



GOVERNMENT GAZETTE

OF THE

REPUBLIC OF NAMIBIA

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No. 747

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GOVERNMENT NOTICE

No. 138 Rules of district labour courts 1

Government Notice

MINISTRY OF LABOUR AND HUMAN RESOURCES DEVELOPMENT

No. 138

1993

RULES OF DISTRICT LABOUR COURTS

Under section 22 of the Labour Act, 1992 (Act 6 of 1992), the Labour Courts' Rules Board has, after consultation with the Labour Advisory Council, made the rules for the conduct of the proceedings of district labour courts as set out in the Annexure.

ANNEXURE

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Definitions

1. In these rules, unless the context otherwise indicates -

“Act” means the Labour Act, 1992 (Act 6 of 1992), and includes any regulation made or in force thereunder;

“application” means an application on notice under rule 20, and “apply” shall have a corresponding meaning;

“chairperson” means the person designated as chairperson of the court in terms of section 17 of the Act;

“complaint” means any complaint as defined in section 1 of the Act;

“complainant”, “respondent”, “representative complainant” and “representative party” includes any person designated or duly authorized to appear for such party, or his or her own advocate or attorney as contemplated in rule 10(3);

“court” means a district labour court established by section 15(1)(b) of the Act;

“clerk of the court” means the clerk of the magistrate’s court in question appointed under section 13 of the Magistrates’ Courts Act, 1944 (Act 32 of 1944), and includes an assistant clerk of the court so appointed;

“day” means any calendar day other than a Saturday, Sunday or public holiday, and when any particular number of days is prescribed for the performance of any act, the same shall be reckoned exclusively of the first and inclusively of the last day;

“delivery” means service of copies on all parties and filing the original with the clerk of the court, and “deliver” shall have a corresponding meaning;

“Labour Court” means the Labour Court established by section 15(1)(a) of the Act;

“labour inspector” means any labour inspector appointed in terms of section 3(1)(b) or (c) of the Act;

“messenger of the court” means any messenger of the magistrate’s court in question appointed under section 14 of the Magistrates’ Courts Act, 1944 (Act 32 of 1944), and includes a deputy messenger of the court so appointed;

“notice” means notice in writing;

“public holiday” means any public holiday referred to in, or declared under, section 1 of the Public Holidays Act, 1990 (Act 26 of 1990);

“serve” means to serve in accordance with rule 5(2), and “service” shall have a corresponding meaning.

Clerk of the court

2. (1) The offices of the clerk of the court shall be open from 09:00 to 13:00 and from 14:00 to 16:00 on every day other than a Saturday, Sunday or public holiday, provided that under exceptional circumstances when so directed by the chairperson, the clerk of the court shall issue process and accept documents for filing at any other time.

(2) Each complaint or application not relating to a pending case shall be numbered consecutively within each year by the clerk of the court and entered in a register of the court (form 1).

(3) Each document delivered thereafter with respect to such complaint or application must bear such number and shall not be received by the clerk of the court without being so numbered.

(4) All documents delivered to the clerk of the court to be filed of record shall be filed under the number of the respective complaint or application.

(5) It shall be the duty of the clerk of the court -

(a) to assist on request any complainant or respondent in the preparation of documents under these rules; and

(b) unless otherwise provided in these rules, to forward a copy of the chairperson's judgement or order under these rules to all the parties to the complaint or application in question.

Lodging of complaints

3. (1) When a complainant wishes to lodge a complaint, such complaint shall be in writing (form 2), signed by the complainant and the original and one copy, plus one copy for each respondent thereof, shall be filed with the clerk of the court in the district where the complaint arose or where the respondent resides or carries on business, as the case may be.

(2) The clerk of the court may permit a complaint to be made orally and shall cause it to be reduced to writing and supply a copy thereof to the complainant.

(3) The filing of a complaint as contemplated in subrule (1), shall be regarded as the lodging of a complaint for the purposes of the provisions of section 24 of the Act.

Contents of complaints

4. A complaint shall contain -

(a) the name and address of each complainant;

(b) the name and address of each respondent;

- (c) such particulars of the complaint as shall be reasonably sufficient to inform the respondent of the grounds of the complaint, the date on which the cause of action arose, and a short statement of the relief claimed; and
- (d) where appropriate, and if known by the complainant, the amount claimed by each complainant.

