



GOVERNMENT GAZETTE

OF THE

REPUBLIC OF NAMIBIA

N\$18.20

WINDHOEK - 31 October 2008

No. 4151

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Government Notices

MINISTRY OF LABOUR AND SOCIAL WELFARE

No. 260 2008

COMMENCEMENT OF THE LABOUR ACT, 2007 (ACT NO. 11 OF 2007)

In terms of section 143 of the Labour Act, 2007 (Act No. 11 of 2007), I determine that, the said Act, except section 128, comes into operation on 1 November 2008.

I. NGATJIZEKO

MINISTER OF LABOUR AND SOCIAL WELFARE

MINISTRY OF LABOUR AND SOCIAL WELFARE

No. 261 2008

LABOUR GENERAL REGULATIONS: LABOUR ACT, 2007 (ACT NO. 11 OF 2007)

The Minister responsible for labour has, under section 135 of the Labour Act, 2007 (Act No. 11 of 2007), made the regulations set out in the Schedule and repealed Government Notices No. 174 and 175 published in Government Gazette No. 533 of 20 November 1992.

SCHEDULE

ARRANGEMENT OF REGULATIONS

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Definitions

1. In these regulations, any word or expression to which a meaning has been given in the Act bears that meaning, and unless the context otherwise indicates, "the Act" means the Labour Act, 2007 (Act No. 11 of 2007).

Portion of basic wage that may be paid in-kind and calculation of the value of in-kind payments

2. (1) The portion of the basic wage that an employer may pay to an employee in-kind is an amount which does not exceed the equivalent of one-third of the employee's basic wage.

(2) The calculation of the cash equivalent of any payment in-kind must be based on the producers' prices of the commodities comprising the in-kind payment, or in absence of a producers' price for any commodity, the average price of the commodity at an agriculture cooperative or wholesalers in the nearest city or town.

Written statement of particulars of monetary remuneration

3. The written statement of particulars referred to in section 11(3) that must accompany payment of monetary remuneration to an employee must contain the matters set out Annexure 1.

Exemption from a wage order

4. (1) An application to the Minister for exemption from a wage order in terms of section 14(1) of the Act must be made on Form LM 1 set out in Annexure 2.

(2) The exemption from a wage order referred to in section 14(3) of the Act must be issued on Form LM 2 set out in Annexure 2, and it must be signed by the Minister.

(3) The fee payable to the Permanent Secretary for a copy of an exemption order is N\$5 per page.

Compassionate leave

5. (1) An application for compassionate leave in terms of section 25(3) of the Act must be made on a form determined by the employer but the form must substantially correspond to Form LS 3 set out in Annexure 2.

(2) The application for compassionate leave must be made either before the applicant takes leave, or if not possible, immediately upon applicant's return to work.

(3) An application for compassionate leave must be accompanied by a death certificate of the deceased, in case of death, or a medical certificate, in case of serious illness or, an affidavit of the employee testifying to the death or serious illness, or, in all cases, such other evidence of death or illness as may be acceptable to the employer.

(4) If the applicant cannot make the application before going on leave, the applicant must make reasonable efforts to notify the employer of his or her absence for compassionate reasons and the intended duration of thereof.

Election of health and safety representatives

6. (1) Whenever it is necessary in terms of section 43 of the Act to conduct an election of a health and safety representative or representatives, the election must be held in the manner prescribed in this regulation.

(2) An election for a health and safety representative must be held at least every two years, or as and when a casual vacancy or vacancies arise.

(3) An election for a health and safety representative must be held in cooperation with the exclusive bargaining agent of the employees, or, if there is none, in cooperation with the employees, and subject to the requirements set out in subregulations (4) to (8).

(4) A committee consisting of two representatives of the exclusive bargaining agent or, if there is none, two employees, and two representatives of the employer must be established to oversee the conduct of the nominations and the election.

(5) Nominations must take place one week before the voting.

(6) An employee may nominate himself or herself or any other employee to stand for election.

- (7) The election must be conducted -
- (a) at the employer's premises;
 - (b) during working hours;
 - (c) with a minimum disruption of the employer's operations; and
 - (d) by secret ballot.

(8) The ballots must be counted immediately after the voting has been concluded, and the committee must, in writing, make the results known to the employer and employees.

(9) If an employer has recognized a registered trade union as the exclusive bargaining representative of any of its employees, the employer and the trade union may agree on the manner in which the election should be conducted, subject to the requirements set out in subregulations (4) to (8).

(10) The trade union must retain records of the ballots cast and the names of the elected representatives for a period of two years from the date of the election.

(11) No later than two months after the election of a health and safety representative, the employer must, through an accredited company or institute, provide training for the health and safety representative in the duties of the position.

Change in constitution of registered trade union or registered employers' organization

7. (1) An application to the Labour Commissioner for a change in the constitution of a registered trade union or registered employer's organisation in terms of section 54(2)(b) of the Act must be made on Form LC 4 set out in Annexure 2 and must be accompanied by two (2) copies of a resolution containing the wording of the change and a certificate signed by the chairperson stating that the resolution was passed in accordance with the constitution.

(2) If the Labour Commissioner approves a change in a constitution of a registered trade union or registered employers' organisation, the Commissioner must issue a certificate in terms of section 54(4)(b) of the Act on Form LC 5 set out in Annexure 2, and if it is a change of name, a new certificate of registration.

Registration of trade union or employers' association

8. (1) An application to the Labour Commissioner for registration of a trade union or employers' organisation in terms of section 57(1)(a) of the Act must be made on Form LC 6 set out in Annexure 2, and must be accompanied by three certified copies of the constitution of the trade union or employers' organisation.

(2) If the Labour Commissioner decides to register a trade union or employers' organisation in terms of section 57(3)(b) of the Act, the Commissioner must issue a certificate of registration on Form LC 7 set out in Annexure 2.

Register maintained by registered trade unions or registered employers' organization

9. The register to be maintained by registered trade unions and registered employer organisations in terms of section 60(a) of the Act must be on maintained on Form LC 8 set out in Annexure 2.

Annual return of registered trade union or employers' organization

10. The annual return to be submitted to the Labour Commissioner in terms of section 60(e) of the Act must be on Form LC 9, and must be accompanied by a statement of income and expenditure for that year, a balance sheet showing its financial position at the end of the year, and its annual audit report prepared by a registered public accountant and auditor or an auditor approved by the Labour Commissioner.

Request for recognition of registered trade union as exclusive bargaining agent

11. (1) A request by a registered trade union for recognition in terms of section 64(3) of the Act must be made on Form LC 10 set out in Annexure 2.

(2) Within 30 days after receiving the trade union request for recognition, the employer must, in terms of section 64(5) of the Act, notify the trade union on Form LC 11 set out in Annexure 2, that it recognises the trade union as the exclusive bargaining agent or that refuses to recognize the trade union.

(3) If the employer fails to respond to the trade union's request within 30 days or fails to recognise the trade union as an exclusive bargaining agent, the trade union may, in terms of section 64(6) of the Act, refer its request to the Labour Commissioner as a dispute on Form LC 12 set out in Annexure 2.

Notification to registered trade union to acquire majority representation

12. Notice which must be given in terms of section 64(11) of the Act by an employer to a trade union recognised as an exclusive bargaining agent, when the employer considers that the trade union no longer represents the majority of the employees in the bargaining unit, must be given on Form LC 13 set out in Annexure 2.

