specify the date by which the award is to be complied with and the arbitrator must allow such time for such compliance as he or she may deem reasonable in the circumstances of the case.

(3) The award in a class dispute must include and define those members whom the arbitrator finds to be members of the class and must specify those members who have requested exclusion.

(4) Every arbitration award must be sent to the parties with an accompanying notice informing the parties of their right to appeal the award to the Labour Court or to apply to the Labour Court to review the award of the arbitrator.

(5) Any administrative and clerical mistakes in the award may be corrected at any time by the arbitrator on notice to the parties, but without such correction being subject to any appeal.

## 22. Enforcement of arbitration award

Any party that wishes to request a labour inspector to enforce an arbitration award in terms of section 90 of the Act must make an application on Form LS 30, and the labour inspector must enforce the award as envisaged in that section including instituting execution proceedings on behalf of that party, if necessary, in accordance with the Rules of the Labour Court made under section 119 of the Act.

## 23. Appeals to, and reviews by, the Labour Court

(1) Any party to an arbitration may, in accordance with subrule (2), note an appeal against any arbitration award to the Labour Court in terms of section 89 of the Act.

(2) An appeal must be noted by delivery, within 30 days of the party's receipt of the arbitrator's award, to the Labour Commissioner of a notice of appeal on Form LC 41, which must set out-

(a) whether the appeal is from the judgment in whole or in part, and if in part only, which part;

(b) in the case of appeals from an award concerning fundamental rights and protections under Chapter 2 and initially referred to the Labour Commissioner in terms of section 7(1)(a) of the Act, the point of law or fact appealed against;

(c) in the case of an award concerning any other dispute, the point of law appealed against; and

(d) the grounds upon which the appeal is based.

(3) In an appeal noted in terms of this rule, the person to be made respondent is the other party to the arbitration and the person to be served with the notice of appeal is the other party to the arbitration in question.

(4) When an appeal has been noted in terms of this rule, the Labour Commissioner must, within 21 days thereafter, transmit the record of the hearing of the complaint in question to the registrar of the High Court, together with the original arbitrator's award.

(5) A cross-appeal may be noted by the delivery to the Labour Commissioner of a notice of cross-appeal setting out the same information required in the notice of appeal, within seven days after the noting of the appeal.

(6) A copy of the appeal or cross-appeal must be sent simultaneously with its lodging to all other parties, and proof of service thereof, on Form LG 36, must be filed with the Labour Commissioner and the registrar of the High Court.

(7) An appellant or respondent who wishes to abandon an appeal or cross-appeal may do so-

(a) by delivery, within 21 after lodging the appeal, of written notice to the Labour Commissioner stating that the appeal is to be abandoned in whole, or if in part, only, specifying which part; or

(b) by delivery of the notice referred to in paragraph (a) to the registrar of the High Court, if the appeal is to be abandoned at any time after the passage of 21 days after the lodging of the appeal.

(8) Any appeal lodged in terms of this rule must be prosecuted in the Labour Court in accordance with the Labour Court Rules made under section 119 of the Act.

(9) Any review by the Labour Court of any award or decision as contemplated in section 117(1)(b) and (c) of the Act or any other provision of the Act must be instituted and prosecuted in accordance with the Labour Court Rules made under section 119 of the Act.

**PART 5**  
**PROVISIONS THAT APPLY TO CONCILIATIONS AND ARBITRATIONS (rules 24-27)**

24. Venue for conciliation or arbitration

(1) A dispute must be conciliated or arbitrated in the region in which the cause of action arose, unless the Labour Commissioner directs otherwise.

(2) The Labour Commissioner determines the venue for conciliation or arbitration proceedings.

25. Representation of parties

(1) During conciliation or arbitration proceedings a party to the dispute has the right to appear in person or be represented by any of the persons listed in sections 82(12) and 86(12) of the Act and may request, in exceptional cases, representation in terms of section 82(13) or 86(13) of the Act.

(2) A party that wishes to request representation pursuant to section 82(13)(a) or (b) or 86(13)(a) or (b) of the Act must make an application to the conciliator or arbitrator on Form LC 29, at least seven days prior to the conciliation or arbitration.

(3) If a party to the dispute objects to the representation of another party to the dispute or the conciliator or arbitrator suspects that the representative of a party does not qualify in terms of the Act, the conciliator or arbitrator must determine this issue.

26. Disclosure of documents

(1) Either party to conciliation or arbitration proceedings may request the conciliator or arbitrator to make an order as to the disclosure of relevant documents.

(2) The parties may agree on the disclosure of documents.

27. Failure of party to attend conciliation or arbitration proceedings

(1) The consequences of a party failing to attend a conciliation meeting are governed by-

(a) section 74(3) of the Act, in the case of a conciliation of a dispute of interest; and

(b) section 83(2) of the Act, in the case of any other dispute referred to conciliation in terms of the Act.

(2) If a party to an arbitration fails to attend a hearing, the arbitrator may-

(a) postpone the hearing;

(b) proceed with the hearing in the absence of the party; or

(c) dismiss the case.

(3) A conciliator or arbitrator must be satisfied that the party has been properly notified of the date, time and venue of the proceedings, and should attempt to contact the absent party telephonically, if possible, before making any decision in terms of this rule.

(4) If a matter is dismissed, the conciliator or arbitrator must send a copy of the ruling to the parties.