Service of complaints and notice of hearing of complaints

5. (1) The clerk of the court shall, when a complaint has been filed -

- (a) enter the particulars required in the register of the court referred to in rule 2(2);
- (b) fix a place and a date for the hearing of the complaint, which shall, unless all the parties to the complaint otherwise agree, not be less than 30 days but not more than 60 days from the date of filing of the complaint;
- (c) cause a copy of the complaint together with a notice of reference to a labour inspector, as provided in rule 6, where applicable, a notice of hearing (form 3(a)) and a blank form 6, to be served on every respondent to the complaint; and
- (d) cause a copy of the notice of hearing to be served on the complainant.

(2) Service of a complaint, notice of reference to a labour inspector, a notice of hearing and form 6 may be effected in one or other of the following manners, namely -

- (a) by the delivery thereof by the complainant or any adult person designated by the complainant, to the respondent in person;
- (b) by the delivery thereof by the complainant or any adult person designated by the complainant, in the case where a respondent is a company or firm or partnership, to a responsible person in the service of such company or firm or partnership at its local office or place of business or at its main office;
- (c) by the delivery thereof by the clerk of the court by registered mail upon the respondent in the event of the respondent having a postal address or by telefacsimile;
- (d) by the delivery thereof by the messenger of the court in accordance with the provisions of paragraph (a) or (b); or
- (e) by the delivery thereof in such other manner as may be directed by the clerk of the court.

3. (a) Where service is effected in accordance with subrule (2)(a) or (b), proof of service shall be by filing a copy bearing the signature of the respondent, or in the case of a company, firm or partnership, the signature of the person upon whom service was made, or, in the event of a refusal to so sign such proof of service, by filing an affidavit of service (form 3b) to that effect.
- (b) Where service is effected in accordance with subrule (2)(c), service shall be deemed to have been effected upon proof of posting or transmission confirmation, as the case may be, unless the contrary is proved.
- (c) Where service is effected in accordance with subrule (2)(d), the messenger's return of service shall be proof of service.
- (d) Where service is effected in accordance with subrule (2)(e), proof of service shall be in such manner as may be directed by the clerk of the court.

Reference to labour inspector

6. (1) Upon the filing of a complaint, the clerk of the court shall, unless good grounds exist not to do so, refer the complaint for settlement or further investigation to a labour inspector (form 4).

(2) The complainant and respondent shall be informed (form 5) of the date and place of any conference for the purposes of subrule (1), by the labour inspector.

(3) The parties shall co-operate with the labour inspector and attempt to settle their dispute.

(4) In the event of a settlement, the terms thereof shall be reduced to writing by the labour inspector, signed by the parties and filed with the clerk of the court not later than three days prior to the date of the hearing.

(5) Upon agreement of the parties, the terms of the settlement may be made an order of court.

(6) In the event that a settlement cannot be reached, the parties shall co-operate with the labour inspector to identify such facts and documents relevant to the complaint or to the defence thereto which are not in dispute and a list of facts and documents so agreed upon, if any, shall be prepared by the labour inspector, signed by the parties and filed by the labour inspector with the clerk of the court not later than three days prior to the date of the hearing, or if no such facts or documents can be agreed upon, a notice to the court to that effect by the labour inspector shall be so filed with the clerk of the court.

Respondent's reply

7. (1) If the respondent wishes to defend a complaint in question he or she shall serve a copy of a reply (form 6) to the complainant upon the complainant in the manner prescribed in subrule (2) of rule 5 within 14 days of service of the complaint on him or her and file the original thereof together with the proof of such service as contemplated in subrule (3) of that rule, with the clerk of the court.

(2) The reply shall state whether the respondent intends to oppose the complaint and, if so, shall contain sufficient particulars so as to inform the complainant of the grounds of opposition.

(3) Except with leave of the chairperson on good cause shown, a respondent who has not served a reply in accordance with this rule shall not be entitled to take any part in the proceedings of the court.

Counter complaints

8. (1) The provisions of these rules shall, subject to all necessary changes, apply to counter complaints, except that -

- (a) a counter complaint shall be delivered together with a respondent's reply, unless the court allows it, on good cause shown, to be delivered at a later stage;
- (b) it shall be unnecessary to repeat therein the names and addresses of the parties to the proceedings in question and the date of hearing; and
- (c) any period which, in the case of a complaint, runs from the date of service of such complaint, shall, in the case of a counter complaint, run from the date of delivery of such counter complaint.

