



GOVERNMENT GAZETTE

OF THE

REPUBLIC OF NAMIBIA

N\$7.80

WINDHOEK - 2 December 2008

No. 4175

CONTENTS

Page

GOVERNMENT NOTICE

No. 279 Labour Court Rules: Labour Act, 2007 (Act No. 11 of 2007) 1

Government Notice

MINISTRY OF LABOUR AND SOCIAL WELFARE

No. 279

2008

LABOUR COURT RULES: LABOUR ACT, 2007 (Act No. 11 of 2007)

The Judge-president has, under section 119(3) of the Labour Act, 2007, (Act No. 11 of 2007), on the advise of the Labour Court Rules Board made the rules set out in the Schedule.

SCHEDULE ARRANGEMENT OF RULES

Rule

1. Definitions
2. Sessions of court
3. Office hours
4. Representation of parties
5. Service
6. Applications
7. Hearing of applications
8. Summoning of witnesses
9. Joint applications
10. Class applications

11. Consolidation of applications
12. Joinder of parties
13. Arbitration or settlement
14. Reviews
15. Non-compliance with rules
16. Rescission and variation of judgment or order
17. Appeals under various provisions of Act
18. Execution of judgments and awards
19. Court fees
20. Costs
21. Forms
22. Applications of Rules of the High Court
23. Repeal of Labour Court Rules and savings
24. Commencement of rules

ANNEXURE 1: Court Fees and Costs

ANNEXURE 2: Forms

Definitions

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 -

“address” means a physical or postal address or an operational telefacsimile number or an appointed address;

“Commissioner” means the Labour Commissioner appointed in terms of section 120 (1) of the Act and includes an acting Labour Commissioner so appointed;

“court” means the Labour Court established by section 115 of the Act;

“day” means any calendar day; and

- (a) when any particular number of days is prescribed for the performance of any act, the same must be reckoned exclusive of the first and inclusive of the last day; and
- (b) the last day of any period must be excluded if it falls on a Saturday, Sunday or public holiday;

“delivery” means service of copies on all parties and filing the original with the registrar;

“High Court” means the High Court of Namibia referred to in the High Court Act, 1990 (Act No. 16 of 1990);

“judge-president” means the judge-president of the High Court of Namibia and any judge acting in that capacity;

“notice” means notice in writing;

“process” means any notice of motion, notice of appeal or cross-appeal, affidavit or other notice or document required to be served or delivered under these rules;

“record” includes all papers, documents, correspondences, notices and evidence presented to the Commissioner, labour inspector or arbitrator and the decision taken by the Commissioner, labour inspector or arbitrator;

“respondent” means one or more respondents;

“registrar” means the registrar of the High Court or any person authorised to act in his or her place, and includes a deputy registrar and an assistant registrar;

“serve” means to serve in accordance with rule 5; and

“the Act” means the Labour Act, 2007 (Act No. 11 of 2007).

Sessions of the court

2. The sessions of the court are the same as those applicable to the High Court.

Office hours

3. (1) The offices of the registrar are open from 09h00 to 13h00 and from 14h00 to 16h00 on every day other than a Saturday, Sunday or public holiday.

(2) Under exceptional circumstances and when so directed by the judge-president, the registrar must issue, process and accept process for filing at any other time.

Representation of parties

4. (1) A party to any proceedings before the court may appear in person or be represented by a legal practitioner admitted to practise as such in Namibia in terms of the Legal Practitioners Act, 1995 (Act No. 15 of 1995).

(2) Where the party is a company or other body corporate or a trade union or an employers' organisation it may be represented by one of its directors or other officers or office bearers or officials, as the case may be, provided that a resolution of the company or other body corporate, trade union or employers' organisation authorising such person to represent it is filed with the registrar at the time that an application is filed or the appeal is lodged or, if that is not possible, at least five days before the hearing of the matter.

Service

5. (1) A party requiring any process to be served under these rules may serve the process itself or cause the process to be served by the Sheriff of the High Court or by any person designated in writing by that party.

(2) Service of any process may be effected in one or other of the following manners, namely -

(a) by handing a copy of the process 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) subject to subparagraph (iii), a person identified in subrule (3);

- (b) by leaving a copy of the process at -
 - (i) an address chosen by the person to receive service;
 - (ii) any premises in accordance with subrule (4);
 - (c) if the person to be served is represented by a legal practitioner of record, by delivery thereof at the address appointed in such legal practitioner's notice of representation or to a person apparently not less than 16 years of age and employed at his or her office;
 - (d) by faxing a copy of the process to the person's fax number or a fax number chosen by the person to receive service; or
 - (e) by sending a copy of the process by registered post to the last known address of the party or an address chosen by the party to receive service in which case the process 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.
- (3) Process may also be served -
- (a) on a company or other body corporate, by handing a copy of the process to a responsible employee of the company or body at its registered offices, its principal place of business in Namibia or its main place of business within the magisterial district in which the dispute first arose;
 - (b) on an employer, by handing a copy of the process 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 process to a responsible employee or official at the main office of the union or employers' organisation or its office in the place where the dispute arose;
 - (d) on a partnership, firm or association, by handing a copy of the process 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 process 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 process 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 (2) is willing to accept service, service may be effected by affixing a copy of the process 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) A judge of the court sitting in chambers may direct that service be effected in a manner other than prescribed in this rule.
- (6) A party must prove that a process was served in terms of these rules, by providing the court or the registrar with a completed affidavit of service on Form 1, and -
- (a) with a copy of proof of mailing of the process by registered post to the other party;
 - (b) with a copy of the telefax report indicating the successful transmission to the other party of the whole process; or
 - (c) if process 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 process to the other party or left it at any premises.
- (7) If proof of service in accordance with subrule (6) 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 process.
- (8) The court may accept proof of service in a manner, other than prescribed in this rule, as sufficient.
- (9) Service may not be effected -
- (a) on a Sunday or public holiday; or
 - (b) before 07h00 or after 19h00 on any other day,

unless the judge-president otherwise directs.