Election of workplace union representatives

13. (1) Where employees who are members of a registered trade union are entitled, in terms of section 67 of the Act, to elect a workplace union representative or representatives, the election must be conducted in the manner set out in this regulation.

(2) On being requested by the registered trade union, the employer must provide facilities that are reasonably necessary for conducting the election.

(3) The registered trade union must assign at least two representatives to supervise the elections.

(4) Nominations of the candidates must take place at least one week before the voting.

(5) The election must be conducted -

(a) at the employer's premises;

(b) during working hours;

(c) with a minimum disruption of the employer's operations;

(d) by secret ballot; and

(e) in accordance with the trade union's constitution.

(6) The employer may observe the election process.

(7) The ballots must be counted immediately after the voting has been concluded, and the union must, in writing, make the results known to the employer and employees.

(8) The trade union must retain records of the ballots cast and the names of the elected workplace union representative or representatives for a period of two years from the date of the election.

Request to extend collective agreement to non-parties to the agreement

14. (1) A request to the Minister by a registered employers' organisation and a registered trade union in terms of section 71(2) of the Act that a collective agreement bind non-parties to the agreement must be made on Form LM 14 set out in Annexure 2.

(2) The notice inviting objections to the extension of the collective agreement contemplated in section 71(3)(b) of the Act must be given on Form LM 15 set out in Annexure 2.

(3) A declaration by the Minister extending a collective agreement as contemplated in section 71(5) of the Act must be made on Form LM 16 set out in Annexure 2.

Application for exemption from extension of collective agreement

15. (1) An application to the Minister for an exemption from an extension of a collective agreement in terms of section 72(1) of the Act must be made on Form LM 17 set out in Annexure 2.

(2) An exemption from a collective agreement contemplated in section 72(2) of the Act must be made on Form LM 18 set out in Annexure 2.

Notice of commencement of strike or lockout

16. (1) A party referring a dispute to the Labour Commissioner pursuant to section 74(1) of the Act must make the reference on Form LC 21 set out in Annexure 2.

(2) Notice of the commencement of strike or lockout in terms of section 74(1)(d) of the Act by a party to a dispute must be given to the Labour Commissioner and to the other parties to the dispute on Form LC 19 set out in Annexure 2.

Appointment of conciliators and arbitrators

17. Where the Minister appoints -

(a) a conciliator in terms of sections 82(1) or (2) of the Act, he or she must issue to the conciliator a certificate of appointment on Form LM 20 set out in Annexure 2; or

(b) an arbitrator in terms of sections 85(3) or (4) of the Act, he or she must issue to the arbitrator a certificate of appointment on Form LM 20 set out in Annexure 2.

Referral of dispute to conciliation

18. (1) A referral of a dispute to conciliation in terms of section 82(7) of the Act must be made to the Labour Commissioner on Form LC 21, and copies must be served on the other parties to the dispute.

(2) If the Labour Commissioner decides to refer the dispute to conciliation, the Commissioner must, in terms of section 82(3) of the Act, designate a conciliator on Form LC 22 set out in Annexure 2, to try to resolve the dispute and issue a notice of conciliation meeting on Form LC 23 set out in Annexure 2.

(3) If the parties resolve their dispute during the conciliation process, the conciliator must issue a certificate of resolved dispute on Form LC 24 set out in Annexure 2.

(4) If the parties are unable to resolve their dispute through the conciliation process, the conciliator must, in terms of section 82(15) of the Act, issue a certificate of unresolved dispute on Form LC 25 set out in Annexure 2.

Application to reverse decision of a conciliator

19. An application to the Labour Commissioner in terms of section 83(3)(a) of the Act to reverse a decision of a conciliator must be made on Form LC 26 set out in Annexure 2.

Referral of dispute to arbitration

20. (1) A referral of a dispute to arbitration in terms of section 86(1) of the Act must be made to the Labour Commissioner on Form LC 21 set out in Annexure 2.

(2) If the Labour Commissioner decides to refer the dispute to arbitration, the Commissioner must, in terms of section 85(5) of the Act, designate an arbitrator on Form LC 27 set out in Annexure 2, to try to resolve the dispute and issue a notice of hearing on Form LC 28 set out in Annexure 2.

Request for representation at conciliation or arbitration

21. A request for representation at conciliation or arbitration proceedings in terms of section 82(13) or 86(13) of the Act, respectively, must be made on Form LC 29 set out in Annexure 2.

Application to enforce arbitration award

22. An application to a labour inspector to enforce an arbitration award in terms of section 90 of the Act must be made on Form LC 30 set out in Annexure 2.

Order to appear before a labour inspector

23. The order of a labour inspector in terms of section 125(2)(b) of the Act requiring a party to appear at a specified time, date and place for questioning must be on Form LS 31 set out in Annexure 2.

Compliance order

24. (1) A compliance order issued by a labour inspector in terms of section 126(1) of the Act must be on Form LS 32 set out in Annexure 2.

(2) On receipt of the compliance order, the party against whom the order is directed must post a full copy of the order on its premises in a location that is fully visible to the affected employees for a period of one year.

(3) A person who fails to comply with subrule (2) commits an offence and is liable to a fine not exceeding N\$10 000 or to be imprisoned for a period not exceeding two years or to both the fine and imprisonment.

Records and returns

25. (1) The records that must be kept by an employer as contemplated in section 130(1) of the Act must be kept in the form set out in Annexure 3.

(2) Information to be submitted to the Permanent Secretary as contemplated in section 130(2)(b) of the Act is as set out on Form LP 33 set out in Annexure 2.

Application for exemption or variation

26. (1) Application to the Minister, in terms of section 139 of the Act, for exemption or variation from any provision of Chapter 3 must be made on Form LM 34 set out in Annexure 2.

(2) If in terms of section 139(2) of the Act, the Minister decides to grant the application, he or she must issue a notice of exemption or variation on Form LM 35 set out in Annexure 2.

Proof of service of documents

27. Proof of service of documents in respect of conciliation or arbitration proceedings in terms of section 82(8) or 86(3) or any other provision of the Act, must be made in the form of the affidavit of service on Form LG 36 set out in Annexure 2.

Commencement of regulations

28. These regulations come into operation on 1 November 2008.

ANNEXURE 1**REPUBLIC OF NAMIBIA
LABOUR ACT, 2007
(Section 11(3) Regulation 3)****PARTICULARS TO BE INDICATED ON ENVELOPE OR
STATEMENT WHEN REMUNERATION IS PAID TO AN EMPLOYEE****Note:**

“basic wage” means that part of an employee’s remuneration in money including the cash equivalent of payment in-kind, if any, as calculated in terms of section 10 of the Act, paid in respect of work done during the hours ordinarily worked but does not include -

- (i) allowances, including travel and subsistence, housing, motor vehicle, transport, and professional allowances, whether or not based on the employee’s basic wage;
- (ii) pay for overtime, as defined in section 8 (g);
- (iii) additional pay for work on a Sunday or a public holiday;
- (iv) additional pay for night work, as required in terms of section 19(1); or
- (v) payments in respect of pension, annuity or medical benefits or insurance.