(2) A counter complaint may be heard either together with, or separately from, the complaint in the first instance as the chairperson may deem necessary under the circumstances.

Assessors

9. (1) Any request in terms of section 17(2) of the Act of any party to the proceedings for the appointment of assessors, shall be made in writing (form 7) -

- (a) in the case of a complainant, when the complaint is filed with the clerk of the court; and
- (b) in the case of a respondent, on or before the date when the respondent's reply is due to be filed with the clerk of the court as contemplated in rule 7(1).

(2) Notwithstanding the requirements of subrule (1), the chairperson may grant, upon good cause shown, a request for the appointment of assessors as contemplated in subrule (1) by either a complainant or a respondent made at any time before the date of the hearing of the complaint.

The hearing of complaints

10. (1) The hearing of a complaint shall be conducted in such manner as the chairperson considers most suitable to the clarification of the issues before the court and generally to the just handling of the proceedings and the chairperson shall, so far as it appears appropriate, seek to avoid formality in the proceedings and, except in terms of the provisions of section 110 of the Act, shall not be bound by any law relating to the admissibility of evidence.

(2) Except in the case of complaints concerning dismissals or disciplinary proceedings, the complainant shall present his or her case first unless the chairperson directs otherwise.

(3) In pursuance of the provisions of section 19(3) of the Act, any complainant, if he or she so desires, may be represented by a person who shall be designated by the Permanent Secretary: Labour and Human Resources Development generally or in every particular case for such purpose, and any such complainant and any respondent may appear in person or be represented by his or her own advocate or attorney, or by any other person authorized by such complainant or respondent, as the case may be.

(4) If a respondent who has been duly served with a copy of the complaint and a notice of the hearing as provided for in rule 5(2), fails to reply to the complaint within the time provided in rule 7 or fails to appear at the hearing, the chairperson may, if in his or her opinion the facts relating to the complaint are sufficiently established, determine the complaint and make such order as is authorized by the Act, notwithstanding the respondent's failure to reply or to appear, as the case may be.

(5) If the complainant fails to appear at the hearing, the chairperson may dismiss the complaint.

(6) Witnesses shall give oral evidence under oath or by affirmation, as the case may be, administered by the chairperson or other person designated by the chairperson for that purpose.

(7) Any party to a hearing may cross-examine witnesses called by the other party and re-examine his or her own witnesses: Provided that the chairperson may curtail cross-examination of witnesses if he or she considers the examination to be irrelevant, repetitive or time-wasting: Provided further that the chairperson shall have due regard for the position of unrepresented parties to the proceedings and may put to such party or a witness in such proceedings such questions as he or she may deem fit.

Summoning of witnesses

11. (1) A party to a hearing may, by filing a notice (form 8) prior to the hearing, or in exceptional circumstances during the hearing, require the clerk of the court to summon any person as a witness or to compel the production of any document, record, books of account or other exhibit relevant to the issues of the matter in question.

(2) The chairperson may, of his or her own accord, summon witnesses or order the production of any document, record, books of account or other exhibit which he or she deems relevant to the issues of the matter in question.

(3) Service of a summons (form 9) may be effected, subject to all necessary changes, in the same manner as provided in rule 5(2).

(4) The chairperson may set aside service of any summons 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.

(5) The provisions of section 51 of the Magistrates' Courts Act, 1944 (Act 32 of 1944), relating to the modes of procuring attendance of witnesses and the penalty for non-attendance shall, subject to all necessary changes, apply to a witness summoned under this rule as if such witness had been subpoenaed in a civil action before a magistrate's court.

(6) A witness summoned by a party or the chairperson in terms of this rule shall be entitled to the witness fees and allowances prescribed in accordance with the provisions of section 51*bis* of the Magistrates' Courts Act, 1944 (Act 32 of 1944).

(7) The fees and allowances referred to in subrule (6) shall be paid by the party who requires the attendance of the witness in question, unless the chairperson certifies, prior to the issue of the summons in question, that the witness is necessary for the purposes of the hearing and that the party in question does not have the means to pay such fees and allowances, in which case and, in the case where the chairperson summons a witness as contemplated in subrule (2), such witness shall for the purposes of the payment of such fees and allowances to him or her be deemed to be a witness in a criminal prosecution in a magistrate's court.