Applications

- 6.** (1) Every application must be brought on notice of motion supported by an affidavit as to the facts upon which the applicant relies for relief.
- (2) When relief is claimed against any person, or where it is necessary or proper to give any person notice of such application, the notice of motion must be addressed to both the registrar and such person, otherwise it must be addressed to the registrar only.
- (3) The notice of motion must be on Form 2.
- (4) The original notice of motion, together with all annexures thereto, must be filed with the registrar after service of a true copy thereof upon every party to whom notice of the application is to be given.
- (5) In the notice of motion the applicant must -

- (a) appoint an address within eight kilometres of the office of the registrar at which he or she will accept service of all documents in the proceedings; and
- (b) subject to subrule (10), inform the respondent that if he or she intends to oppose the application, he or she must, within 10 days after service of the notice of motion upon the respondent, deliver to the registrar and to the applicant a notice to oppose on Form 3.
- (6) If no notice to oppose is delivered as contemplated in subrule (5)(b), the applicant may in writing apply to the registrar to assign a date for the hearing of the application.
- (7) On receipt of an application contemplated in subrule (6), the registrar, after consultation with the judge-president, must assign a date for the hearing of the application and may, without notice to the respondent, set the matter down for hearing on that date.
- (8) A respondent who does not deliver a notice of his or her intention to oppose within the period of time referred to in subrule (5)(b) is not entitled to take any part in the proceedings except -
- (a) to apply under rule 15 for an extension of time to deliver such a notice;
- (b) to apply under rule 16 for rescission or variation of any judgment or order; or
- (c) to be called as a witness by another party.
- (9) Any respondent opposing the grant of the relief sought in the notice of motion must -
- (a) within 10 days of service of the notice of motion, give the applicant notice on Form 3 that he or she intends to oppose the application and, in that notice, appoint an address within eight kilometres from the office of the registrar at which he or she will accept notice and service of all documents in the proceedings; and
- (b) within 14 days of notifying the applicant of his or her intention to oppose the application -
- (i) deliver an answering affidavit together with any relevant documents; or
- (ii) if he or she intends to raise a point of law only, deliver notice of such intention stating concisely the point of law.
- (10) If the respondent is a Minister, Deputy Minister, or other official of the State, in his or her capacity as such, or the State, the period referred to in subrule (9)(a), must be not less than 15 days after the service of the notice of motion, except where the court has specially authorised a shorter period.
- (11) Within seven days after the service upon him or her of the answering affidavit the applicant may deliver a replying affidavit.
- (12) After service of the replying affidavit contemplated in subrule (11) no further affidavit or affidavits may, without the leave of the court, be filed with the court.
- (13) After the expiration of the 14-day period mentioned in subrule (9)(b) the applicant may apply to the registrar, on five days notice to all other parties, to assign a date for the hearing of the application and the registrar must, after consultation with the judge-president, assign such a date and set the matter down for hearing on that date.

(14) If the applicant fails to apply to the registrar for a date of hearing within 21 days of receiving the respondent's notice of intention to oppose, the respondent may make such an application.

(15) Notice in writing of the date of hearing assigned by the registrar must be given by the applicant or the respondent, as the case may be, to all other parties to the application except that no notice is required to be given to a person who did not oppose the application as contemplated in subrule (9).

(16) For the purpose of this rule the days between 16 December and 15 January, both inclusive, may not be counted in the time allowed for the delivery of any notice to defend or oppose.

(17) Where an application cannot properly be decided on affidavit the court may make such an order as it considers fit with a view to ensuring a just and expeditious decision.

(18) In particular, but without affecting the generality of the provisions of subrule (17), the court may direct that oral evidence be heard on specified issues with a view to resolving any dispute of fact and to that end may order any deponent to appear personally or grant leave for him or her or any other person to be subpoenaed to appear and be examined and cross-examined as a witness.

(19) The court, after hearing an application, may, if it considers it proper, make no order thereon (save as to costs, if any) but grant leave to the applicant to renew the application on the same papers, supplemented by such further affidavits as the case may require.

(20) Any party to an application may bring a counter-application on Form 4 and the provisions of these rules do, subject to all necessary modifications, apply to counter-applications, except that -

- (a) a counter-application must be delivered together with the respondent's answering affidavit, unless the court allows it, on good cause shown, to be delivered at a later stage;
- (b) it is unnecessary to repeat therein the addresses of the parties to the proceedings in question.

(21) Any period prescribed with regard to applications does apply, with all necessary modifications, to counter-applications.

(22) A counter-application may be heard either together with, or separately from, the application in the first instance as the court may deem expedient under the circumstances.

(23) Despite the provisions of the preceding subrules, interlocutory and other applications incidental to pending proceedings may be brought on notice on Form 5 supported by such affidavits as the case may require and may be set down for hearing at a time assigned by the registrar or as directed by the judge-president.

(24) Subject to section 79 of the Act and subrule (25), in urgent applications the court may dispense with the forms and service provided for in these rules and may dispose of the matter at such time and place and in accordance with such procedure (which must as far as practicable be in terms of these rules) as it considers just and equitable in the circumstances.

(25) In an urgent application for an order to interdict a strike, picket or lockout that is not in compliance with the provisions of Chapter 7 of the Act the court will not grant the order, except -

- (a) where the applicant has given written notice of its intention to apply for an interdict, and copies of all relevant documents, to the respondent;
- (b) where the applicant has served a copy of the notice and the application on the Labour Commissioner; and
- (c) where the respondent has been given a reasonable opportunity to be heard before a decision is made.

(26) In every affidavit filed in support of an application brought under subrule (24), the applicant must set forth explicitly -

- (a) the circumstances which he or she avers render the matter urgent;
- (b) the reasons why he or she could not be afforded substantial redress at a hearing in due course; and
- (c) the steps taken, or intended to be taken, to comply with the provisions of subrule (25).

(27) The court may, on application at any stage of the proceedings, order to be struck out from any affidavit any matter which -

- (a) is scandalous, vexatious or irrelevant;
- (b) is otherwise an abuse of the process of the court,

but the court may not make such an order unless it is satisfied that the party applying will be prejudiced in his or her case if such an order is not made.

(28) Subject to rule 20, the court may, on such application, make such order as to costs as it considers fit.

(29) Subject to the discretion of the court to disregard such statements if it considers it proper to do so, an affidavit may contain statements of information or belief provided that the sources and grounds thereof are identified.

(30) Not less than 10 days before the hearing date the applicant, if he or she is represented by a legal practitioner, must deliver a copy of the heads of argument which he or she intends to argue at the hearing as well as a list of authorities to be relied on in support of each point to the other parties to the application and the other parties, if they are represented by a legal practitioner, must deliver similar heads of argument and list not less than five days before the said date to the applicant.

(31) The original and two copies of all such heads of argument and lists must be filed with the registrar not later than 12 noon within the time limits referred to in subrule (30).