“remuneration” means the total value of all payments in money or in kind made or owing to an employee arising from the employment of that employee;

The particulars that must be indicated on an envelope or statement that must accompany remuneration paid to an employee are as follows:

- (a) the name and identity number (if any) of employee;
- (b) the name postal and business address of employer;
- (c) ordinary hourly, daily, weekly, fortnightly or monthly basic wage of employee of employee;
- (d) the period in respect of which payment of such basic wage is payable;
- (e) the number of hours worked (by category) and the amount paid to the employee in respect of-
 - (i) his or her basic wage;
 - (ii) overtime;
 - (iii) night work;
 - (iv) work on Sundays;
 - (v) work on public holidays; and
 - (vi) any other remuneration or allowances;

- (f) amount due for each part of remuneration in addition to basic wage (for example, pension contribution, medical insurance);
- (g) the gross amount of remuneration payable to the employee;
- (h) the particulars and amount of any deductions from the amount referred to in paragraph (g);
and
- (i) the nett amount of remuneration payable to the employee.

ANNEXURE 2
FORMS

- LM 1 Application for exemption from wage order
- LM 2 Exemption from wage order
- LS 3 Application for compassionate leave
- LC 4 Application for change in constitution of trade union or employers' organisation
- LC 5 Certificate of approval of changes to constitution
- LC 6 Application for registration of trade union or employers' organisation
- LC 7 Certificate of registration as trade union or employers' organisation
- LC 8 Register of members of trade union or employers' organisation
- LC 9 Annual return of registered trade union or employers' organisation
- LC 10 Request for recognition as exclusive bargaining unit
- LC 11 Notice of recognition or refusal of recognition by employer or employers' organisation
- LC 12 Referral of dispute concerning recognition to Labour Commissioner
- LC 13 Notice to trade union to acquire majority representation
- LM 14 Request for extension of collective agreement
- LM 15 Invitation for objections to extension of collective agreement
- LM 16 Declaration of extension of collective agreement
- LM 17 Application for exemption from extended collective agreement
- LM 18 Exemption from extended collective agreement
- LC 19 Notice of industrial action
- LM 20 Certificate of appointment as conciliator or arbitrator
- LC 21 Referral of dispute to conciliation or arbitration
- LC 22 Designation of conciliator
- LC 23 Notice of conciliation meeting
- LC 24 Certificate of resolved dispute
- LC 25 Certificate of unresolved dispute
- LC 26 Application to reverse conciliator's decision
- LC 27 Designation of arbitrator
- 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
- LS 31 Order to appear before labour inspector
- LS 32 Compliance order of labour inspector
- LP 33 Form in which information is submitted to the Permanent Secretary
- LM 34 Application for exemption or variation from Chapter 3
- LM 35 Declaration of exemption or variation from Chapter 3
- LG 36 Proof of service of documents

REPUBLIC OF NAMIBIA

LABOUR ACT, 2007
(Section 14(1) (Regulation 4(1)))

APPLICATION FOR EXEMPTION FROM WAGE ORDER

Instructions: Attach hereto the following documents:

1. **A detailed statement in support of the application, including: a description of the business and workforce of the Applicant; the geographical area covered; the applicable wages and conditions of employment of the employees sought to be exempted; a comparison of the wages and conditions of applicant's employees with the wages and conditions of employment required by the wage order; and the reasons for requesting the exemption.**
2. **A copy of the wage order from which exemption is sought.**

1. Full name of the Applicant: _____
2. Physical Address: _____
3. Postal Address: _____
4. Phone: _____ Fax: _____
5. E-mail: _____
6. Sector/Industry: _____

7. Name and date of the wage order from which exemption is sought: _____

Representative/Applicant (print name and sign)

Position

Date: _____

To: Minister of Labour and Social Welfare
32 Mercedes Street
Private Bag 19005
KHOMASDAL

REPUBLIC OF NAMIBIA

**LABOUR ACT, 2007
(Section 14(3) (Regulation 4(2))**

EXEMPTION FROM WAGE ORDER

I, _____, acting in my capacity of Minister of Labour and Social Welfare, hereby exempt (full name of the Applicant(s): _____ located at (physical address _____) from compliance with the wage order in respect of the _____ industry dated _____, as follows:

- 1. The exemption applies to: (strike one) all the employer's employees/ the employer's(category of employees) _____ employees;
- 2. The exemption is subject to the following conditions: _____

- 3. The exemption will be in effect from _____ 20__ until _____ 20__.

(signed) _____
Minister of Labour and Social Welfare

Date: _____

To: (Name and address of applicant)

REPUBLIC OF NAMIBIA

LABOUR ACT, 2007
(Section 25(3)) (Regulation 5(1))

APPLICATION FOR COMPASSIONATE LEAVE

Instructions:

1. **An employee is entitled to a maximum of 5 days' compassionate leave each year in the event of a serious illness or death of a spouse, parent, child, brother or sister or mother-in-law or father-law.**
2. **Employee must submit this application before departing for compassionate leave, or, if this is not possible, must submit this application immediately upon return to work.**
3. **If the application is not submitted prior to the leave, the employee is expected to inform the employer of the absence as soon as possible.**
4. **Upon return from leave, the employee must submit a certified copy of the medical certificate as to the serious illness or of the death certificate or other acceptable proof of death or illness.**

1. Name of employee _____ Position _____
2. Address _____
3. Phone _____
4. I hereby apply for compassionate leave on account of:
 - a. The serious illness of my _____ (relationship)
 - b. The death of my _____ (relationship)
5. Period of leave _____ 20 ____ to _____ 20 ____.
6. Contact details during leave (Address and phone) _____

- Print name and sign _____
- Date _____

Application approved / not approved (strike one)

Employer's representative (print name and sign)

Date: _____

Form LC 4

REPUBLIC OF NAMIBIA

LABOUR ACT, 2007
(Section 54(2)(b) (Regulation 7(1)))

APPLICATION FOR CHANGE OF CONSTITUTION OF REGISTERED
TRADE UNION AND EMPLOYERS' ORGANISATION

Instructions: Attach hereto the following documents:

1. **2 certified copies of resolution of Applicant containing the wording of the changes;**
2. **a certificate signed by the Applicant's chairperson stating that the resolution was passed in accordance with its constitution.**

1. Full name of Trade Union or Employers' Organisation: _____
2. Physical Address: _____
3. Phone: _____ Fax: _____
4. Postal Address: _____
5. E-mail address: _____
6. Section(s) or article(s) proposed to be changed: _____

I certify that the above particulars are true and correct.

Representative of Applicant (print name and sign)

Position

Date: _____

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

REPUBLIC OF NAMIBIA

LABOUR ACT, 2007
(Section 54(4)(b)) (Regulation 7(2))

CERTIFICATE OF APPROVAL OF CHANGES TO CONSTITUTION

I, _____, in my capacity as the Labour Commissioner, hereby certify that I have approved the proposed amendment(s) to the Constitution of _____ (full name of Trade Union or Employers' Organisation) date _____ 20 _____, a copy of which are attached hereto.

(Signature) _____
Labour Commissioner

Date: _____ 20 _____.

To: (Name of trade union) _____
(Full Address) _____

REPUBLIC OF NAMIBIALABOUR ACT, 2007
(Section 57(1)(a)) (Regulation 8(1))APPLICATION FOR REGISTRATION OF TRADE UNION
OR EMPLOYERS' ORGANISATION

Instructions: Submit three (3) certified copies of the Applicant's constitution together with this application.