Postponements

12. Subject to the chairperson's discretion to adjourn a hearing which has already commenced, the chairperson and the clerk of the court shall ensure that there is no avoidable delay in the hearing and the determination of a complaint, and no postponement of any hearing shall be granted by the chairperson unless notice of an application on good cause shown for postponement is given to the other party not less than three days before the hearing or the parties at any time agree thereto in writing.

Joint complaints

13. (1) A complaint (hereinafter referred to as a joint complaint) may be filed on behalf of a group of named complainants against the same respondent or respondents.

(2) Such joint complaint may be lodged in the name of one such complainant as a representative (hereinafter referred to as a representative complainant) of some or all of the other complainants, provided that such other complainants agree thereto in writing and file the agreement with the clerk of the court (form 10) not later than the date of the hearing of the complaint.

(3) The chairperson may, of his or her own accord or upon application by any interested party to such complaint, at any stage of the proceedings, if it is considered that the hearing of a joint complaint may prejudice the respondent or respondents, order that the complaints of all or any of the complainants represented shall be heard separately.

(4) Each complainant represented in a joint complaint shall be deemed to have authorized the representative complainant on his or her behalf to -

- (a) call and give evidence and make submissions to the chairperson on any matter arising during the hearing of such complaint;
- (b) file affidavits, statements or any other documents for or during the hearing thereof; or
- (c) amend such complaint in respect of all or any of the several complaints or to settle or agree on arbitration of or abandon such complaint.

(5) The chairperson may, upon application of any other complainant in a joint complaint at any stage of the proceedings and upon good cause shown, order that such other complainant's authorization to the representative complainant be rescinded and that the other complainant be permitted to pursue the complaint separately.

Class complaints

14. (1) One or more members of a class of complainants (hereinafter referred to as a representative party) may file a complaint (hereinafter referred to as a class complaint) on behalf of all members of such a class, which complaint shall, in addition to the particulars referred to in rule 4, prescribe 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 complaint of the representative party or parties is of a similar nature as the complaints 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 complaints will likely create the risk of inconsistent or varying decisions of the court;
- (f) the respondent or respondents against whom a class complaint has been filed has acted or refused to act on grounds generally applicable to the class; and
- (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 complaint is superior to other available methods for the fair and efficient adjudication of the issues.

(2) As soon as practicable after the class complaint has been filed with the clerk of the court, but not later than 10 days thereafter, the representative party or parties shall apply (form 11) to the court on notice to the respondent or respondents in question, to determine whether the complaint may be heard by the court as a class complaint.

(3) If the chairperson decides to hear the complaint as a class complaint, the clerk of the court shall fix a hearing date, not later than 60 days thereafter, and shall give in such manner notice (form 12) thereof as is practicable in the circumstances of the case to the members of that class.

(4) The notice referred to in subrule (3) shall inform such members that -

- (a) the chairperson will exclude any member from the class if the member so requests by a date specified in such notice;
- (b) the judgement 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 authorized representative at the hearing of such complaint.

(5) The chairperson 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 complaint.

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

Consolidation of complaints

15. (1) If two or more complaints are filed and it appears to the chairperson that -

- (a) common questions of law or fact arise in both or all of them; or
- (b) the complaints arise from the same cause of action; or
- (c) it would be in the interest of justice,

the chairperson may of his or her own accord or upon application by any such complainant order that such complaints be consolidated.

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

Joinder of parties

16. (1) The chairperson may at any time on notice (form 13) to all parties, or upon 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 he or she considers necessary.

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

(3) The chairperson may likewise on such notice to all parties or upon application of a party on notice to all other parties, order that any respondent named in the original complaint or subsequently joined, who does not have a substantial interest in the complaint, shall be dismissed from the proceedings.

Arbitration or settlement

17. (1) The parties may at any stage of the proceedings agree in writing to refer a complaint to arbitration for a final and binding determination and in such a case, the parties shall file the agreement with the clerk of the court and the complaint shall be stayed pending the decision of the arbitrator, and upon application of either party, the determination of the arbitrator shall be made an order of court.

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

Judgement or order of court to be delivered within a certain period

18. (1) The chairperson shall deliver his or her judgement of a complaint with reasons therefor and make such order as he or she may deem fit as soon as possible after the conclusion of the hearing of a complaint, but not later than 21 days thereafter.

(2) The judgement or order of the court shall specify the period within which the judgement or order is to be complied with and the chairperson shall allow such time for such compliance as he or she may deem reasonable in the circumstances of the case.