Hearing of applications

7. (1) The hearing of an application must be conducted in such manner as the court considers most suitable to the clarification of the issues before it and generally to the just handling of proceedings and the court must, so far as it appears appropriate, seek to avoid formality in the proceedings in order to ensure a speedy and fair disposal of the proceedings.

- (2) If -

- (a) a respondent who has been duly served with the notice of motion as provided for in rule 6(3); or
- (b) a respondent who has delivered notice of intention to oppose has been duly served with notice of the date of the hearing as provided for in rule 6(9) but,

fails to appear at the hearing of the application the court may, if it is of the opinion that the facts relating to the application are sufficiently established, determine the application and make such order as it considers fit, notwithstanding the respondent's failure to appear.

(3) If the applicant fails to appear at the hearing the court may dismiss the application or make such other order as it considers fit, if the court is of the opinion that the facts relating to such other order are established.

(4) Where an application is referred to oral evidence, witnesses must give oral evidence under oath or by affirmation, as the case may be, administered by the registrar or any other person designated by the registrar for that purpose.

(5) Any party to a hearing at which oral evidence is given may present evidence, cross-examine witnesses called by the other party and re-examine his or her own witnesses.

Summoning of witnesses

8. (1) Where the court has directed that oral evidence be heard before an application can be decided on -

- (a) the court; or
- (b) a party to such application,

may require the registrar to summon witnesses to give evidence or to produce any document, record, books of account or other exhibit relevant to any issue relating to such application.

(2) Where a party to an application referred to in subrule (1)(b) requires a witness to be summoned he or she or it must make a request to the registrar for summoning of the witness on Form 6.

(3) A party to an application referred to in subrule (1)(b) may, after commencement of the hearing, require the summoning of a witness only with the consent of the court.

(4) Where a witness is to be summoned, the summons must be on Form 7 and service of the summons may be effected, subject to all necessary modifications, in the same manner as provided in rule 5.

(5) The court may set aside service of any summons referred to in subrule (1) if it appears that the witness in question was not given reasonable time to enable him or her to appear in response to the summons.

(6) The provisions of section 26 of the High Court Act, 1990 (Act No. 16 of 1990), relating to the modes of procuring attendance of witnesses and the penalty for non-attendance, do, subject to all necessary modifications, apply to a witness summoned under this rule as if such witness had been subpoenaed in a civil action before the High Court.

(7) The fees and allowances referred to in subrule (6) must be paid by the party who requires the attendance of the witness concerned, unless -

- (a) the court of its own accord has required the summoning of such witness as provided for in subrule (1)(a); or
- (b) where the witness is summoned at the request of a party as provided for in subrule (1)(b), the court is satisfied that -
 - (i) the person summoned was a necessary witness for the purposes of the hearing; and
 - (ii) the party who requires the summoning of the witness does not have the means to pay such fees and allowances,

in which case such witness must be considered to be a witness appearing before the High Court in a criminal matter and is entitled to be paid witness fees payable to witnesses attending in criminal matters.

Joint applications

9. (1) An application (hereinafter referred to as a “joint application”) may be brought on behalf of a group of applicants named in such joint application, against the same respondent and for a similar claim.

(2) A joint application referred to in subrule (1) may be brought in the name of any one of the applicants as a representative of some or all of the other applicants, provided that such other applicants agree thereto in writing and file the agreement on Form 8 simultaneously with the lodging of the application.

(3) In the agreement referred to in subrule (2), each person represented authorises the representative applicant on his or her behalf to -

- (a) file affidavits, statements or any other documents;
- (b) amend the application or abandon it;
- (c) call witnesses and give evidence and make submissions to the court on any matter arising during the hearing of the application; and
- (d) take any other necessary step incidental to the prosecution of the application.

(4) The court may, of its own motion or upon application, at any stage of the proceedings, if it considers that the bringing of a joint application may prejudice the respondent, order that the applications of all or any of the persons represented be heard separately.

(5) The court may, on application of an individual applicant in a joint application at any stage of the proceedings and on good cause shown, order that that applicant’s authorisation to the representative applicant be rescinded and that that applicant be permitted to pursue the application separately.

Class applications

10. (1) One or more members of a class of applicants (hereinafter referred to as a representative party) may bring an application (hereinafter referred to as a class application) on behalf of all members of such a class, by bringing an application which, in addition to the requirements contained in rule 6, must describe the class and contain sufficient particulars to establish that -

- (a) the members of the class in question are of 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 cause of action of the representative parties is of a similar nature to the cause of action of the other members of the class;
- (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 applications would be likely to create the risk of inconsistent or varying decisions of the court;
- (f) the respondent or respondents against whom a class application has been brought has acted or refused to act on grounds generally applicable to the class;
- (g) the questions of law or fact common to members of the class predominate over any questions affecting only some members and that a class application is superior to other available methods for the fair and efficient adjudication of the issues.

(2) As soon as practicable after the class application has been served on the respondent, and not later than 10 days thereafter, the representative party or parties must apply to the court on Form 5, on notice to the respondent, to determine whether the application will be heard as a class application.

(3) If the court decides to hear the application as a class application, the registrar, after consultation with the judge-president, must fix a hearing date and must give notice thereof in such manner as is practicable in the circumstances of the case to the members of that class.

- (4) The notice referred to in subrule (3) must inform such members that -
 - (a) the court will exclude any member from the class if the member so requests by a date specified in such notice;
 - (b) the judgment or order of the court, 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 authorised representative at the hearing of such application.

(5) The court 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 at the hearing of a class application.

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

Consolidation of applications

- 11.** (1) If two or more applications are filed and it appears to the court that -
 - (a) common questions of law or fact arise in both or all of them; or

- (b) the applications arise out of the same cause of action; or
- (c) it would be in the interest of justice,

the court may of its own accord or upon application by one or more of the parties order that such applications be consolidated.

(2) The power conferred by this rule may be exercised notwithstanding that the hearing of one or more of the applications has already commenced.

Joinder of parties

12. (1) The court may at any time on notice on Form 9 to all parties, or on application by a party on notice to all other parties, make an order joining a person in the proceedings and give such directions including the manner of service of the documents on the person joined as it considers necessary.

(2) An order to join may only be made where the party to be joined has a substantial interest in the matter before the court.

(3) The court may likewise on notice on Form 9 to all parties or upon application by any party on notice to all other parties, order that any respondent named in the original application or subsequently joined, who does not have a substantial interest in the dispute, be dismissed from the proceedings.