**PART 6**  
**APPLICATIONS (rules 28-32)**

28. Manner in which applications may be brought

(1) This rule applies to-

- (a) an application for postponement, condonation, substitution, variation or rescission;
- (b) an application for class certification; and
- (c) any other application for preliminary or interlocutory relief, such as an application for consolidation or joinder.

(2) An application must be brought on Form LC 38 and on notice to all persons who have an interest in the matter, except in the case of an application for class certification.

(3) The application must state clearly the relief sought and must be supported by an affidavit, or if permitted by the arbitrator, a written and signed statement.

(4) The affidavit or statement referred to in subrule (3) must clearly and concisely set out-

- (a) the names, description and addresses of the parties;
- (b) a statement of the material facts, in chronological order, on which the application is based, in sufficient detail to enable any person opposing the application to reply to the facts;
- (c) the reasons that the applicant has applied for the requested relief;
- (d) provisions of the Act, if any, which support the request for relief;
- (e) any other grounds to support the request for relief;
- (f) if the application is filed outside the relevant time period, grounds for condonation in accordance with rule 10; and
- (g) if the application is brought urgently, the circumstances why the matter is urgent and the reasons why it cannot be dealt with in accordance with the time frames prescribed in these Rules.

(5) Except as otherwise provided in these rules, any party that wishes to oppose the application must serve and file its opposition to the application on Form LC 39, together with an answering affidavit within seven days from the day on which the application was served on that party.

(6) The opposition and answering affidavit must contain, with the changes required by the context, the information required by subrule (4).

(7) The party initiating the proceedings may deliver a replying affidavit within three days from the day on which any opposition and answering affidavit are served on it.

(8) The replying affidavit must address only issues raised in the answering affidavit and may not introduce new issues of fact or law.

(9) In an urgent application, the arbitrator-

(a) may dispense with the requirements of this rule; but

(b) may only grant an order against a party that has been given reasonable notice of the application and an opportunity to be heard.

(10) If the arbitrator considers that a hearing is necessary, the arbitrator must allocate a date for the hearing of the application once a replying affidavit is delivered, or once the time limit for delivering a replying affidavit has lapsed, whichever occurs first, and must notify the parties of the date, time and place of the hearing of the application on Form LC 44.

## 29. Postponement of arbitration hearing

(1) An arbitration hearing may be postponed-

(a) by agreement between the parties in terms of subrule (2); or

(b) by application and on notice to the other parties in terms of subrule (3).

(2) The arbitrator must postpone an arbitration without the parties appearing if-

(a) all the parties to the dispute agree in writing to the postponement; and

(b) the written agreement for the postponement is received by the arbitrator more than seven days prior to the scheduled date of the arbitration.

(3) If the conditions of subrule (2) are not met, any party may apply, in terms of rule 28, to postpone an arbitration by delivering an application to the other parties to the dispute and filing a copy with the arbitrator before the scheduled date of the arbitration.

(4) After considering the written application, the arbitrator may-

- (a) without convening a hearing, postpone the matter;
- (b) convene a hearing to determine whether to postpone the matter; or
- (c) deny the application.

30. Joining of parties to, and dismissal of parties from proceedings

(1) The-

- (a) Labour Commissioner may, before the commencement of the arbitration; or
- (b) arbitrator may, after the commencement of the arbitration,

join any number of persons as parties in proceedings if their right to relief depends on substantially the same question of law or fact.

(2) An arbitrator may make an order-

(a) joining any person as a party in the proceedings, after the proceedings have commenced if, in addition to grounds set out in subrule (1), the party to be joined has a substantial interest in the subject matter of the proceedings; or

(b) dismissing a party from the proceedings where such party has no such interest in the proceedings.

(3) An arbitrator may make an order in terms of subrule (2)-

- (a) of his or her own accord;
- (b) on application by a party; or
- (c) if a person entitled to join the proceedings applies at any time during the proceedings to intervene as a party.

(4) An application in terms of this rule must be made by the service of a completed Form LC 38, and a supporting affidavit on all the relevant parties.

(5) If joinder or dismissal is granted, the arbitrator-

- (a) must issue a notice thereof on Form LC 40; and
- (b) may give appropriate directions as to the further procedure to be followed in the proceedings;

(6) If in any proceedings it becomes necessary to substitute a person for an existing party, any party to the proceedings may apply to the arbitrator on Form LC 38, for an order substituting that party for an existing party, and an arbitrator may make such order or give appropriate directions as to the further procedure to be followed in the proceedings.

(7) Subject to any order made in terms of subrules (6) and (7), a joinder or substitution in terms of this rule does not affect any steps already taken in the proceedings.

31. Correction of citation of a party

If a party to any proceedings has been incorrectly or defectively cited, the arbitrator may, on application and on notice to the parties concerned, correct the error or defect.

32. Variation or rescission of arbitration awards or rulings

(1) An application for the variation or rescission of an arbitration award or ruling must be made on Form LC 38 within 30 days after service of the award or within 30 days after the applicant became aware of a mistake common to the parties to the proceedings.

(2) A ruling made by an arbitrator which has the effect of a final order, will be regarded as a ruling for the purposes of this rule.

**PART 7**  
**GENERAL (rules 33-39)**

33. Condonation for failure to comply with rules

The Labour Commissioner, conciliator or arbitrator may, on good cause shown, condone any failure to comply with the time frames in these Rules.