(3) The judgement in a class complaint shall include and define those members whom the chairperson finds to be members of the class and shall specify those members who have requested exclusion.

(4) The chairperson may amplify his or her reasons for making the judgement or order in the event of a notice of appeal against such judgement or order within a period of 14 days of the noting of the appeal in terms of rule 19(2).

(5) The amplified reasons of the chairperson shall be transmitted by the clerk of the court to all parties to the appeal.

(6) Any administrative and clerical mistakes in judgements or orders or errors arising therein from any act or omission may at any time be corrected by the chairperson on notice to the parties, but without such correction being subject to any appeal.

Appeals

19. (1) Any party to a complaint may, with due regard to the provisions of section 21(2) of the Act, note, in accordance with subrule (2), an appeal to the Labour Court against a judgement or order of the court, except any order referred to in rule 17.

(2) An appeal under this rule shall be noted by delivery, within a period of 14 days of the date of judgement or order, of a notice of appeal (form 14) which shall set out -

- (a) whether the appeal is from the judgement or order in whole or in part, and if in part only, which part;
- (b) the point of law or fact appealed against; and
- (c) the grounds upon which the appeal is based.

(3) When an appeal is noted to the Labour Court in terms of this rule, the clerk of the court shall, within 21 days from the date of such noting of such appeal, transmit the record in the hearing of the complaint in question to the registrar of that Court, as well as two copies thereof, duly certified by the chairperson, together with the amplified reasons of the chairperson (if any) referred to in rule 18(4).

(4) A cross-appeal (if any) shall be noted by delivery of a notice of cross-appeal setting out the same information required in the notice of appeal, within a period of 7 days after the date of the noting of the appeal.

(5) (a) An appellant or respondent who wishes to abandon the whole or any part of an appeal or a cross-appeal before the expiration of the period of 21 days referred to in subrule (3), may do so by delivery of a notice stating whether he or she abandons the whole or, if any part only, what part of such appeal or cross-appeal, and every such notice of abandonment shall become part of the record.

(b) After the expiration of the period of 21 days referred to in paragraph (a), such abandonment shall be effected by delivery of such notice also to the registrar of the Labour Court.

Applications

20. Unless otherwise provided in these rules, an application in terms of these rules to the court for an order affecting any person shall be by delivery of a notice (form 15) in which shall be stated briefly the terms of the order applied for and the date when the application will be made to the court, which date shall not be less than 5 days after delivery to such person of such notice.

Non-compliance with rules

21. The chairperson may, upon 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 of judgements

22. (1) Any party to a complaint in which a judgement or an order by default has been made in terms of rule 10(3) or (4), may apply to the chairperson to rescind or vary such judgement or order, provided that the application is made within 14 days after such judgement or order has come to his or her knowledge.

(2) Every such application shall be an application as contemplated in rule 20, 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 complaint.

(3) The chairperson may on good cause shown rescind or vary the judgement in question and give such directions as to the further conduct of the proceedings as he or she may deem necessary in the interest of all the parties to such proceedings.

Execution of judgements

23. (1) Without derogating from section 23 of the Act, any judgement or order of the court sounding in money may be executed in accordance with the rules applicable in civil proceedings in a magistrate's court made in terms of section 25 of the Magistrates' Courts Act, 1944 (Act 32 of 1944), as if such judgement or order is a judgement or order given in a civil action in a magistrate's court.

(2) The costs of the execution of a judgement or order in accordance with this rule shall be a first charge on the proceeds of any property sold in execution but in so far as such proceeds are insufficient, they shall be borne by the party seeking to execute the judgement or order, unless the chairperson has, in accordance with the provisions of section 20 of the Act, made an order for costs in favour of that party.

Court fees

24. (1) Subject to subrule (2), the court fees to be paid to the clerk of the court shall be those prescribed in the First Schedule and payment shall 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 payment of court fees may be waived by the clerk of the court if he or she is satisfied that the party concerned does not have the means to pay such fees, in which case the fact that the fees have been waived shall be endorsed on the appropriate document.

Forms

25. Any reference in these rules to a numbered form shall be a reference to the corresponding form set out in the Second Schedule, provided that a substantially similar form may be used.

Application of rules of magistrates' courts

26. 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 magistrates' courts made in terms of section 25 of the Magistrates' Courts Act, 1944 (Act 32 of 1944), shall apply to proceedings before the court with such qualifications, modifications and adaptations as the chairperson may deem necessary in the interest of all the parties to such proceedings.