Arbitration or settlement

13. (1) If a matter is one which may be referred to arbitration in terms of the Act, the parties may at any stage of the proceedings agree in writing to refer the application to arbitration for a final and binding determination under Part D of the Act, and in such a case the parties must forthwith file the agreement with the registrar and the application must be stayed pending the decision of the arbitrator and, upon application of either party, the determination of the arbitrator may be made an order of court, if the agreement so provides.

(2) Unless otherwise provided in these rules, the parties may, at any time prior to judgment, agree in writing to settle the application without entry of a judgment, which agreement must be filed with the registrar and if the terms of the agreement so provide, the court may make such settlement an order of court, if the agreement so provides.

Reviews

- 14.** (1) This rule applies to any application -
- (a) to review an award of an arbitration tribunal in terms of the Act;
 - (b) to review and set aside or correct any decision taken by the Minister, the Permanent Secretary, the Commissioner or any other body or official in terms of the Act or any other Act for which the Minister is responsible; or
 - (c) to review, despite any other provision of any other Act, any decision of any body or official provided for in terms of any such Act, so long as the decision concerns a matter within the scope of the Act.
- (2) An application to which this rule applies must be made -

- (a) within 30 days after -
 - (i) the award was served on the party;
 - (ii) the decision taken by the Minister, the Permanent Secretary, the Commissioner or any other body or official in terms of the Act or any other Act for which the Minister is responsible;
 - (iii) the decision contemplated in subrule (1) was taken,unless the alleged award or decision involves corruption; or
 - (b) if the alleged defect in the award or decision involves corruption, within six weeks after the date that the applicant discovers the corruption.
- (3) An application to which this rule applies must be brought on notice of motion, on Form 10, supported by an affidavit setting out the grounds and the facts and the circumstances on which the applicant relies to have the proceedings or decision reviewed and corrected or set aside.
- (4) The notice must be directed and delivered to the arbitrator, the Minister, the Permanent Secretary, the Commissioner or to any other body or official, as the case may be, and to all other persons directly affected -
- (a) calling upon such persons to show cause why such proceedings or decision should not be reviewed and corrected or set aside; and
 - (b) where appropriate, calling upon the arbitrator, the Minister, the Permanent Secretary, the Commissioner or any other body or official, as the case may be, to despatch, within 15 days after receipt of the notice, to the registrar the record of the proceedings sought to be corrected or set aside, together with such reasons as he or she desires or is by law required to give or make, and to notify the applicant that he or she has done so.
- (5) In the notice, the applicant must -
- (a) appoint an address within eight kilometres of the office of the registrar at which he or she will accept notice and service of all process in the proceedings;
 - (b) subject to subrule (18), inform the respondent that if he or she intends to oppose the granting of the order sought in the application he or she must deliver a notice, on Form 3, to the applicant within 10 days after service of the notice of motion, or any notice amending the notice of motion, stating that he or she intends to oppose.
- (6) The registrar must make available to the applicant, the record despatched to him or her in compliance with subrule (4)(b), upon such terms as the registrar considers appropriate to ensure its safety.
- (7) On receipt of the record referred to in subrule (6), the applicant must within 14 days of such receipt -
- (a) have copies made of such portions of the record as may be necessary for the purposes of the review; and
 - (b) supply the registrar with two copies and each of the other parties with one copy thereof, in each case certified by the applicant as a true copy.

(8) If the applicant fails to comply with subrule (7) he or she must as soon as is reasonably possible or, in any case before the expiry of the 14 days referred to in that subrule, return the record to the registrar failing which the registrar may take such steps as may be necessary, including obtaining an order of the court, to ensure the return of the record.

(9) The applicant may within 10 days after the registrar has made the record available to him or her, by delivery of a notice and accompanying affidavit, amend, add to or vary the terms of the notice of motion and supplement the supporting affidavit.

(10) Should any person to whom the notice of motion is directed wish to oppose the granting of the order sought in the application, he or she must -

(a) within 10 days after receipt by him or her of the notice of motion or any amendment thereof, deliver notice on Form 3 to the applicant, that he or she intends so to oppose the application, and must, in such notice, appoint an address within eight kilometres of the office of the registrar at which he or she will accept notice and service of all process in the proceedings; and

(b) within 21 days after receipt by him or her of a copy of the record of the proceedings sought to be reviewed, or where no such record is called for in the notice of motion, within 14 days after delivery by him or her of the notice to oppose, deliver an answering affidavit together with any relevant documents.

(11) Within seven days after service upon him or her of the answering affidavit, the applicant may deliver a replying affidavit.

(12) No further affidavit may be filed without leave of the court.

(13) After the expiration of the period of time allowed in subrule (10)(b) for delivery of an answering affidavit, the applicant may apply to the registrar on Form 5, on five days notice to all other parties, to assign a date for the hearing of the application and the registrar must, after consultation with the judge-president, assign such a date and set the matter down for hearing on that date.

(14) If the applicant fails so to apply within seven days after the expiration of the period of time referred to in subrule (13), the respondent may apply for a date of hearing in like manner.

(15) Notice in writing of the date assigned by the registrar must be given by the applicant or the respondent, as the case may be, to all other parties, except that no notice is required to be given to a person who did not oppose the application as contemplated in subrule (10).

(16) Not less than 10 days before the hearing date the applicant, if he or she is represented by a legal practitioner, must deliver a copy of the heads of argument which he or she intends to argue at the hearing as well as a list of authorities to be relied on in support of each point to the other parties to the application and the other parties, if they are represented by a legal practitioner, must deliver similar heads of argument and list not less than five days before the said date to the applicant.

(17) The original and two copies of all such heads of argument and lists must be filed with the registrar not later than 12 noon within the time limits referred to in subrule (16).

(18) The provisions of subrules (8), (10), (16) to (23), (27), (28) and (29) of rule 6, do with necessary changes or modifications required by context, apply to an application to which this rule applies.

Non-compliance with rules

- 15.** The court may, on application and on good cause shown, at any time -
- (a) condone any non-compliance with these rules;
 - (b) extend or abridge any period prescribed by these rules, whether before or after the expiry of such period.

Rescission and variation of judgment or order

16. (1) Any party to an application or counter-application in which judgment by default is given in terms of rule 7 may apply to the court to rescind or vary such judgment or order, provided that the application is made within 14 days after such judgment or order has come to his or her knowledge.