34. Recording of arbitration proceedings

(1) The arbitrator must keep a record of-

- (a) any evidence given in an arbitration hearing;
- (b) any sworn testimony given in any proceedings before the arbitrator; and
- (c) any arbitration award or ruling made by the arbitrator.

(2) The record may be kept by legible hand-written notes or by means of an electronic recording.

(3) A party may request a copy of the transcript of a record or a portion of a record kept in terms of subrule (2), on payment of the costs of the transcription.

(4) After the person who makes the transcript of the record has certified that it is correct, the record must be returned to any office of the Labour Commissioner.

(5) The transcript of a record certified as correct in terms of subrule (4) is presumed to be correct, unless the Labour Court decides otherwise.

### 35. Issuing of summons

(1) Any party who requires the Labour Commissioner to summon a person in terms of section 82(18)(a) or 86(8)(a) of the Act or these Rules or to produce documentary evidence at the hearing, must file a completed Form LC 42 with the Labour Commissioner.

(2) An application in terms of subrule (1) must be filed with the Labour Commissioner at least seven days before the conciliation or arbitration hearing, or as directed by the Labour Commissioner, conciliator or arbitrator hearing the conciliation or arbitration.

(3) Where a witness is summoned, it must be done on Form LC 43.

(4) The Labour Commissioner may refuse to issue a summons if the party summoned will not have a reasonable period in which to comply with the summons.

(5) A summons must be served on the person to be summoned by the person who has requested the issuing of the summons or by the messenger of court appointed in terms of section 14 of the Magistrates Courts Act, 1944 (Act 32 of 1944), at least seven days before the scheduled date of the conciliation or arbitration.

(6) The party who requested the summons must file proof of service of the summons on Form LG 36, executed by the person who served the summons, with the conciliator or arbitrator at the commencement of the conciliation or arbitration, or, if the summons is served after the commencement of the proceeding, as soon as possible after service.

### 36. Payment of witness fees

(1) A witness summoned in any proceedings must be paid a witness fee in accordance with the tariff of allowances applicable to witnesses subpoenaed to appear in a magistrate's court.

(2) The witness fee must be paid by-

- (a) the party who requested the Labour Commissioner to issue the summons; or
- (b) the Labour Commissioner, if the issuing of the summons was not requested by any party.

(3) Despite subrule (1), the Labour Commissioner may, in appropriate circumstances, order that a witness receive no fee or only part of the witness fee.

(4) Despite subrule (2)(a) the Labour Commissioner may pay the witness fee in his or her discretion.

### 37. Costs

(1) If the arbitrator decides to make an order for costs pursuant to section 86(16) of the Act, the order of costs should set forth the amount of costs awarded.

(2) In the absence of tariffs in relation to conciliation and arbitration proceedings prescribed by the Minister, the arbitrator must award costs for services rendered in connection with proceedings on Schedule A of the Magistrates' Court tariff, prescribed in terms of the Magistrates' Courts Act, 1944 (Act 32 of 1944).

(3) Despite subrule (2), if a party in whose favour an order for costs has been made is not represented by a legal practitioner, that person is entitled to the costs set out in Annexure 3.

### 38. Repeal of Rules of District Labour Courts and savings

(1) Subject to subrule (2), the Rules of District Labour Courts published in Government Notice 138 of 19 November 1993 are repealed.

(2) Despite subrule (1) the rules repealed by that subrule do, in respect of any proceedings commenced in the court before the coming into operation of these Rules as contemplated in rule 39, continue to apply as if these rules had not been enacted.

### 39. Commencement of rules

These Rules come into operation on 1 November 2008

**ANNEXURE 1**  
**ADDRESSES OF THE LABOUR COMMISSIONER**

**ADDRESSES OF THE LABOUR COMMISSIONER**

Offices of the Labour Commissioner

**HEAD OFFICE**

**WINDHOEK**

Private Bag 13367, Windhoek  
249-582 Richardine Kloppers Street

**KHOMASDAL**

Tel. 061-379100

Fax 061-212334 or 061-379129

Email:olc@mol.gov.na

**REGIONAL OFFICES**

<p><b>OTJIWARONGO</b> P.O. Box 1981 Otjiwarongo Erf BM71/8, Frans Iindongo Street Tel: 067-903748 Fax: 067-301053</p>	<p><b>GROOTFONTEIN</b> Private Bag 2016 Grootfontein Courtney Klark Street Tel: 067-242514/243049 Fax: 067-242986</p>
<p><b>SWAKOPMUND</b> P.O. Box 1143 Swakopmund Tobias Hainyeko Street Tel: 064-403678 Fax: 064-469679</p>	<p><b>KEETMANSHOOP</b> P.O. Box 128 Wheeler Street Tel: 063-223580 Fax: 063-222465</p>
<p><b>KATIMA MULILO</b> Private Bag 2330 Ngweze Katima Mulilo Tel: 066-253304 Fax: 066-253328</p>	<p><b>MARIENTAL</b> P.O. Box 747 Ernst Stumpfe Street Tel: 063-242368 Fax: 063-241177</p>
<p><b>OPUWO</b> Private Bag 3012 Mbumbijazo Muharukua Street Tel: 065-279853 Fax: 065-273851</p>	<p><b>OUTAPI</b> Postal Address Physical Address Tel: Fax: [sic]</p>
<p><b>OSHAKATI</b> P.O. Box 1529 Oshakati Leo Shoopala Street Tel: 065-220719/224039 Fax: 065-224290</p>	<p><b>RUNDU</b> P.O. Box 940 Maria Mwengere Street Tel: 066-255945/946 Fax: 066-256331</p>
<p><b>GOBABIS</b> P.O. Box 2277</p>	<p><b>L♦DERITZ</b></p>