1. Full name of Applicant Trade Union or Employers' Organisation: _____
2. Sector or industry to be represented: _____
3. Date on which applicant was founded: _____
4. Number of members: _____
5. Physical Address: _____
6. Postal Address: _____
7. Phone: _____ Fax: _____
8. E-mail: _____
9. Office bearers (full names): _____ Position: _____
 - 9.1 _____
 - 9.2 _____
 - 9.3 _____
 - 9.4 _____
 - 9.5 _____
 (If additional office-bearers, attach list)

I certify that the above particulars are true and correct.

Representative of Applicant (print name and sign)

Position

Date: _____

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

REPUBLIC OF NAMIBIA

LABOUR ACT, 2007
(Section 57(3)(b)) (Regulation 8(2))

CERTIFICATE OF REGISTRATION AS TRADE UNION OR EMPLOYERS' ORGANISATION

This is to certify that

has been registered as a trade union/employers' organisation

IN THE REPUBLIC OF NAMIBIA

with effect from _____

Labour Commissioner

Date: _____

REPUBLIC OF NAMIBIALABOUR ACT, 2007
(Section 60(a)) (Regulation 9)REGISTER OF MEMBERS OF REGISTERED TRADE UNION
OR REGISTERED EMPLOYERS' ORGANISATION

Instruction: Every registered Trade Union and Employers' Organization must maintain the following register:

1. Full name of Trade Union or Employers' Organisation: _____
2. Number of members in good standing as of 1 January of the current year 20____:_____.
3. Attached hereto is a list of the present members of the Trade Union or Employers' Organisation as of 1 January 20 ____, containing the following particulars in respect of each employee:
 - 3.1 Full name: _____
 - 3.2 Address: _____
 - 3.3 Place of employment: _____
 - 3.4 Date of initial membership: _____
4. Attached hereto is a list of office-bearers and officials of the Trade Union or Employers' Organisation, containing the following particulars in respect of each office-bearer or employee:
 - 4.1 Full name: _____
 - 4.2 Address: _____
 - 4.3 Place of employment: _____
 - 4.4 Position: _____
 - 4.5 Date of election or appointment: _____

I certify that the above information is true and correct.

Representative of Trade Union/Employers'
Organisation (print name and sign)

Position

Date: _____

REPUBLIC OF NAMIBIA

LABOUR ACT, 2007
(Section 60(e)) (Regulation 10)

ANNUAL RETURN OF REGISTERED TRADE UNION
OR EMPLOYERS' ORGANISATION

Instructions: Attach hereto the originals or certified copies of the following documents:

- 1. the Statement of Income and Expenditure;**
- 2. the Balance Sheet showing the financial position at the end of the Financial Year; and**
- 3. the latest audit report from a certified auditor or auditor approved by the Labour Commissioner.**

- 1. Full name of Trade Union or Employers' Organisation: _____
- 2. Physical Address: _____
- 3. Phone: _____ Fax: _____ E-mail _____
- 4. Postal Address: _____
- 5. Financial Year: _____
- 6. Name of Auditor: _____
- 7. Physical Address: _____
- 8. Phone: _____ Fax: _____ E-mail _____
- 9. Postal Address: _____

Representative of Trade Union/Employers'
Organisation (print name and sign)

Position

Date: _____

To: (name and address of trade union)

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

REPUBLIC OF NAMIBIA

**LABOUR ACT, 2007
(Section 64(3)) (Regulation 11(1))**

REQUEST FOR RECOGNITION AS EXCLUSIVE BARGAINING AGENT

Instructions:

- 1. Attach hereto a copy of trade union registration certificate;**
- 2. Send of proof of service of this request upon the employer or employers' organization to the Labour Commissioner.**

- 1. Full name of Trade Union seeking recognition: _____

- 2. Physical Address: _____
- 3. Postal Address: _____
- 4. Phone: _____ Fax: _____
- 5. E-mail: _____
- 6. Description of Bargaining Unit for which recognition is sought, specifying whether the unit is company-wide or departmental or covers specified categories of employees: _____

- 7. Number of employees in the Bargaining Unit: _____
- 8. A majority of the employees in the above-described bargaining unit desire to be represented by the above-mentioned union as their exclusive bargaining representative.
- 9. The employer must reply to this request within thirty days of receipt thereof in the form of Form LC 11.

 Representative of Trade Union (print name and sign) Position

Date: _____

To: (name and address of trade union)

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

REPUBLIC OF NAMIBIA

LABOUR ACT, 2007
(Section 64(5)) (Regulation 11(2))

NOTICE OF RECOGNITION OR REFUSAL OF RECOGNITION BY EMPLOYER OR
EMPLOYERS' ORGANISATION

Instruction: If the Employer/Employers' Organization rejects the Request, it must provide reasons and attach them to this Notice.

1. Full name of the Employer /Employers' Organisation: _____

2. Physical Address: _____
3. Postal Address: _____
4. Phone: _____ Fax: _____
5. E-mail: _____
6. Date on which the Request was received: _____
7. Description of Bargaining Unit which recognition was sought: _____

8. Recognition granted / rejected (reasons for rejection attached).

Representative of Employer/Employers' Organisation
(print name and sign)

Position

Date: _____

To: (name and address of trade union)

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

Form LC 12

REPUBLIC OF NAMIBIA

LABOUR ACT, 2007
(Section 64(6)) (Regulation 11(3))

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' Organisation: _____

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 information is true and correct.

Representative of Trade Union (print name and sign)

Position

Date: _____

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

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

REPUBLIC OF NAMIBIA

**LABOUR ACT, 2007
(Section 64(11)) (Regulation 12)**

NOTICE TO TRADE UNION TO ACQUIRE MAJORITY REPRESENTATION

Instruction: Send a copy of proof of service of this Notice to the Trade Union in the form of Form LG 36 to the Labour Commissioner.

- 1. Full name of Employer / Employers' Organisation: _____

- 2. Physical Address: _____
- 3. Postal Address: _____
- 4. Phone: _____ Fax: _____ E-mail: _____
- 5. Full name of Trade Union: _____
- 6. Physical Address: _____
- 7. Postal Address: _____
- 8. Phone: _____ Fax: _____ E mail: _____
- 9. I/we am of the opinion that the Trade Union no longer represents the majority of employees in the recognized bargaining unit, for the following reason(s): _____

_____.
- 10. The Trade Union is hereby notified to acquire a majority in the Bargaining Unit with effect from _____ to _____ 200 _____

Representative of Employer/Employers' Organisation
(print name and sign)

Position

Date: _____

To: (name and address of trade union)

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

REPUBLIC OF NAMIBIALABOUR ACT, 2007
(Section 71(2)) (Regulation 14(1))

REQUEST FOR EXTENSION OF COLLECTIVE AGREEMENT

Instructions:

- 1. Attach hereto a duly signed copy of the collective agreement.**
- 2. This request must be signed by both parties to the collective agreement.**

1. Full address of the Employer/Employers' Organisation: _____

2. Full address of the Trade Union: _____

3. The undersigned parties request the Minister to extend the Collective Agreement to be binding upon all employers and employees in the _____ industry or sector.