(2) Every such application must be an application as contemplated by rule 6 (23), and supported by an affidavit setting out briefly the reasons for the applicant's absence or default, as the case may be, and, where appropriate, the grounds of opposition or defence to the application or counter-application.

(3) The court may on the hearing of any such application, unless it is proved that the applicant was in wilful default and if good cause is shown rescind or vary any other judgment or order complained of and may give such directions as to the further conduct of the proceedings as it considers necessary in the interest of all the parties to the proceedings.

(4) If such application is dismissed, the judgment or order becomes final.

(5) Where rescission or variation of a judgement or order is sought on the ground that it is void from the beginning or was obtained by fraud or mistake, application may be made not later than one year after the applicant first had knowledge of such voidness, fraud or mistake.

(6) Any judgment or order of the court may, on application of any person affected thereby who was not a party to the application or matter made within 30 days after he or she has knowledge thereof, be so rescinded or varied by the court.

Appeals under various provisions of the Act

17. (1) This rule applies to an appeal noted against -

- (a) a decision of the Labour Commissioner made in terms of the Act ;
- (b) a compliance order issued in terms of section 126 of the Act; and
- (c) an arbitration tribunal award, in terms of section 89 of the Act.

(2) An appeal contemplated in subrule (1)(a) and (b) must be noted by delivery of a notice of appeal on Form 11, setting out concisely and distinctly which part of the decision, or order is appealed against and the grounds of appeal, which the appellant relies for the relief sought.

(3) An appeal contemplated in subrule (1)(c) must be noted in terms of the Rules Relating to the Conduct of Conciliation and Arbitration before the Labour Commissioner published in Government Notice No. 262 of 31 October 2008 (hereafter "the conciliation and arbitration rules"), and the appellant must at the time of noting the appeal -

- (a) complete the relevant parts of Form 11;
 - (b) deliver the completed Form 11, together with the notice of appeal in terms of those rules, to the registrar, the Commissioner and the other parties to the appeal.
- (4) The notice of appeal referred to in subrule (2) or (3) must be delivered within 30 days after the award, decision or compliance order appealed against came to the notice of the appellant.
- (5) If the appeal is noted -
- (a) against a decision of the Commissioner in terms of the Act, the person to be made respondent is the Commissioner, and the person to be served is the Commissioner;
 - (b) in terms of section 126 of the Act, the person to be made respondent is the labour inspector concerned, and the person to be served is that inspector; or
 - (c) as contemplated in the conciliation and arbitration rules, the person to be made the respondent is the person mentioned in those rules, and the person to be served is that person.
- (6) Any person served with a notice of appeal pursuant to subrule (5) is entitled to appear and be heard at the hearing of the appeal.
- (7) The notice of appeal delivered in terms of subrule (4) must, where appropriate, call on the Commissioner, the labour inspector or arbitrator, as the case may be, to despatch, within 21 days after receipt of the notice, to the registrar the record of the proceedings appealed against duly certified by the Commissioner, labour inspector or the arbitrator, together with such reasons as the Commissioner, labour inspector or arbitrator desires or is by law required to give or make, and to notify the appellant that he or she has done so.
- (8) In the notice of appeal noted in terms of subrule (2) or (3), the appellant must -
- (a) appoint an address within eight kilometres of the office of the registrar at which he or she will accept notice and service of all documents in the proceedings;
 - (b) subject to subrule (28), inform the respondent that if he or she intends to oppose the appeal he or she must deliver a notice, on Form 12, to the appellant within 10 days after service of the notice of appeal, or any notice amending the notice of appeal, stating that he or she intends to oppose the appeal.
- (9) The registrar must, upon such terms as the registrar considers appropriate to ensure its safety, make available to the appellant the record despatched to him or her in compliance with subrule (7) or the conciliation and arbitration rules.
- (10) On receipt of the record referred to in subrule (9), the appellant must have copies made of such portions of the record as may be necessary for the purposes of the appeal.
- (11) The copies referred to in subrule (10) copies must be clearly typed on A.4 standard paper in double spacing, and the pages thereof must be consecutively numbered, and in addition every tenth line on each page must be numbered.
- (12) The record must contain a correct and complete copy of the pleadings, evidence and all documents necessary for the hearing of the appeal, together with an index thereof, and the copies lodged with the registrar must be certified as correct by the legal practitioner or party lodging the same or the person who prepared the record.

(13) The appellant must, not less than 14 days after receipt of the record supplied by the registrar under subrule (9), supply the registrar with two copies and each of the other parties with one copy thereof, in each case certified as provided in subrule (12).

(14) If the applicant fails to comply with subrule (13) he or she must as soon as is reasonably possible or, in any case before the expiry of the 14 days referred to in that subrule, return the record to the registrar failing which the registrar may take such steps as may be necessary, including obtaining an order of the court, to ensure the return of the record.

(15) The appellant may within 10 days after the registrar has made the record available to him or her, by delivery of a notice, amend, add to or vary the terms of the notice of appeal.

(16) Should any person to whom the notice of appeal is delivered wish to oppose the appeal, he or she must -

- (a) within 10 days after receipt by him or her of the notice of appeal or any amendment thereof, deliver notice to the appellant that he or she intends so to oppose the appeal on Form 12, and must in such notice appoint an address within eight kilometres of the office of the registrar at which he or she will accept notice and service of all process in the proceedings; and
- (b) within 21 days after receipt by him or her of a copy of the record of the proceedings appealed against, or where no such record is called for in the notice of appeal, within 14 days after delivery by him or her of the notice to oppose, deliver a statement stating the grounds on which he or she opposes the appeal together with any relevant documents.

(17) The appellant may, within 14 days after receiving the statement referred to in subrule (16), apply to the registrar on Form 5, on five days' notice to all other parties, to assign a date for the hearing of the appeal and the registrar must, after consultation with the judge-president, assign such a date and set the matter down for hearing on that date.

(18) In the absence of an application referred to in subrule (17) by the appellant, the respondent may, at any time after the expiry of the period of 14 days referred to in subrule (17), apply for a date of hearing in like manner.

(19) On receipt of an application referred to in subrule (17) or (18) from appellant or respondent the appeal is deemed to have been duly prosecuted.

(20) On receipt of an application referred to in subrule (17) or (18), the registrar must, as soon as is reasonably possible, assign a date of hearing, which date must be at least 20 days after the receipt of the said application, unless all parties consent in writing to an earlier date, except that the registrar may not assign a date of hearing until the provisions of subrules (10) (11) and (12) have been duly complied with.