Church Street, 57 Erf 98  
Tel: 062-562692  
Fax: 062-562678

P.O. Box 1238  
RMI German Hostel  
Tel: 063-203842  
Fax: 063-203843

## ANNEXURE 2 FORMS

### FORMS

- LC 12 Referral of dispute concerning recognition to Labour Commissioner
- LC 21 Referral of dispute to conciliation or arbitration
- LC 23 Notice of conciliation meeting
- LC 28 Notice of arbitration hearing
- LC 29 Request for representation at conciliation or arbitration in terms of section 82(13) or 86(13)
- LS 30 Application to Labour Inspector to enforce arbitration award
- LG 36 Proof of service of documents
- LC 37 Notice of class complaint
- LC 38 Application
- LC 39 Opposition to application
- LC 40 Notice of joinder
- LC 41 Notice of appeal from arbitrator's award
- LC 42 Request to summon witness
- LC 43 Summons
- LC 44 Notice of application hearing

Form LC 12

### REPUBLIC OF NAMIBIA

LABOUR ACT, 2007

(Section 64(6)(b)) (Rule 14(1)(a))

REFERRAL OF DISPUTE CONCERNING RECOGNITION  
TO LABOUR COMMISSIONER

**Instruction: Attach hereto copies of the Trade Union's Request for Recognition and the Employer's Rejection, if any.**

1 Full name of Trade Union:

\_\_\_\_\_

2 Physical Address:

\_\_\_\_\_

3 Phone: \_\_\_\_\_ Fax: \_\_\_\_\_ E-mail: \_\_\_\_\_

4 Postal Address: \_\_\_\_\_

5 Full name of Employer/Employers' Organization: \_\_\_\_\_

6 Physical Address: \_\_\_\_\_

7 Postal Address: \_\_\_\_\_

8 Phone: \_\_\_\_\_ Fax: \_\_\_\_\_ E-mail: \_\_\_\_\_

9 Date on which Trade Union requested recognition: \_\_\_\_\_  
20\_\_\_\_.

10 Date on which employer rejected recognition ( if applicable): \_\_\_\_\_  
20\_\_\_\_.

11 The Employer has not replied to complainant within 30 days of its receipt of complainant's request for recognition. (Check if applicable):

12 Description of Dispute: \_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

I certify that the above particulars are true and correct.

\_\_\_\_\_  
Representative of Trade Union (print name and Position  
sign)

Date: \_\_\_\_\_

To: Labour Commissioner  
249-582 Richardine Kloppers Street - Khomasdal  
Private Bag 13367  
WINDHOEK

Copy to: (other party or parties to the dispute)

Form LC 21

**REPUBLIC OF NAMIBIA**

LABOUR ACT, 2007

(Sections 82(7) and 86(1)) (Rules 11 and 14)

REFERRAL OF DISPUTE FOR CONCILIATION OR ARBITRATION

**Instructions: A summary of the dispute must be attached hereto stating the**

**subject matter and the facts and circumstances that gave rise to the dispute. It must also contain information on the steps that have been taken to resolve or settle such dispute.**

1 Full name of the Applicant:

\_\_\_\_\_

2 Physical Address:

\_\_\_\_\_

3 Postal Address:

\_\_\_\_\_

4 Phone: \_\_\_\_\_ Fax: \_\_\_\_\_ E-mail:

\_\_\_\_\_

5 Full name of the Respondent:

\_\_\_\_\_

6 Physical Address:

\_\_\_\_\_

7 Postal Address:

\_\_\_\_\_

8 Phone: \_\_\_\_\_ Fax: \_\_\_\_\_ E-mail:

\_\_\_\_\_

9 Nature of Dispute:

<input type="checkbox"/> Unfair Dismissal	<input type="checkbox"/> Unfair Labour Practice
<input type="checkbox"/> Organizational Rights	<input type="checkbox"/> Dispute of Interest
<input type="checkbox"/> Unilateral Change of Terms and Conditions	<input type="checkbox"/> Severance Package

Conditions

<input type="checkbox"/> Interpretation/Application of Collective Agreement	<input type="checkbox"/> Disclosure of Information
---	--

Freedom of Association

<input type="checkbox"/> Freedom of Association	<input type="checkbox"/> Refusal to Bargain
<input type="checkbox"/> Unfair Discrimination	<input type="checkbox"/> Other (specify please)

10 Date on which the dispute arose: \_\_\_\_\_ 20\_\_\_\_.

\_\_\_\_\_  
Representative of the Applicant (print name Position and sign)

Date: \_\_\_\_\_

To: Labour Commissioner  
249-582 Richardine Kloppers Street - Khomasdal  
Private Bag 13367  
WINDHOEK

Copy to: other party or parties to the dispute

Form LC 23

**REPUBLIC OF NAMIBIA**

LABOUR ACT, 2007  
(Section 82(3)) (Rule 12)  
NOTICE OF CONCILIATION MEETING

In the matter between:

**Applicant**

and

**Respondent**

**TAKE NOTICE** that this matter is set down for a conciliation meeting before \_\_\_\_\_, a conciliator, on the \_\_\_\_\_ day of \_\_\_\_\_ 20\_\_ at \_\_\_\_\_ o'clock am/pm at \_\_\_\_\_, located at \_\_\_\_\_.