 Representative of Employer/Employer's
 Organisation (print name and sign)

 Position

Date: _____

 Representative of Trade Union(s)
 (print name and sign)

 Position

Date: _____

 Representative of Trade Union(s)
 (print name and sign)

 Position

Date: _____

To: Minister of Labour and Social Welfare
 32 Mercedes Street
 Private Bag 19005
 KHOMASDAL

Form LM 15

REPUBLIC OF NAMIBIA
Ministry of Labour and Social Welfare

LABOUR ACT, 2007
(Section 71(3)(b)) (Regulation 14(2))

INVITATION FOR OBJECTIONS TO EXTENSION OF COLLECTIVE AGREEMENT:
_____ INDUSTRY

1. This is to inform the public that the (names of parties to the collective agreement) _____ and _____ have applied to the Minister of Labour and Social Welfare in terms of Section 71(2) of the Labour Act 2007 (Act No. 11 of 2007) to extend their collective agreement dated _____ 20 __, which is set out in the Schedule, to apply to all employers and employees in the _____ industry who are not presently parties to the aforesaid agreement.

2. Anyone who wishes to object to the extension of the agreement, in whole or in part, must deliver a written statement setting forth the reasons for the objection to the office of the Minister at the Ministry of Labour and Social Welfare, 32 Mercedes Street, Khomasdal, within 30 days from the date of this notice, or send the written statement by mail to the Minister of Labour and Social Welfare, Private Bag 19005, Khomasdal or by facsimile to the Minister at 210047, in time to reach the Minister within thirty days after the date of this notice.

REPUBLIC OF NAMIBIA
Ministry of Labour and Social Welfare

LABOUR ACT, 2007
(Section 71(5)) (Regulation 14(3))

DECLARATION OF EXTENSION OF COLLECTIVE AGREEMENT:
_____ INDUSTRY

Under Section 71(5) of the Labour Act, 2007 (Act No. 11 of 2007), and at the request of (names of parties to the collective agreement) _____ and _____, I hereby declare that the provisions of the collective agreement date _____ 20 ____ and set forth in the Schedule are extended to all employers and employees in the _____ industry.

Minister

Date _____

REPUBLIC OF NAMIBIA

LABOUR ACT, 2007
(Section 72(1)) (Regulation 15(1))

APPLICATION FOR EXEMPTION FROM EXTENDED COLLECTIVE AGREEMENT

Instructions:

- 1. This Application must be accompanied by a detailed statement in support thereof including a description of the business and workforce of the Applicants, the geographical area covered, the applicable wages and conditions of employment; a comparison with the wages and conditions of employment required by the extended agreement, and the reasons for requesting the exemption.**
- 2. Attach additional sheets, if necessary.**

- 1. Full name of the Applicant: _____
- 2. Physical Address: _____
- 3. Postal Address: _____
- 4. Phone:_____ Fax:_____ E-mail: _____
- 5. Sector/Industry: _____
- 6. Date of the collective agreement from which Exemption is sought: _____
- 7. Names and addresses of the parties to the collective agreement:
 - 7.1 _____
 - _____
 - _____
 - 7.2 _____
 - _____
 - _____

Applicant (print name and sign) _____
Position

Date: _____

To: Minister of Labour and Social Welfare
32 Mercedes street
Private bag 19005
WINDHOEK

Copy to: Each party to the agreement

REPUBLIC OF NAMIBIA

**LABOUR ACT, 2007
(Section 72(2)) (Regulation 15(2))**

EXEMPTION FROM EXTENDED COLLECTIVE AGREEMENT

I, _____, acting in my capacity of Minister of Labour and Social Welfare, hereby exempt (full name of the Applicant(s): _____ located at (physical address: _____ from compliance with the collective agreement between _____ and _____ date _____ 20 ____, which the Minister extended to all employers and employees in the _____ industry by Government Notice _____ date _____ 20 ____, as follows:

1. The exemption applies to: (strike one) all the employer's employees/ the employer's (state category of categories of employees) _____ employees;
2. The exemption is subject to the following conditions: _____

3. The exemption will be in effect from _____ 20 __ until _____ 20 __.

(signed) _____
Minister of Labour and Social Welfare

Date: _____

To: (applicant)

Form LM 19

REPUBLIC OF NAMIBIA

LABOUR ACT, 2007
(Section 74(1)(d)) (Regulation 16(2))

NOTICE OF INDUSTRIAL ACTION**Instructions:**

- 1. The Notifying trade union or employers' organization must serve this Notice on the Labour Commissioner and on the other Party or Parties to the dispute.**
- 2. A copy of the rules regulating the conduct of strike or lockout, if any, should accompany this notice.**
- 3. If there are additional parties, attach additional sheets.**

1. Full name of the Notifying Party: _____

2. Physical Address: _____
3. Postal Address: _____
4. Phone: _____ Fax: _____ E-mail: _____
5. Full name of other party or parties to the Dispute: _____

6. Physical address: _____
7. Postal Address: _____
8. Phone: _____ Fax: _____ E-mail: _____
9. Date on which Conciliation started: _____
10. Date on which Conciliation failed: _____
11. The industrial action in the form of: Strike ____ Lockout ____
will commence on _____ 200 ____ at _____ hours.
12. Location (part of establishment) of industrial action: _____

(print name and sign) _____
Representative of the Notifying Party Position

Date: _____

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

To: (other party to the dispute)

REPUBLIC OF NAMIBIA

LABOUR ACT, 2007
(Section 82(1) or ((2) and 85(3) or (4) (Regulation 17)

CERTIFICATE OF APPOINTMENT OF CONCILIATOR OR ARBITRATOR

This is to certify that I have appointed

as a conciliator/arbitrator in terms of Section 82(1)/82(2)/ 85(3)/85(4)
of the Labour Act, 2007 (Act No. 11 of 2007).

Minister

Dated:_____

REPUBLIC OF NAMIBIA**LABOUR ACT, 2007**

(Section 82(7) and section 86(1) (Regulation 16(1), Regulation 18(1) and Regulation 20(1))

REFERRAL OF DISPUTE TO 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"/> Organisational Rights <input type="checkbox"/> Unilateral Change of Terms and Conditions <input type="checkbox"/> Interpretation/Application of Collective Agreement <input type="checkbox"/> Freedom of Association <input type="checkbox"/> Unfair Discrimination | <input type="checkbox"/> Unfair Labour Practice <input type="checkbox"/> Dispute of Interest <input type="checkbox"/> Severance Package <input type="checkbox"/> Disclosure of Information <input type="checkbox"/> Refusal to Bargain <input type="checkbox"/> Other (specify please) |
|---|---|
10. Date on which the dispute arose: _____ 20 ____.

 Representative of the Applicant (print name and sign)

 Position

Date: _____

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

Copy to: other party or parties to the dispute

REPUBLIC OF NAMIBIA

LABOUR ACT, 2007
(Section 82(3) (Regulation 18(2))

CASE NO: _____

DESIGNATION AS CONCILIATOR

In the matter between:

and

Applicant

Respondent

Date of referral of dispute: _____ 20 ____.

TO: _____

PLEASE TAKE NOTICE that you are herewith designated in terms of section 82(3) of the Labour Act, 2007 (Act No. 11 of 2007) to conciliate the abovementioned matter.