(21) The registrar must forthwith give the appellant or respondent, as the case maybe, written notice of the date of hearing, whereupon the appellant or respondent must forthwith deliver a notice of set down and in writing give notice thereof to the other parties to the appeal, except that no notice is required to be given to a person who did not oppose the appeal as contemplated in subrule (16).

(22) A notice of set down of a pending appeal by that very fact operates as a set down of any cross appeal and vice versa.

(23) Not less than 10 days before the hearing date the appellant, if he or she is represented by a legal practitioner, must deliver a copy of the heads of argument which he or she intends to argue at the hearing as well as a list of authorities to be relied on in support of each point to the other parties to the appeal and the other parties, if they are represented by a legal practitioner, must deliver similar heads of argument and list not less than five days before the said date to the appellant.

(24) The original and two copies of all such heads of argument and lists must be filed with the registrar not later than 12 noon within the time limits referred to in subrule (23).

(25) An appeal to which this rule applies must be prosecuted within 90 days after the noting of such appeal, and unless so prosecuted it is deemed to have lapsed.

(26) The prosecution of an appeal does by that very fact operate as the prosecution of any cross-appeal which has been duly noted.

(27) If a cross-appeal has been noted, and the appeal lapses, the cross-appeal also lapses, unless application for a date of hearing for such cross-appeal is made to the registrar within 20 days after the date of the lapse of such appeal.

(28) The provisions of subrules (8), (10), (16) and (23) of rule 6, do with necessary changes or modifications required by context, apply to an appeal to which this rule applies.

Execution of judgments and awards

18. (1) Without derogating from section 90 of the Act, any judgment or order of the court and any award of an arbitration tribunal sounding in money may be enforced in accordance with the rules applicable in civil proceedings in the High Court, as if such judgment or order or award is a judgment or order or award given in a civil action in the High Court.

(2) The costs of execution of a judgment or order in accordance with this rule are a first charge on the proceeds of any property sold in execution but in so far as such proceeds are insufficient, such costs must be borne by the party seeking to enforce the judgment or order, unless the court has, in accordance with the provisions of section 118 of the Act, made an order for costs in favour of that party.

Court fees

19. (1) Subject to subrule (2), the court fees to be paid to the registrar are those prescribed in Part 1 of Annexure 1 and payment must be indicated by the use of adhesive revenue stamps or imprinted stamps within the meaning of the definition of “stamp” in the Stamp Duties Act, 1993 (Act 15 of 1993).

(2) The registrar may, on the written recommendation of the Commissioner, waive payment of court fees, in which case the fact that the fees have been waived must be endorsed on the appropriate document.

Costs

20. Where the court decides to award costs in the circumstances contemplated in section 118 of the Act the costs recoverable must be same as those recoverable in respect of a civil case in the High Court but, in cases where a party represents itself, the costs recoverable are as set out in Part 2 of Annexure 1.

Forms

21. Any reference in these rules to a numbered form is a reference to the corresponding form set out in Annexure 2, provided that a substantially similar form may be used.

Application of Rules of the High Court

22. Subject to the Act and these rules, where these rules do not make provision for the procedure to be followed in any matter before the court, the rules applicable to civil proceedings in the High Court made in terms of section 39 (1) of the High Court Act, 1990 (Act 16 of 1990) do apply to proceedings before the court with such qualifications, modifications and adaptations as the court may deem necessary.

Repeal of Labour Court Rules and savings

23. (1) Subject to subrule (2), the Labour Court Rules published in Government Notice No. 63 of 22 April 1994 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 24, continue to apply as if these rules had not been enacted.

Commencement of rules

24. These rules come into operation on 15 January 2009.

ANNEXURE 1**PART 1****COURT FEES**

(Rule 19)

	N\$
On every application not relating to a pending case	100,00
On every notice of appeal or cross-appeal	150,00
On every request to inspect any record-	
(a) if the correct case number is furnished	4,00
(b) if an incorrect or case no number is furnished, for every 100 records, or part thereof, searched	20,00
For a copy of the record made by the registrar-	
(a) for every 100 words, or part thereof, typed	4,00
(b) for every photocopy of an A4-size page or part there-of	2,00
For examining and certifying a copy of the record-	
(a) each 100 words or part thereof	4,00
(b) minimum charge	4,00

PART 2

**TARIFF OF COSTS (EXCLUDING DISBURSEMENTS) RECOVERABLE BY LITIGANTS
REPRESENTING THEMSELVES
(RULE 20)**

First day (preparation and attendance in court)	N\$2000-00 per day
Each subsequent day (attendance in court)	N\$600-00 per day

ANNEXURE 2**FORMS**

Index to forms

1. Service of Process (Rule 5(6))
2. Notice of Motion (Rule 6(3))
3. Notice of Intention to Oppose Application (Rule 6(9))
4. Counter-Application (Rule 6 (20))
5. Application (Rule 6 (23))
6. Request to Summon Witnesses (Rule 8(2))
7. Subpoena (Rule 8(4))
8. Agreement to Joint Application (Rule 9(2))
9. Notice of Joinder (Rule 12(1))
10. Notice of Motion for Review (Rule 14(3))
11. Notice of Appeal (Rule 17(2))
12. Notice of Intention to Oppose Appeal (Rule 17(16))

FORM 1

(Rule 5(6))

SERVICE OF PROCESS IN THE LABOUR COURT

In the matter between:

and

Applicant

Respondent

AFFIDAVIT OF SERVICE

I,

do hereby certify that on the

day of 20 at (state time) I

duly served the following document(s)

.....

.....

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

(Complete (a), (b) or (c) 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* 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 telefacsimile 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;

Dated 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

..... day of20

.....

Commissioner of Oaths

Full name DATE STAMP

Designation

Address

.....

**Delete as applicable*

NOTE:

- 1 State such other manner of service if so directed by a judge of the court;
- 2 Service must be effected as near as possible within the time limits prescribed by Rule 5 of the Labour Court Rules.

Copy to: Applicant/Appellant/Respondent or his or her legal practitioner or other representative; and

Original to: Registrar with the original of the document(s) served attached.

FORM 2

(Rule 6(3))

NOTICE OF MOTION

IN THE LABOUR COURT

In the matter between:

and

Applicant

Respondent

TAKE NOTICE that
(hereinafter called the applicant) intends to apply to this Court for an order

- (a)
- (b)
- (c)

(state the relief sought)

and that the accompanying affidavit of
will be used in support of the application.