- \* If you do not speak English and need an interpreter, kindly inform the Labour Commissioner at least 5 days prior to the date of hearing.
- \* You may require the Labour Commissioner to subpoena witnesses and/or to compel the production of relevant books, documents or papers by filing a notice on the prescribed form prior to the meeting.
- \* Postponements may be granted without the need for the parties to appear if:
  - o all parties agree in writing and notify the conciliator.
  - o a written request for a postponement has been received by the designated conciliator at least five days before the commencement of the meeting and the conciliator has granted the request meeting.
- \* A formal request for a postponement may be made at the commencement of the conciliation meeting.

Date: \_\_\_\_\_ 20\_\_.

Labour Commissioner  
249-582 Richardine Kloppers Street - Khomasdal  
Private Bag 13367  
WINDHOEK

To: (1) (name of applicant)

\_\_\_\_\_  
(address)

(2) (name of respondent)

\_\_\_\_\_  
(address)

Form LC 28

**REPUBLIC OF NAMIBIA**  
LABOUR ACT, 2007  
(section 86(4)) (Rule 15)  
NOTICE OF ARBITRATION HEARING  
In the matter between:

**Applicant**

and

**Respondent**

**TAKE NOTICE** that this matter is set down for an arbitration hearing before \_\_\_\_\_, an arbitrator, on the \_\_\_\_\_ day of \_\_\_\_\_ 20\_\_ at \_\_\_\_\_ o'clock am/pm at \_\_\_\_\_, located at \_\_\_\_\_.

- \* If you do not speak English and need an interpreter, kindly inform the Labour Commissioner at least 5 days prior to the date of hearing.
  - \* You may require the Labour Commissioner to subpoena witnesses and/or to compel the production of relevant books, documents or papers by filing a notice on the prescribed form prior to the meeting/hearing.
  - \* Postponements may be granted without the need for the parties to appear if:
    - o all parties agree in writing and notify the arbitrator.
    - o a written request for a postponement has been received by the designated arbitrator at least ten days before the commencement of the hearing and the arbitrator has granted the request hearing.
  - \* A formal request for a postponement may be made at the commencement of the meeting/hearing.
- Date: \_\_\_\_\_ 20\_\_\_\_.

\_\_\_\_\_  
Labour Commissioner  
249-582 Richardine Kloppers Street - Khomasdal  
Private Bag 13367  
WINDHOEK

To: (1) (name of applicant)  
\_\_\_\_\_  
(address)  
(2) (name of respondent)  
\_\_\_\_\_  
(address)

Form LC 29

**REPUBLIC OF NAMIBIA**  
**LABOUR ACT, 2007**  
(Section 82(13) and 86(13)) (Rule 25)  
**REQUEST FOR REPRESENTATION AT CONCILIATION OR ARBITRATION**  
**IN TERMS OF SECTION 82(13) OR 86(13)**

**Instruction: Attach hereto the following documents:**  
**1 (if applicable) the parties' signed agreement to representation of the**

**party or both parties a legal practitioner or other person, including the name, address and other pertinent contact details of the proposed representative;**

**2 if representation by a legal practitioner is requested, a statement of the reasons that the dispute is of such complexity that it is appropriate for applicant(s) to be represented by a legal practitioner(s) and if the parties have not agreed to legal representation, the reasons that such representation will not prejudice the other party.**

**3 if representation by another person is requested, a statement as to how the proposed representation will facilitate the effective resolution of the dispute or the attainment of the objects of the Act, and if the parties have not agreed to the representation, the reasons that such representation will not prejudice the other party.**

1 Full name of the Applicant:

\_\_\_\_\_

2 Physical Address:

\_\_\_\_\_

3 Postal Address:

\_\_\_\_\_

4 Phone: \_\_\_\_\_ Fax: \_\_\_\_\_ E-mail:

\_\_\_\_\_

5 Full name of the other party to the dispute:

\_\_\_\_\_

6 Physical Address:

\_\_\_\_\_

7 Postal Address:

\_\_\_\_\_

8 Phone: \_\_\_\_\_ Fax: \_\_\_\_\_ E-mail:

\_\_\_\_\_

9 The dispute arose on: \_\_\_\_\_ 20\_\_\_\_ at (place)

\_\_\_\_\_

10 The dispute is in the: \_\_\_\_\_ (sector or industry)

11 The nature of dispute: \_\_\_\_\_ Right • Interest •

12 Full particulars of the legal practitioner(s) for whom permission is sought:

Applicant's proposed representative

12.1 Mr/Mrs/Ms:

\_\_\_\_\_

12.2 Postal Address:

\_\_\_\_\_

12.3 Phone: \_\_\_\_\_ Fax: \_\_\_\_\_ E-mail:

\_\_\_\_\_

12.4 If legal practitioner, date of admission to the High Court of Namibia \_\_\_\_\_ 20\_\_\_\_.

12.5 If representation is sought by a non-legal practitioner, stated position and relationship to applicant, if any

\_\_\_\_\_  
Other party's proposed representative

12.6

Mr/Mrs/Ms.: \_\_\_\_\_

12.7 Postal Address: \_\_\_\_\_

\_\_\_\_\_  
12.8 Phone: \_\_\_\_\_ Fax: \_\_\_\_\_ E-mail: \_\_\_\_\_

\_\_\_\_\_  
12.9 If legal practitioner, date of admission to the High Court of Namibia  
\_\_\_\_\_20\_\_\_\_.