PLEASE TAKE FURTHER NOTICE that this matter is set down for a meeting on _____
_____ 20 ____ at (time) _____ at (venue) _____.

You are required to attempt to resolve the dispute through conciliation within:

- o 30 days of the date on which the Labour Commissioner received the referral of the dispute;
or
- o Any longer period agreed in writing by the parties.

You are furthermore required to determine how the conciliation is to be conducted and may require that further meetings be held within the period contemplated in section 82(10).

Date: _____ 20 ____.

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

REPUBLIC OF NAMIBIA

**LABOUR ACT, 2007
(Section 82(3) (Regulation 18(2))**

NOTICE OF CONCILIATION MEETING

In the matter between:

and

Applicant

Respondent

TAKE NOTICE that this matter is set down for a (cross out whichever is inapplicable) conciliation meeting/arbitration hearing before _____, conciliator/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 conciliator/arbitrator.
 - o a written request for a postponement has been received by the designated conciliator/ arbitrator at least ten days before the commencement of the meeting/hearing and the conciliator/arbitrator has granted the request meeting/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 24

REPUBLIC OF NAMIBIALABOUR ACT, 2007
(Regulation 18(3))**CASE NO:** _____

CERTIFICATE OF RESOLVED DISPUTE

In the matter between:

Applicant

and

Respondent

1. Date of referral of dispute: _____ 20__.
2. Date on which dispute arose: _____ 20__.
3. Dates of conciliation meetings: _____.
4. Nature of the dispute (check applicable category or categories):

| | |
|---|---|
| <input type="checkbox"/> Unfair Dismissal <input type="checkbox"/> Organisational Rights <input type="checkbox"/> Unilateral Change of Terms and Conditions <input type="checkbox"/> Interpretation/Application of Collective Agreement <input type="checkbox"/> Freedom of Association <input type="checkbox"/> Unfair Discrimination | <input type="checkbox"/> Unfair Labour Practice <input type="checkbox"/> Dispute of Interest <input type="checkbox"/> Severance Package <input type="checkbox"/> Disclosure of Information <input type="checkbox"/> Refusal to Bargain <input type="checkbox"/> Other (specify please) |
|---|---|
5. Representatives of the parties:
 - 5.1 (referring party) _____
 - 5.2 (respondent) _____

The parties herein reached a full and final settlement. A copy of the settlement agreement is attached hereto.

Date: _____ 20 ____ .

Place: _____

 Conciliator
 Office of the Labour Commissioner
 249-582 Richardine Kloppers Street-Khomasdal
 Private Bag 13367
 WINDHOEK

Form LC 25

REPUBLIC OF NAMIBIA

LABOUR ACT, 2007
(Section 82(15) (Regulation 18(4)))

CASE NO: _____

CERTIFICATE OF UNRESOLVED DISPUTE

In the matter between:

Applicant

and

Respondent

1. Date of referral of dispute _____ 20 ____.
2. Date on which dispute arose _____ 20 ____.
3. Dates of meetings: _____.
4. Nature of the dispute (check applicable category or categories):

| | |
|--|---|
| <input type="checkbox"/> Unfair Dismissal | <input type="checkbox"/> Unfair Labour Practice |
| <input type="checkbox"/> Organisational Rights | <input type="checkbox"/> Dispute of Interest |
| <input type="checkbox"/> Unilateral Change of Terms and Conditions | <input type="checkbox"/> Severance Package |
| <input type="checkbox"/> Interpretation/Application of Collective Agreement | <input type="checkbox"/> Disclosure of nformation |
| <input type="checkbox"/> Freedom of Association | <input type="checkbox"/> Refusal to Bargain |
| <input type="checkbox"/> Unfair Discrimination | <input type="checkbox"/> Other (specify please) |
5. Representatives of the parties:
 - 5.1 (referring party) _____
 - 5.2 (respondent) _____

The parties herein failed to reach an agreement.

Date: _____ 20 ____ .

Place: _____

Conciliator
Office of the Labour Commissioner
249-582 Richardine Kloppers Street-Khomasdal
Private Bag 13367
WINDHOEK

REPUBLIC OF NAMIBIA

LABOUR ACT, 2007
(Section 83(3)(a) (Regulation 19))

CASE NO: _____

APPLICATION TO REVERSE CONCILIATOR'S DECISION

Instruction: The Applicant must attach a statement providing reasons for Applicant's failure to attend conciliation meeting (attach documentary proof, where applicable).

1. Full name of the Applicant Party: _____

2. Physical Address: _____
3. Postal Address: _____
4. Phone: _____ Fax: _____ E-mail: _____
5. Full name of the other party or parties to the dispute: _____

6. Physical Address: _____
7. Postal Address: _____
8. Phone: _____ Fax: _____ E-mail: _____

Representative/Applicant (print name and sign)_____
Position

Date: _____

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

Copy to: other party to the dispute

APPLICATION TO REVERSE CONCILIATOR'S DECISION
PAGE 2

FOR THE LABOUR COMMISSIONER ONLY:

9. Application is granted for the following reasons:-

10. Application is rejected for the following reasons:

Full Name and Signature

Date:

REPUBLIC OF NAMIBIA

LABOUR ACT, 2007
(Section 85(5) (Regulation 20(2))

CASE NO: _____

DESIGNATION OF ARBITRATOR

In the matter between:

Applicant

and

Respondent

Date of referral of dispute: _____ 20__.

TO: _____

PLEASE TAKE NOTICE that you are herewith designated in terms of section 85(5) of the Labour Act, 2007 (Act No. 11 of 2007) to arbitrate the abovementioned matter.

PLEASE TAKE FURTHER NOTICE that this matter is set down for a hearing on _____ 20 ____ at (time) _____ at (venue) _____.

You are required to attempt to resolve the dispute through arbitration within:

- o 30 days of the date on which the Labour Commissioner received the referral of the dispute;
- or
- o Any longer period agreed in writing by the parties.

You are furthermore required to determine how the arbitration is to be conducted and may require that further meetings be held within the period contemplated in section 86(6).

Date: _____ 20 ____.

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

REPUBLIC OF NAMIBIA

**LABOUR ACT, 2007
(Section 86(4) (Regulation 20(2))**

NOTICE OF CONCILIATION MEETING OR ARBITRATION HEARING

In the matter between:

Applicant

and

Respondent

TAKE NOTICE that this matter is set down for an arbitration hearing before _____
_____, 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.
- * 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) _____

REPUBLIC OF NAMIBIA

LABOUR ACT, 2007
(Section 82(13) and 86(13) (Regulation 21))

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 sign)

Position

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

REQUEST FOR REPRESENTATION AT CONCILIATION OR ARBITRATION

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 NAMIBIALABOUR ACT, 2007
(Section 90) (Regulation 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.

Applicant/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

Attention: Director
Labour Services

REPUBLIC OF NAMIBIA

**LABOUR ACT, 2007
(Section 125(2)(b)) (Regulation 23)**

ORDER TO APPEAR BEFORE LABOUR INSPECTOR

To: _____

You are hereby ordered to appear before _____, a labour inspector, on _____ 20 ____ at _____ o'clock at _____ in order to answer questions concerning the complaint of _____ registered with the Ministry of Labour and Social Welfare, which alleges that _____ has violated or is violating Sections _____ of the Labour Act, 2007 (Act No. 11 of 2007) by _____

_____.

You are further ordered to bring with you for inspection and copying the following books, documents and/or objects: _____

_____.

Please be advised that the failure to comply with this request is an offence for which you may be punished by a fine not exceeding N\$10,000 or imprisonment not exceeding 2 years, or both.