Commencement of rules and saving

27. (1) These rules shall, subject to subrule (2), come into operation on 26 November 1993.

(2) The rules of the magistrates' courts made in terms of section 25 of the Magistrates' Courts Act, 1944 (Act 32 of 1944), as applied by section 22(5) of the Act shall, in respect of any complaint lodged with any district labour court before the coming into operation of these rules as contemplated in subrule (1), continue to apply as if these rules had not been enacted.

FIRST SCHEDULE

COURT FEES

	N\$
1. On every complaint or application not relating to a pending case	25,00
2. On every notice of appeal or cross-appeal	50,00
3. On any request to inspect any record -	
(a) if the correct number is furnished	2,00
(b) if an incorrect or no number is furnished for every 100 records searched	10,00
4. For a copy of the record made by the clerk of the court -	
(a) for every typed hundred words or part thereof	2,00
(b) for every photocopy of an A4-size page or part thereof	1,00
5. For examining and certifying a copy of the record -	
(a) each 100 words	2,00
(b) minimum charge	2,00

SECOND SCHEDULE

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- 3(b) Affidavit of Service (Rule 5(3)(a))
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- 5 Notice of Conference (Rule 6(2))
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- 7 Request for Appointment of Assessors (Rule 9)
- 8 Request to Summon Witnesses (Rule 11)
- 9(a) Summons to Witness(es) (Rule 11)
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- 10 Joint Complaint (Rule 13(1))
- 11 Notice of Application to Hear as Class Complaint (Rule 14(1))
- 12 Class Complaint (Notice under Rule 14)
- 13 Notice of Joinder (Rule 16)
- 14 Notice of Appeal (Rule 19(2))
- 15 Notice of Application (Rule 20)

NS25 Rev.
Stamp

FORM NO. 2:
DISTRICT LABOUR COURT: COMPLAINT (RULE 3)

In the District Labour Court for the district of
..... held at

Case No.

A complaint, the particulars of which appear below, is hereby lodged for decision by the above court:

..... Complainant
(Full names)

Address:
.....
(Postal and residential address and telephone number)

Representative of Complainant, if any:
(Full names)

Address:
.....
(Postal or business address and telephone number)

In the case of a joint complaint or class complaint the name(s) and address(es) of the representative complainant(s) or party, as the case may be*

..... (Respondent(s))
(Full names)

Address:
.....
(Postal and residential address and telephone number)

*use annexures if space is not sufficient

Particulars of complaint:
.....
.....

Date cause of action arose:

Short statement of relief claimed:
.....
.....

Sum of money claimed N\$ (only where appropriate and if known to complainant)

.....
Date *Signature of Complainant*

Proof of Service

Copy Received

.....
Signature Date:
(Position held in respondent's employment — Time:
where applicable) Place:

FORM NO. 3(a):
DISTRICT LABOUR COURT: NOTICE OF HEARING (RULE 5(1)(c))

In the District Labour Court for the district of

held at

Case No.

In the matter between

..... Complainant

and

..... Respondent

To:

.....

.....

Take notice that this matter has been set down for hearing on

at in Room/Court No.

You are required to file your reply to the complaint with the clerk of the court and to serve a copy of the reply upon the complainant within 14 days of service of the complaint upon you.

Your reply must state whether you intend to oppose the complaint and, if so, must contain sufficient particulars so as to inform the complainant of your grounds of opposition.

Except with leave of the court, on good cause shown, a respondent who has not filed a reply within the time prescribed will not be entitled to take any part in the proceedings.

If you wish assessors to be appointed to assist the chairperson, you must file a written request for such appointment with your reply.

The complaint has been referred for settlement or further investigation to the labour inspector

at

(Address and telephone number)

and you must co-operate with the labour inspector and attempt to settle the dispute before the date of hearing.*

If you fail to file a reply to the complaint within a period of 14 days or fail to appear at the hearing, the court may determine the complaint and make such award or order as is authorised by the Act, notwithstanding your failure to file a reply or to appear.

You may, by filing a notice prior to the hearing, require the clerk of the court to summon witnesses or to compel the production of relevant books, documents or papers. You will have to pre-pay the expenses of the witness(es) for attending court, unless the chairperson certifies that the witness is necessary and that you cannot afford to pay the expenses.