12.10 If representation is sought by non-legal practitioner, state position and  
relationship to party, if any  
\_\_\_\_\_

REQUEST FOR REPRESENTATION AT CONCILIATION OR ARBITRATION  
PAGE 2

\_\_\_\_\_  
Representative of the Applicant (print name and Position  
sign)

Date: \_\_\_\_\_

To: (Name of conciliator/arbitrator) \_\_\_\_\_

Labour Commissioner  
249-582 Richardine Kloppers Street - Khomasdal  
Private Bag 13367  
WINDHOEK

Copy to: other party or parties to the dispute

FOR THE CONCILIATOR/ARBITRATOR:

13 State the reasons for permitting or refusing the representation:

\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

14 Conditions, if any, on which representation is permitted:

\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

\_\_\_\_\_  
Conciliator/Arbitrator (print name and sign)

Date: \_\_\_\_\_

**REPUBLIC OF NAMIBIA**

LABOUR ACT, 2007

(Section 90) (Rule 22)

APPLICATION TO LABOUR INSPECTOR TO ENFORCE ARBITRATION

AWARD

**Instructions:** Attach hereto the following documents:

- 1 original or a certified copy of the arbitration award**
- 2 if the arbitrator awarded the payment of money to applicant, copy or copies of employee's payslip(s) showing applicable rate(s) of wages and benefits during the period covered by the arbitration award worksheet showing the applicant's calculations of the monies due.**

1 Full name of applicant party to arbitration (individual/Trade Union/Employer):

\_\_\_\_\_

2 Physical Address:

\_\_\_\_\_

3 Phone: \_\_\_\_\_ Fax: \_\_\_\_\_ E-mail:

4 Full name of respondent party to arbitration:

\_\_\_\_\_

5 Physical Address:

\_\_\_\_\_

6 Phone: \_\_\_\_\_ Fax: \_\_\_\_\_ E-mail:

7 Postal Address:

\_\_\_\_\_

8 E-mail:

9 Name of arbitrator:

\_\_\_\_\_

10 Date of arbitration award:

11 Total amount due to employee (if applicable):

\_\_\_\_\_

I certify that the above particulars are true and correct.

\_\_\_\_\_

Representative of Applicant (sign and print name) Position

Date: \_\_\_\_\_

To: Permanent Secretary  
Ministry of Labour and Social Welfare  
32 Mercedes Street - Khomasdal  
Private Bag 19005

WINDHOEK

Form LG 36

**REPUBLIC OF NAMIBIA**

LABOUR ACT, 2007

(Sections 82(8) and 86(3)) (Rules 7, 23 and 35)

**PROOF OF SERVICE OF DOCUMENTS**

**Instructions:**

**1 This document must be sent to the Labour Commissioner, with a copy of the document(s) served attached hereto.**

**2 A copy of this document must be sent to every other party.**

In the matter between:

**Applicant**

and

**Respondent**

**AFFIDAVIT OF SERVICE**

I \_\_\_\_\_, do hereby certify that on the \_\_\_\_\_ day of \_\_\_\_\_ 20\_\_ at \_\_\_\_\_ (time) I duly served the following document(s)

\_\_\_\_\_ (describe the document(s) served) in the following manner:

(Circle applicable references in (a), (b), (c) or (d) as appropriate).

(a) By handing a copy to \_\_\_\_\_ (full name of the person served) the applicant/appellant/respondent/a person apparently not less than 16 years of age and employed at the applicant's/appellant's/respondent's place of business/local/main office and he/she duly signed the attached copy/refused to sign a copy thereof;

(b) By sending a copy by registered post to \_\_\_\_\_

(full name of the person served) the applicant/appellant/respondent at \_\_\_\_\_ (state the postal address) and I annex hereto the certificate of posting;

(c) By sending a copy by fax to \_\_\_\_\_

(full name of the person served) the applicant/appellant/respondent at the following number \_\_\_\_\_ (state telephone number and code) and I annex hereto the transmission confirmation slip;

(d) By serving the document in accordance with the directions of the Labour Commissioner, as follows:

\_\_\_\_\_  
\_\_\_\_\_

---

PROOF OF SERVICE OF DOCUMENTS

PAGE 2

Date[d] at \_\_\_\_\_ this \_\_\_\_\_ day of \_\_\_\_\_  
20\_\_\_\_.

---

Signature of deponent

Before administering the prescribed oath/affirmation, I put the following questions to the deponent and noted his/her reply in his/her presence:

(a) Do you know and understand the contents of this affidavit/solemn declaration?

Reply: \_\_\_\_\_

(b) Do you have any objection to the taking of the oath?

Reply: \_\_\_\_\_

(c) Do you regard the prescribed oath as binding on your conscience?

Reply: \_\_\_\_\_

This affidavit/solemn declaration was duly sworn to/affirmed before me and the deponent signed it in my presence at \_\_\_\_\_ on the \_\_\_\_\_ day of \_\_\_\_\_ 20 \_\_\_\_.