AND FURTHER TAKE NOTICE that the applicant has appointed

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

AND FURTHER TAKE NOTICE that if you intend opposing this application you are required-

- (a) to inform the registrar of the above Court at the High Court, Private Bag 13179, Windhoek and the applicant or his or her legal practitioner, if any, on Form 3, within 10 (ten) or 15 (fifteen) days as the case may be, after service upon you of this notice, not counting the day of service, of your intention to oppose;
- (b) to appoint an address in your notice of intention to oppose at which you will accept notice and service of all process in these proceedings;
- (c)
 - (i) to deliver your answering affidavits, if any, to the registrar and the applicant within 14 days after service of your notice of intention to oppose; or
 - (ii) to notify the registrar and the applicant, in writing, within the said 14-day period that you intend to raise a point of law only, stating concisely the point of law in question.

If no such notice of intention to oppose is given you will not be entitled to take any part in the proceedings, except as provided in rule 6(8), and such judgment may be given or an order made against or in relation to you as the Court may consider just and expedient.

DATED AT this

day of 20

.....
Applicant or his or her legal practitioner
(address)

To: (1)
(address) RESPONDENT
(2) The Registrar

NOTE:

The days between 16th December and 15th January, both inclusive, are not counted in the time allowed for the delivery of any notice or proceeding.

FORM 3

(Rules 6(9) and 14(10)(a))

NOTICE OF INTENTION TO OPPOSE APPLICATION

IN THE LABOUR COURT

In the matter between:

and

Applicant

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.

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 process in these proceedings.

DATED AT this

day of 20.....

.....
Respondent or his or her legal practitioner
(address)

To: (1)
(address) APPLICANT
(2) The Registrar

FORM 4

(Rule 6(20))

COUNTER-APPLICATION

IN THE LABOUR COURT

In the matter between:

and

Applicant

Respondent

TAKE NOTICE that the respondent (if more than one respondent is cited, state whether first, second, etc. respondent [as the case may be]) intends to apply to this Court for an order

- (a)
- (b)
- (c)

(state the relief sought)

and that the accompanying answering affidavit of will be used in support of this counter-application.

AND FURTHER TAKE NOTICE that if you intend opposing this counter-application you are required-

- (a) to inform the registrar of the above Court and the respondent or his or her legal practitioner, if any, on Form 3, within ten days after service upon you of this notice, not counting the day of service, of your intention to oppose;
- (b) (i) to deliver your replying affidavit, if any, to the registrar and the applicant within 14 days after service of your notice of intention to oppose; or
 - (ii) to notify the registrar and the applicant, in writing, within the said 14-day period that you intend to raise a point of law only stating concisely the point of law in question.

If no such notice of intention to oppose is given you will not be entitled to take any part in the proceedings in so far as they relate to this counter-application, except as provided in rule 6 (8), and such judgment may be given or order made against or in relation to you as the Court may consider just and expedient.

.....
Respondent or his or her legal practitioner

- To:
- (1) The applicant
 - (2) The Registrar

FORM 5

(Rule 6(23))

APPLICATION

IN THE LABOUR COURT

In the matter between:

Applicant/Appellant*

and

Respondent

TAKE NOTICE that the above named Applicant/Appellant/Respondent* intends to apply to this the registrar of this Court on the

..... day of 20

at (time) for an order in the following terms:

- (a)
- (b)
- (c)

(state the relief sought)

and that the accompanying affidavit of will be used in support of the application.

DATED AT this day of 20

.....
Applicant/Appellant/Respondent* or his
or her legal practitioner
(address)

**Delete as appropriate*

- To: (1)
(address) APPLICANT/APPELLANT/RESPONDENT*
- (2) The Registrar

FORM 6

(Rule 8(2))

REQUEST TO SUMMON WITNESSES

IN THE LABOUR COURT

In the matter between:

and

Applicant

Respondent

To: The Registrar,
Private Bag 13179
WINDHOEK

(a) You are hereby requested to summon the following witnesses whose names appear in Annexure "A" hereto, to appear before the above Court on the day of 20 at am/pm to give oral evidence in the above-mentioned matter on behalf of the applicant/respondent; (*Delete as appropriate*)

and

(b) to produce the following:

(i) Documents:

.....

.....

(ii) Records:

.....

.....

(iii) Books of account:

.....

.....

(iv) Exhibits relevant to this case:

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

DATED AT this
day of 20

.....
Applicant/Respondent or his or her
legal practitioner

ANNEXURE "A" to
FORM 6:
Rule 8 (2)
IN THE LABOUR COURT

In the matter between:

and

Applicant

Respondent

LIST OF WITNESSES TO BE SUMMONED i.t.o. RULE 8 (2)

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

2

3

4

5

6

Signature of Applicant or his/her representative

Signature of Respondent or his/her representative

Date:

Date:

FORM 7

(Rule 8(4))

SUBPOENA

IN THE LABOUR COURT

In the matter between:

and

Applicant

Respondent

SUMMONS OF WITNESS IN TERMS OF RULE 8 (4)

To: The Deputy-Sheriff, Namibian Police or other person designated for the purpose of service:
Inform:

- 1.
- 2.
- 3.
- 4.

(State names, sex, occupation, place of residence or business, postal address, telefacsimile of each witness).

that each of them is hereby called upon to appear in person before this

Court at on the

day of 20 at (time)
and thereafter to remain in attendance until excused by the Court, in order to testify on behalf of the abovenamed applicant/respondent in regard to all matters within his or her knowledge relating to the issues of the matter now before the Court and in the dispute between the parties.

Inform him or her further that it is required from him or her to bring and produce to this Court 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\$2 000,00 or imprisonment for a period not exceeding one year.

DATED AT this

day of 20

.....
Registrar
Address

Copies to:
Applicant/Respondent
or their representatives

FORM 8

(Rule 9(2))

AGREEMENT TO JOINT APPLICATION

IN THE LABOUR COURT

In the matter between:

and

Applicant

Respondent

AGREEMENT

We, the undersigned applicants, in our capacity as parties to these proceedings before the Labour Court, do hereby agree that

.....
(state name of the representative) is hereby authorised to represent us in the abovenamed application and have the following powers:

- (a) to file affidavits, statements or any other documents;
- (b) to amend the application or to abandon it;
- (c) to call witnesses and give evidence and make submissions to the Court on any matter arising during the hearing of the application;
- (d) to take any other necessary steps incidental to the prosecution of the application.