Labour Inspector (print name and sign)

Dated: _____ 20 ____.

_____ (place)

Received by: _____ (print name) Signature _____

Date: _____

REPUBLIC OF NAMIBIA

**LABOUR ACT, 2007
(Section 126(1)) (Regulation 24)**

COMPLIANCE ORDER OF LABOUR INSPECTOR

Instructions:

- 1. The compliance order can be directed against an individual employer, a company or a partnership. The Labour Inspector should direct the compliance order to the employer accordingly. If the employer is a company, the company can be cited. If the employer is a partnership, each partner should be cited.**
- 2. Attach additional sheets if needed.**
- 3. After serving this document upon the employer, the labour inspector must complete an affidavit of service.**

To: (Full name, title and address of party to whom compliance order is directed):

1. Following an inspection conducted by the undersigned, a labour inspector duly appointed in terms of Section 124(1) of the Labour Act, 2007 (Act No. 11 of 2007) on _____
 _____ 20 ____ at your premises located at _____.
 I have reasonable grounds to believe that you/your company have violated the provisions of the Act set forth below.

2. I find that you/your company have violated the following sections of the Act, based upon the facts set out in relation to each violation:

a) Section _____. Relevant facts: _____

b) Section _____. Relevant facts: _____

c) Section _____. Relevant facts: _____

COMPLIANCE ORDER
PAGE 2

d) Section _____ . Relevant facts: _____

3. You are hereby ordered to take the following action to remedy each of the above-mentioned violations, within thirty days of receipt of this compliance order:

(a) _____

(b) _____

(c) _____

(d) _____

4. You must post a full copy of this order on your premises in a location that is fully visible to the affected employees.

5. Failure to comply with this compliance order constitutes an offence in terms of section 127(1)(d) of the Act, which is punishable by a fine not exceeding N\$10,000 or imprisonment for a period not exceeding two years or both.

6. Should you wish to appeal this order, you may note an appeal to the Labour Court in terms of section 126(3) of the Act.

(print name and sign): _____ Labour Inspector. Date: _____

Address: _____

Phone: _____ Fax: _____ E-mail: _____

REPUBLIC OF NAMIBIA**LABOUR ACT, 2007
(Section 130(2)(b)) (Regulation 25(2))****FORM IN WHICH INFORMATION IS SUBMITTED TO THE PERMANENT SECRETARY**

Instruction: The following particulars must be submitted in respect of each employee who is not a Namibian citizen:

- (a) the name, nationality, date and place of birth of such employee;
- (b) the date of employment of such employee;
- (c) the capacity in which such employee is employed;
- (d) the period of the contract of employment of such employee (if any);
- (e) a full description of academic; technical or professional qualifications and any special expertise of such employee; and
- (f) the number and date of the issuance of any permit in relation to such employee and the date of expiry of such permit.

REPUBLIC OF NAMIBIA

LABOUR ACT, 2007
(Section 139) (Regulation 26(1))

APPLICATION FOR EXEMPTION OR VARIATION FROM CHAPTER 3

Instruction: Attach hereto a detailed statement supporting the proposed exemption(s) or variation(s) of one or more of the Basic Conditions of Employment, including:

1. Sections or subsections for which you seek exemption and the reasons therefor;
2. Sections or subsections that you propose to vary, if any, the proposed language for each variation, and the reasons therefor;
3. Specification of employees or categories of employees that would be affected by exemption or variation; and
4. Written submission on behalf of affected employees, or, if not possible, evidence of consultation with employees, reflecting their views of each of the proposed exemptions or variations.

1. Name of applicant _____
2. Address _____
3. Sections of the Labour Act, 2007, from which exemption or variation is sought.
4. Category or categories of employees that would be affected by exemption or variation.

Representative of Applicant (print name and sign)

Position

Date: _____ 20 __.

REPUBLIC OF NAMIBIALABOUR ACT, 2007
(Section 139(2)) (Regulation 26(2))

DECLARATION OF EXEMPTION OR VARIATION FROM CHAPTER 3

I, _____, acting in my capacity of Minister of Labour and Social Welfare, hereby

1. exempt (full name of the Applicant(s)): _____
located at (physical address): _____ from compliance with the Sections of Chapter 3, Basic Conditions of Employment, set forth below in respect of the following categories of employees and subject to the following conditions, if any:

- 1.1. _____
1.2. _____
1.3. _____
1.4. _____
1.5. _____

2. vary the Sections of Chapter 3, Basic Conditions of Employment as set forth below, in respect of the following categories of employees and subject to the following conditions, if any:

- 2.1. _____
2.2. _____
2.3. _____
2.4. _____
2.5. _____

3. This exemption or variation is effective from _____ 20__ to _____ 20__.

(signed) _____
Minister of Labour and Social Welfare

Date: _____

REPUBLIC OF NAMIBIA

LABOUR ACT, 2007
(Section 82(8) and 86(3) (Regulation 27))

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:

Date at _____ this _____ day of _____ 20 ____.

Signature of deponent

PROOF OF SERVICE

PAGE 2

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 _____

DATE STAMP

Designation _____

Address _____

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

ANNEXURE 3**MINISTRY OF LABOUR AND SOCIAL WELFARE**

LABOUR ACT, 2007
(Section 130 (1)) (Regulation 25(1))

**RECORDS TO BE KEPT BY EMPLOYERS
AT AN ADDRESS IN NAMIBIA**

Note:

“basic wage” means that part of an employee’s remuneration in money including the cash equivalent of payment in kind, if any, as calculated in terms of section 10, paid in respect of work done during the hours ordinarily worked but does not include -

- (i) allowances, including travel and subsistence, housing, motor vehicle, transport, and professional allowances, whether or not based on the employee’s basic wage;
- (ii) pay for overtime, as defined in section 8 (g);
- (iii) additional pay for work on a Sunday or a public holiday;
- (iv) additional pay for night work, as required in terms of section 19(1); or
- (v) payments in respect of pension, annuity or medical benefits or insurance.