---

Commissioner of Oaths

Full name \_\_\_\_\_

Designation \_\_\_\_\_

Address \_\_\_\_\_

DATE STAMP

---

To: Labour Commissioner  
249-582 Richardine Kloppers Street - Khomasdal  
Private Bag 13367  
WINDHOEK

Form LC 37

**REPUBLIC OF NAMIBIA**

LABOUR ACT, 2007

(Rule 17(6))

NOTICE OF CLASS COMPLAINT

**Before the Labour Commissioner**

In the matter between: Case No.

**Applicant**

and

**Respondent**

**TAKE NOTICE** that a complaint has been filed by representative parties on behalf of all members of

\_\_\_\_\_

Particulars of complaint:

\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

The complaint will be heard at \_\_\_\_\_(place)

on \_\_\_\_\_ 20\_\_\_\_ (date) at \_\_\_\_\_ (time).

Any member of the class will be excluded from the hearing if he or she so requests in writing at any time before the beginning of the hearing.

The decision, whether favourable or not, will be binding on all members of this class who do not request exclusion as indicated above.

Any member who does not request exclusion may appear personally or through a representative at the hearing.

\_\_\_\_\_  
Labour Commissioner

Date: \_\_\_\_\_

Form LC 38

**REPUBLIC OF NAMIBIA**

**LABOUR ACT, 2007**

(Rules 10, 17, 28, 30 and 32)

**APPLICATION**

**Before the Labour Commissioner**

In the matter between: Case No.

**Applicant**

and

**Respondent**

**TAKE NOTICE** that the above named Applicant/Respondent intends to apply to the Labour Commissioner/Conciliator/Arbitrator for an order as follows:

(a)

\_\_\_\_\_  
(b)

\_\_\_\_\_  
(c)

\_\_\_\_\_

(state the relief sought)

and that the accompanying affidavit of \_\_\_\_\_ dated \_\_\_\_\_  
20 \_\_\_\_ will be used in support of the application.

**AND FURTHER TAKE NOTICE** that if you intend opposing this application you are  
required to file your opposition to the application with the Labour Commissioner and  
the respondent or his or her representative, if any, corresponding to form LC 38, within  
5 days after service upon you of this notice, not counting the day of service.

DATE[D] AT \_\_\_\_\_ this \_\_\_\_ day of \_\_\_\_\_  
20\_\_\_\_\_.

Applicant/Appellant/Respondent or his or her legal practitioner or other representative  
(address)

To: (1) \_\_\_\_\_

APPLICANT/APPELLANT/RESPONDENT

(2) Labour Commissioner

249-582 Richardine Kloppers Street - Khomasdal

Private Bag 13367

WINDHOEK

or (conciliator/arbitrator) \_\_\_\_\_

c/o Labour Commissioner.

Form LC 39

**REPUBLIC OF NAMIBIA**

LABOUR ACT, 2007

(Rule 10)

OPPOSITION TO APPLICATION

**Before the Labour Commissioner**

Case No.

In the matter between:

**Applicant**

and

**Respondent**

**TAKE NOTICE** that

\_\_\_\_\_ (hereinafter called the  
respondent) (if more than one respondent is cited state whether first, second, etc. respondent  
[as the case may be]) intends to oppose this application on the following grounds:

**AND FURTHER TAKE NOTICE** that the respondent has appointed

\_\_\_\_\_ (state the respondent's address for service) at which he or she will accept notice and service  
of all documents in these proceedings.

DATE[D] AT \_\_\_\_\_ this \_\_\_\_ day of \_\_\_\_\_  
20\_\_\_\_\_.

Respondent or his or her legal practitioner or other representative  
(address)

To: (1) \_\_\_\_\_

APPLICANT (address)

(2) Labour Commissioner

249-582 Richardine Kloppers Street - Khomasdal

Private Bag 13367

WINDHOEK

or (conciliator/arbitrator) \_\_\_\_\_

c/o Labour Commissioner.

(address)

Form LC 40

**REPUBLIC OF NAMIBIA**

LABOUR ACT, 2007

(Rule 30)

NOTICE OF JOINDER OR DISMISSAL

**Before the Labour Commissioner**

In the matter between:

Case No.

**Applicant**

and

**Respondent**

**Take notice that**

\_\_\_\_\_  
\_\_\_\_\_  
(name) residing at

\_\_\_\_\_  
\_\_\_\_\_  
have/has been joined as complainant/respondent/has been be dismissed as a  
complainant or respondent from the proceedings.

\_\_\_\_\_  
Labour Commissioner/arbitrator

Date: \_\_\_\_\_

(address)

To: (1) (applicant)

\_\_\_\_\_  
(address)

(2) (respondent)

\_\_\_\_\_  
(address)

**REPUBLIC OF NAMIBIA**

LABOUR ACT, 2007

(Rule 23(2))

**NOTICE OF APPEAL FROM ARBITRATOR'S AWARD**

**Before the Labour Commissioner**

Case No. \_\_\_\_\_

In the matter between:

**Complainant**

and

**Respondent**

Take notice that the Appellant (Complainant\*/Respondent\* in the above-mentioned arbitration) hereby gives notice of appeal against the entire arbitration award \*/part of the arbitration award\* issued by Arbitrator \_\_\_\_\_ on \_\_\_\_\_ 20\_\_.

The questions of fact (only in the case of a dispute involving the Fundamental Rights and Protections) or law appealed against in the arbitrator's award are as follows:

\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

The grounds of appeal are as follows:

\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

(add additional sheets if necessary)

Signed at \_\_\_\_\_ on this \_\_\_\_\_ day of \_\_\_\_\_ 20\_\_.