CLERK OF THE COURT

DATE STAMP

Proof of Service

Copy received

Date:

Time:

Place:

.....
Signature of Recipient
(Position held in respondent's employment —
where applicable)

*Delete paragraph if complaint was not referred to a labour inspector.

FORM NO. 3(b):
DISTRICT LABOUR COURT: AFFIDAVIT OF SERVICE (RULE 5(3)(a))

In the matter between

Complainant

and

Respondent

I certify that I have served a copy of the complaint/ notice of reference to a labour inspector/ notice of hearing/reply* on

the

(full name)

respondent/ a responsible person employed at the respondent's place of business/local/main office/

the complainant* at

(place)

on at, and that

(date)

(time)

he/she refused to sign for the receipt of these documents.

.....
Date

.....
Signature of Deponent

The deponent acknowledges that he/she knows the contents of this statement. Sworn to/affirmed and signed before me on this day of 19.....

COMMISSIONER OF OATHS

DATE STAMP

Full name and surname:

Designation:

Address:

*Delete as appropriate.

FORM NO. 4:
DISTRICT LABOUR COURT: REFERENCE OF A COMPLAINT
TO A LABOUR INSPECTOR (RULE 6(1))

In the District Labour Court for the district of 4

held at

Case No.

In the matter between

..... Complainant

and

..... Respondent

To: The Labour Inspector,

A copy of the complaint filed in this matter together with the notice of hearing is attached.

The parties are obliged, in terms of rule 6(2), to co-operate with you in an attempt to settle the dispute before the date of hearing.

In the event of a settlement, the terms thereof must be reduced to writing by you, signed by the parties and filed with the clerk of the court not later than three days prior to the date of hearing as required by rule 6(3).

If a settlement cannot be reached, please prepare a list of any agreed facts and documents as required by rule 6(5) to be so filed before that date. If no settlement or agreement can be reached, notice to that effect to be so filed before that date.

Signed at on this day

of 19.....

CLERK OF THE COURT

FORM NO. 5:
DISTRICT LABOUR COURT: NOTICE OF CONFERENCE (RULE 6(2))

In the District Labour Court for the district of

held at

Case No.

In the matter between

..... Complainant

and

..... Respondent

To:

.....

.....

You and your representative, if any, are requested to attend a conference on

..... (date) at (time) in my office at

..... (address of labour inspector)

to discuss the complaint filed in this matter in an attempt to settle the complaint before the date of hearing or, if unable to do so, to prepare a list of facts and documents which are not in dispute as contemplated in rule 6(5).

Signed at on this day

of 19.....

LABOUR INSPECTOR

DATE:

FORM NO. 6:
DISTRICT LABOUR COURT: REPLY (RULE 7)

In the District Labour Court for the district of

held at

Case No.

In the matter between

..... Complainant

and

..... Respondent

REPLY:

I intend to oppose / not to oppose the Complaint.

*Grounds of opposition:

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

Signed at on this day

of 19.....

RESPONDENT / REPRESENTATIVE

*Delete if not opposed.

FORM NO. 7:
DISTRICT LABOUR COURT: REQUEST FOR APPOINTMENT
OF ASSESSORS (RULE 9)

In the District Labour Court for the district of

held at

Case No.

In the matter between

..... Complainant

and

..... Respondent

The complainant/*respondent requests that assessors be appointed for the hearing of this matter.

Signed at on this day

of 19.....

*COMPLAINANT (or representative) /
RESPONDENT (or representative)

*Delete which is not applicable.

FORM NO. 8:
DISTRICT LABOUR COURT: REQUEST TO SUMMON WITNESSES (RULE 11)

In the District Labour Court for the district of

held at

Case No.

In the matter between

..... Complainant

and

..... Respondent

To: The Clerk of the Court

.....

.....

You are hereby required to summon

.....

.....

(Name and address of person to be summoned)

to give evidence at the hearing on behalf of the

..... (complainant or respondent),

and to compel him/her to produce the following document(s), record(s), book(s) of account (or other exhibit as indicated):

.....

.....

.....

Signed at on this day

of 19.....

COMPLAINANT (or representative) /
RESPONDENT (or representative)

FORM NO. 9(a):
DISTRICT LABOUR COURT: SUMMONS TO WITNESS(ES) (RULE 11)

In the District Labour Court for the district of

held at

Case No.