DATED AT this
day of 20

Initials, Surnames and Signatures of all the applicants:

.....
.....
.....
.....
.....
.....
.....
.....
.....
.....

I,.....
(name of authorised representative) do hereby accept the conditions of this agreement subject to the provisions of Rule 9 of the Rules.

DATED AT this
day of 20

.....
Signature of representative
in joint application

Note: This agreement should be filed with the registrar prior to the matter being set down for hearing.

FORM 9

(Rule 12(1))

NOTICE OF JOINDER

IN THE LABOUR COURT

In the matter between:

and

Applicant

Respondent

TAKE NOTICE that you are called upon to show cause on the

day of 20 at (time) why:

(1)*
(state name(s) and address(es) of person(s) to be joined) should not be joined as an applicant/
respondent in these proceedings.

(2)*
(state name of respondent to be dismissed) should not be dismissed from these proceedings.

**(Complete as appropriate)*

DATED AT this

day of 20

.....
Registrar

To:(1)
(address) Applicant

(2)
(address) Respondent

FORM 10

(Rule 14(3))

NOTICE OF MOTION FOR REVIEW

IN THE LABOUR COURT

In the matter between:

and

Applicant

Respondent

TAKE NOTICE that (hereinafter called the applicant) intends to apply to this Court for the proceedings or decision set out below to be reviewed and for an order-

- (a)
- (b)
- (c)

(state the relief sought)

and that the accompanying affidavit of will be used in support of the application.

The proceedings or decision which the applicant seeks to have reviewed are as follows:

.....
(state the proceedings or decision in respect of which relief is sought and the person or body concerned.)

AND FURTHER TAKE NOTICE that you are hereby called upon-

- (a) to show cause why the above-mentioned proceedings or decision should not be reviewed and the relief sought granted;
- (b) to despatch to the registrar of the above Court at the High Court, Private Bag 13179, Windhoek, within 15 days after service upon you of this notice, the record of the proceedings referred to above together with such reasons as you are by law required to give or which you desire to give and to notify the applicant in writing that this has been done.
(Delete paragraph (b) if not appropriate).

AND FURTHER TAKE NOTICE that the applicant has appointed

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

AND FURTHER TAKE NOTICE that if you intend opposing this application you are required-

- (a) to inform the registrar of the above Court at the High Court, Private Bag 13179, Windhoek and the applicant or his or her legal practitioner, if any, on Form 3, within 10 days after

service upon you of this notice or any notice amending it, not counting the day of service, of your intention to oppose;

- (b) to appoint an address in your notice of intention to oppose at which you will accept notice and service of all documents in these proceedings;
- (c) (i)* within 14 days of service upon you of a copy of the record of the proceedings sought to be reviewed, deliver your answering affidavits, if any, together with any relevant documents to the registrar and the applicant; or
- (ii)* within 21 days of the service upon you of this notice deliver your answering affidavits, if any, together with any relevant documents to the registrar and the applicant.

**(Delete whichever of these paragraphs is not appropriate).*

If no such intention to oppose is given you will not be entitled to take any part in the proceedings, except as provided in rule 6 (8), and such judgment may be given or order made against or in relation to you as the Court may consider just and expedient.

DATED AT this
day of 20

.....
Applicant or his or her legal practitioner
(address)

- To: (1)
(address) RESPONDENT
- (2) The Registrar

Note: The days between 16th December and 15th January, both inclusive, are not counted in the time allowed for the delivery of any notice or proceeding.

FORM 11

(Rule 17(2))

NOTICE OF APPEAL

IN THE LABOUR COURT

In the matter between:

and

Appellant

Respondent

PART A

(To be completed by persons noting an appeal in terms of Rule 17(1)(a) or (b))

TAKE NOTICE that (hereinafter called the appellant) intends to appeal to this Court pursuant to section.....

..... of the Labour Act, 2007 (state the section of the Act in terms of which the appeal is noted) against the whole of that part of (delete as appropriate) the decision or order of the respondent made on or about the day of

..... 20 whereby it was decided that

..... (state the decision or part thereof appealed against)

and the appellant will ask this Court FOR AN ORDER

..... (state the precise form of the order applied for, e.g.: that the said decision may be set aside and that the respondent may be ordered to register the collective agreement [or as the case may be]).

AND FURTHER TAKE NOTICE that the grounds of this appeal are-

..... (set out concisely and distinctly the grounds of the appeal) and the fact relied upon by the appellant are as set out in the accompanying affidavit of

PART B

(To be completed by all persons noting an appeal in terms of Rule 17(1))

AND FURTHER TAKE NOTICE that you are hereby called upon to despatch to the registrar of the above Court at the High Court, Private Bag 13179, Windhoek, within 21 days after service upon you of this notice, the record of the proceedings relating to the above matter together with such reasons

as you are by law required to give or which you desire to give and to notify the appellant in writing that this has been done

AND FURTHER TAKE NOTICE that the appellant has appointed

.....
(state the appellant’s address for service) at which he or she will accept notice and service of all process in these proceedings.

AND FURTHER TAKE NOTICE that if you intend opposing this appeal you must -

- (a) appoint an address in your notice of intention to oppose at which you will accept notice and service of all process in these proceedings;
- (b) deliver to the registrar of the above Court at the High Court, Private Bag 13179, Windhoek, a notice to oppose the appeal on Form 12, and to the appellant within 10 days after service upon you of this notice of appeal and that you are, in any event, entitled to appear and be heard at the hearing of the appeal; and
- (c) within 21 days after receipt of a copy of the record of the proceedings appealed against, or where no such record is called for in the notice of appeal, within 14 days after delivery by you of the notice to oppose, deliver a statement stating the grounds on which you oppose the appeal together with any relevant documents.

AND FURTHER TAKE NOTICE that after the expiration of the 10 day period allowed for the delivery of a notice to oppose the appellant proposes to apply to the registrar of the above Court, on five days’ notice, to assign a date for the hearing of this appeal.

DATED AT this
day of 20

.....
Appellant or his or her legal practitioner
(address)

- To:
- (1)
(address) RESPONDENT
 - (2) The Registrar

FORM 12

(Rule 17(16))

NOTICE OF INTENTION TO OPPOSE APPEAL

IN THE LABOUR COURT

In the matter between:

and

Appellant

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 appeal.

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 process in these proceedings.

DATED AT this
day of 20

.....
Respondent or his or her legal practitioner
(address)

To: (1)
(address) APPLICANT

(2) The Registrar