Appellant or his/her representative

(Address)

To: Labour Commissioner

(Address)

To: Registrar of the High Court

High Court

WINDHOEK

To: (respondent)

(Address) \_\_\_\_\_

**REPUBLIC OF NAMIBIA**

LABOUR ACT, 2007

(Rule 35(1))

**REQUEST TO SUMMON WITNESSES**

**Before the Labour Commissioner** Case No. \_\_\_\_\_

In the matter between:

**Applicant**

and

**Respondent**

(a) You are hereby requested to summon the following witnesses or persons whose names appear in Annexure "A" hereto, to appear at the above Conciliation/ Arbitration before \_\_\_\_\_, conciliator/arbitrator on the \_\_\_\_\_ day of \_\_\_\_\_ 20\_\_\_\_ at \_\_\_\_\_ am/pm to give oral evidence in the above-mentioned matter on behalf of the applicant/respondent;

and

(b) to produce the following:

(i) Documents:

\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

(ii) Records:

\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

(iii) Books of account:

\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

(iv) Exhibits relevant to this case:

\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

(A clear description must be given of all items in (b)(i)-(b)(iv) above.)

DATED AT \_\_\_\_\_ this \_\_\_\_\_ day of \_\_\_\_\_ 20\_\_.

Applicant/Respondent or his or her legal practitioner or other representative (address)

To: (1) Labour Commissioner  
249-582 Richardine Kloppers Street - Khomasdal  
Private Bag 13367  
WINDHOEK

Or

(2) (conciliator/arbitrator) \_\_\_\_\_

(address)

**REQUEST TO SUMMON WITNESSES**

PAGE 2

ANNEXURE "A"

**Before the Labour Commissioner** Case No.

In the matter between:

**Applicant**

and

**Respondent**

---

**LIST OF WITNESSES TO BE SUMMONED (Rule 30)**

---

Note: Proper residential and postal addresses, telephone numbers and facsimile numbers, if any, must be furnished by both parties to the proceedings.

---

On behalf of the Applicant

- 1.
- 2.
- 3.
- 4.
- 5.
- 6.

Signature of Applicant or his/her representative

Date:

---

On behalf of the Respondent

- 1.
- 2.
- 3.
- 4.
- 5.
- 6.

Signature of Respondent or his/her representative

Date:

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Form LC 43

**REPUBLIC OF NAMIBIA**

LABOUR ACT, 2007

(Rule 35(3))

SUMMONS

**Before the Labour Commissioner** Case No.

In the matter between:

**Applicant**

and

**Respondent**

SUMMONS OF WITNESS IN TERMS OF SECTION 82(18)(a)/86(8)(a)

To: The Deputy-Sheriff or \_\_\_\_\_ (other person designated to make service):

Inform:

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(State name, sex, occupation, place of residence or business, postal address, telefax of witness) that each of them is hereby called upon to appear in person before

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Conciliator/Arbitrator at \_\_\_\_\_ on the \_\_\_\_\_ day of \_\_\_\_\_ 20\_\_ at \_\_\_\_\_ o'clock am/pm and thereafter to remain in attendance until excused, in order to testify on behalf of the above-named

applicant\*/respondent\* in regard to all matters within his or her knowledge relating to the issues of the matter now before the Conciliator/Arbitrator and in the dispute between the parties.

Inform him or her further that it is required from him or her to bring and produce the following items:

(Describe accurately each document, book of accounts, record or other exhibit relevant to the issues of the matter in question)

and

Inform each of the said persons that he or she should on no account neglect to comply with the subpoena as he or she may thereby render himself or herself liable to a fine of N\$10 000,00 or imprisonment for a period not exceeding two years or both.

DATED AT \_\_\_\_\_ this \_\_\_\_ day of \_\_\_\_\_ 20 \_\_\_\_.

\_\_\_\_\_  
Labour Commissioner/Arbitrator  
(address)

Form LC 44

**REPUBLIC OF NAMIBIA**

LABOUR ACT, 2007

(Rule 28(10))

**NOTICE OF APPLICATION HEARING**

In the matter between:

**Applicant**

and

**Respondent**

**TAKE NOTICE** that the applicant's/respondent's application for \_\_\_\_\_ is set down for a hearing before \_\_\_\_\_, an arbitrator, on the \_\_\_\_\_ day of \_\_\_\_\_ 20\_\_ at \_\_\_\_\_ o'clock am/pm at \_\_\_\_\_.

\* If you do not speak English and need an interpreter, kindly inform the Labour Commissioner at least 5 days prior to the date of hearing.

Date: \_\_\_\_\_ 20\_\_\_\_.

\_\_\_\_\_  
Labour Commissioner  
249-582 Richardine Kloppers Street - Khomasdal  
Private Bag 13367  
WINDHOEK

To: (1) (applicant)

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(address)

(2) (respondent)

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(address)

ANNEXURE 3

TARIFF OF COSTS (EXCLUDING DISBURSEMENTS) RECOVERABLE BY  
UNREPRESENTED LITIGANTS

TARIFF OF COSTS (EXCLUDING DISBURSEMENTS) RECOVERABLE BY  
UNREPRESENTED LITIGANTS

(Rule 37(3))

First day (preparation and attendance at arbitration) N\$2000-00 per day

Each subsequent day (attendance at arbitration) N\$600-00 per day