“remuneration” means the total value of all payments in money or in kind made or owing to an employee arising from the employment of that employee;

1. A register must be kept by every employer of every employee in his or her employment containing the following particulars, namely -

- (a) the name, age identity number (if any), occupation and sex of an employee;
- (b) the date on which the employee commenced employment;
- (c) the date of termination of the contract of employment and the reasons for the termination;
- (d) the ordinary hourly, daily, weekly fortnightly or monthly basic wage and remuneration of an employee;
- (e) the period in respect of which such basic wage and remuneration is payable;
- (f) the time (in hours or fractions thereof) per day or per shift worked by the employee during the period referred to in paragraph (c) in respect of -
 - (i) ordinary working hours;
 - (ii) overtime;
 - (iii) night work;
 - (iv) work on Sundays; and
 - (v) work on public holidays;

- (g) the total number of hours worked by the employee during the period referred to in paragraph (c) in respect of -
 - (i) ordinary working hours;
 - (ii) overtime;
 - (iii) night work;
 - (iv) work on Sundays; and
 - (v) work on public holidays;
 - (h) basic wage or total of basic wage and premium rate for items (ii) to (v) payable to the employee in respect of -
 - (i) ordinary working hours;
 - (ii) overtime;
 - (iii) night work;
 - (iv) work on Sundays; and
 - (v) work on public holidays;
 - (i) amount due for each part of remuneration in addition to basic wage (for example, pension contribution, medical insurance);
 - (j) the gross amount of remuneration payable to the employee;
 - (k) the particulars and amount of any deductions from the amount referred to in paragraph (j); and
 - (l) the nett amount of remuneration payable to employee.
 - (m) a period of absence, including annual leave, sick leave, compassionate leave or maternity leave taken by the employee.
2. A register relating to the granting of leave must be kept by every employer of every employee in his or her employment containing the following particulars, namely -
- (a) the name, occupation and sex of the employee;
 - (b) the date on which the employee commenced his or her employment;
 - (c) the period granted in respect of-
 - (i) annual leave;
 - (ii) sick leave
 - (iii) compassionate leave
 - (iv) maternity leave; and
 - (v) occasional leave
 - (d) the date on which such leave commenced;
 - (e) the date on which such leave ended;
 - (f) the number of days of such leave with full remuneration granted to the employee; and
 - (g) the number of days of such leave without remuneration granted to the employee.

3. A register must be kept by every employer of every employee in his or her employment who is not a Namibian citizen containing the following particulars; namely -
- (g) the name, nationality, date and place of birth of such employee;
 - (h) the date of employment of such employee;
 - (i) the capacity in which such employee is employed;
 - (j) the period of the contract of employment of such employee (if any);
 - (k) a full description of academic; technical or professional qualifications and any special expertise of such employee; and
 - (l) the number and date of the issuance of any permit in relation to such employee and the date of expiry of such permit.

MINISTRY OF LABOUR AND SOCIAL WELFARE

No. 262

2008

RULES RELATING TO THE CONDUCT OF CONCILIATION AND ARBITRATION BEFORE THE LABOUR COMMISSIONER: LABOUR ACT, 2007 (ACT NO. 11 OF 2007)

The Minister responsible for labour has, under section 135 of the Labour Act, 2007 (Act No. 11 of 2007), made the rules set out in the Schedule.

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9. Service by registered post
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- | | |
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**PART 1
PRELIMINARY**

Definitions and interpretation

1. (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 No. 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**

Contact details of Offices

2. (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.

Office hours

3. (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.

Calculation of time periods

4. (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.

Signing of documents

5. (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.

Service of documents

6. (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 No. 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 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.

Proof of service documents

- 7.** (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.

Filing of documents with the Labour Commissioner

8. (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.

Service by registered post

9. 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.

Condonation for late delivery of documents

10. (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

Referral of dispute to conciliation

11. (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.

Notice of conciliation

12. 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.

Confidentiality of conciliation proceedings

13. (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

Referral of dispute to arbitration

14. (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.

Notice of arbitration

15. 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.

Consolidation of disputes by the Labour Commissioner or arbitrator

16. 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.

Referral of class disputes to arbitration

17. (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.

Conduct of arbitration proceedings

18. (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.

Effect of complaint lodged with Labour Court upon pending arbitration

19. (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.

Arbitrator must attempt to conciliate a dispute

20. (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.

Arbitration award

21. (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.

Enforcement of arbitration award

22. 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.

Appeals to, and reviews by, the Labour Court

23. (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

Venue for conciliation or arbitration

24. (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.

Representation of parties

25. (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.

Disclosure of documents

26. (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.

Failure of party to attend conciliation or arbitration proceedings

27. (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

Manner in which applications may be brought

28. (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.

Postponement of arbitration hearing

29. (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.

Joining of parties to, and dismissal of parties from proceedings

30. (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.

Correction of citation of a party

31. 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.

Variation or rescission of arbitration awards or rulings

32. (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

Condonation for failure to comply with rules

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

Recording of arbitration proceedings

34. (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.

Issuing of summons

35. (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 No. 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.

Payment of witness fees

36. (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.

Costs

37. (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 No. 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.

Repeal of Rules of District Labour Courts and savings

38. (1) Subject to subrule (2), the Rules of District Labour Courts published in Government Notice No. 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.

Commencement of rules

39. These rules come into operation on 1 November 2008

ANNEXURE 1**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

| | |
|---|--|
| OTJIWARONGO P.O. Box 1981 Otjiwarongo Erf BM71/8, Frans Iindongo Street Tel: 067-903748 Fax: 067-301053 | GROOTFONTEIN Private Bag 2016 Grootfontein Courtney Klark Street Tel: 067-242514/243049 Fax:067-242986 |
| SWAKOPMUND P.O. Box 1143 Swakopmund Tobias Hainyeko Street Tel: 064-403678 Fax: 064-469679 | KEETMANSHOOP P.O. Box 128 Wheeler Street Tel: 063-223580 Fax:063-222465 |
| KATIMA MULILO Private Bag 2330 Ngweze Katima Mulilo Tel: 066-253304 Fax:066-253328 | MARIENTAL P.O. Box 747 Ernst Stumpfe Street Tel: 063-242368 Fax:063-241177 |
| OPUWO Private Bag 3012 Mbumbijazo Muharukua Street Tel: 065-279853 Fax:065-273851 | OUTAPI Postal Address Physical Address Tel: Fax: |
| OSHAKATI P.O. Box 1529 Oshakati Leo Shoopala Street Tel: 065-220719/224039 Fax:065-224290 | RUNDU P.O. Box 940 Maria Mwengere Street Tel: 066-255945/946 Fax:066-256331 |
| GOBABIS P. O. Box 2277 Church Street, 57 Erf 98 Tel: 062-562692 Fax:062-562678 | LÜDERITZ P.O. Box 1238 RMI German Hostel Tel: 063-203842 Fax:063-203843 |

ANNEXURE 2
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

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 sign)

Position

Date: _____

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

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

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"/> Organizational Rights <input type="checkbox"/> Unilateral Change of Terms and Conditions <input type="checkbox"/> Interpretation/Application of Collective Agreement <input type="checkbox"/> Freedom of Association <input type="checkbox"/> Unfair Discrimination | <input type="checkbox"/> Unfair Labour Practice <input type="checkbox"/> Dispute of Interest <input type="checkbox"/> Severance Package <input type="checkbox"/> Disclosure of Information <input type="checkbox"/> Refusal to Bargain <input type="checkbox"/> Other (specify please) |
|---|---|
10. Date on which the dispute arose: _____ 20 ____.

Representative of the Applicant (print name and sign)

Position

Date: _____

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

Copy to: other party or parties to the dispute

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) _____

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) _____

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 sign)

Position

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

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 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 _____

DATE STAMP

Designation _____

Address _____

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

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 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: _____

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 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.

REPUBLIC OF NAMIBIALABOUR 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 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)

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 | On behalf of the Respondent |
|--|---|
| 1. | 1. |
| 2. | 2. |
| 3. | 3. |
| 4. | 4. |
| 5. | 5. |
| 6. | 6. |
| Signature of Applicant or his/her representative | Signature of Respondent or his/her representative |
| Date: | Date: |

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: _____

(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 _____
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)

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) _____
(address) _____

(2) (respondent) _____
(address) _____

ANNEXURE 3**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 |