In the matter between

..... Complainant

and

..... Respondent

To: (1) of

(2) of

(3) of

You are hereby required to appear in person before this court at on the

..... day of 19.....,

at

in the above-mentioned case to give evidence or to produce books, papers or documents on behalf

of the

and to bring with you and then produce to the court the several books, papers or documents specified in the list hereunder. (Delete this last part if nothing is to be produced.)

List of Books, Papers, Documents to be produced:

Date	Description	Original or Copy
.....
.....
.....
.....

Signed at on this day

of 19.....

.....
CLERK OF THE COURT

The maximum penalty for failing to comply with this summons is N\$300 or 3 months imprisonment.

FORM NO. 9(b):
DISTRICT LABOUR COURT: RETURN OF SERVICE (RULE 11)

I certify that I have served this summons on by

	*(a)	delivering a true copy to him/her PERSONALLY:
or	*(b)	delivering a true copy to a responsible person employed at the *witness's/ respondent's place of business/local/main office.*

at

and he/she signed hereunder / refused to sign.

.....
SIGNATURE OF RECIPIENT

Time day

month 19.....

Place:

.....
SIGNATURE OF PERSON EFFECTING
THE SERVICE

*Delete whichever is not applicable.

FORM NO. 10:
DISTRICT LABOUR COURT: JOINT COMPLAINT (RULE 13(1))

In the District Labour Court for the district of

held at

Case No.

In the matter between

..... Complainant

and

..... Respondent

To: The Clerk of the Court

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

I hereby agree to the filing of a complaint by

as my representative in a joint complaint in the matter between

.....

Signed at on this day

of 19.....

.....
COMPLAINANT

○

○



FORM NO. 11:
DISTRICT LABOUR COURT: NOTICE OF APPLICATION TO HEAR
AS CLASS COMPLAINT (RULE 14(1))

In the District Labour Court for the district of

held at

Case No.

In the matter between

..... Complainant

and

..... Respondent

Take notice that application will be made to the above-mentioned court on the day

of 19....., at (time)

to determine whether the court will hear the complaint (copy attached) as a class complaint.

.....
APPLICANT / REPRESENTATIVE OF APPLICANT

To:

.....

.....

Issued by

CLERK OF THE COURT

FORM NO. 12:
DISTRICT LABOUR COURT: CLASS COMPLAINT
(NOTICE UNDER RULE 14)

In the District Labour Court for the district of

held at

Case No.:

In the matter between

..... Complainant

and

..... Respondent

To:

.....

.....

Take notice that a complaint has been filed by representative parties on behalf of all members of

.....

Particulars of the complaint:

.....

The complaint will be heard at (place)

on 19..... (date) at (time).

Any member of the class will be excluded from the hearing if he/she so requests before

.....

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, if he/she so desires, appear personally or through a representative at the hearing.

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CLERK OF THE COURT

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FORM NO. 13:
DISTRICT LABOUR COURT: NOTICE OF JOINDER (RULE 16)

In the District Labour Court for the district of

held at

Case No.

In the matter between

..... Complainant

and

..... Respondent

Take notice that

.....

of (address)

*have/has been joined as

(Complainant/ Respondent) have/has been dismissed from the proceedings.

.....
CHAIRPERSON

.....
DATE

*Delete which is not applicable.

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FORM NO. 14:
DISTRICT LABOUR COURT: NOTICE OF APPEAL (RULE 19(2))

In the District Labour Court for the district of

held at

Case No.

In the matter between

..... Complainant

and

..... Respondent

Take notice that the Appellant (Complainant/Respondent in the above-mentioned case) hereby gives notice of appeal against the *entire judgement / part of the judgement delivered on

The grounds of appeal are as follows:

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

(Add folios if necessary)

Signed at on this day

of 19.....

APPELLANT OR HIS/HER REPRESENTATIVE

*Delete which is not applicable.

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FORM NO. 15:
DISTRICT LABOUR COURT: NOTICE OF APPLICATION (RULE 20(1))

In the District Labour Court for the district of

held at

Case No.

In the matter between

..... Complainant

and

..... Respondent

Take notice that application will be made to the above-mentioned court on the day

of 19..... at.....,

for an order

(state terms of order applied for)

Signed at on this day

of 19.....

.....
APPLICANT OR REPRESENTATIVE

To:

.....

.....

Issued by:

CLERK OF THE COURT

DATE: