



THE UNITED REPUBLIC OF TANZANIA

THE LABOUR COURT RULES, 2007

(GOVERNMENT NOTICE No. 106 OF 2007)

THE LABOUR COURT RULES, 2007

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THE LABOUR INSTITUTIONS ACT, 2004
(No.7 OF 2004)

RULES

(Made under section 55 (1))

THE LABOUR COURT RULES, 2007

PART I

PRELIMINARY PROVISIONS

- Citation 1. These Rules may be cited as the Labour Court Rules, 2007.
- Interpre- 2.-(1) Unless the context otherwise requires, any expression in
tation these Rules that is defined in the Labour Institutions Act, 2004 and the
 Employment and Labour Relations Act, 2004, has the same meaning
 as in those Acts.
- Acts Nos (2) Without prejudice to subrule (1)-
6 of 2004 “Act” means the Labour Institutions Act, 2004;
and 7 of “Acts” means the Labour Institutions Act, 2004 and the Employment
2004 and Labour Relations Act, 2004;
 “application” includes an interlocutory application or any application
 directed by the Court;
 “association” means an unincorporated body of persons;
 “Commission” means the Commission for Mediation and Arbitration
 established under section 12 of the Act;
 “Council” means the Labour, Economic and Social Council
 established under section 3 of the Act;
- Cap. 1 “Court” means the Labour Court;
 “day” means any day as defined under the Interpretation of Laws Act;
 “document” includes any publication, and any matter written,
 expressed or described upon any substance by means of letters,
 figures, or marks, or by more than one of those means which is

- intended to be used for the purpose of recording that matter, document or record in electronic form;
- “electronic” means anything relating to technology having electrical, digital, magnetic, wireless, optical, electromagnetic, or similar capabilities;
- “file” means filing of documents with the Registrar;
- “firm” means a business carried on by a sole owner or body corporate under a separate name;
- “Gazette” means the *Government Gazette* as defined in the Interpretation of Laws and General Clauses Act, Cap. 1 R.E. 2002;
- “Judge Chairman” means the Judge Chairman of the Labour Court appointed under section 50 of the Act;
- “Judge in-charge” means the Judge in-charge of the zonal centre of the Court appointed under Section 50 of the Act;
- “Judge” means a Judge of the Court, and includes an acting Judge;
- “Labour Court” means the Labour Division of the High Court;
- “notice” means a written notice;
- “notify” means to notify in writing;
- “party” means a party to Court proceedings and includes a person representing a party in terms of section 56 of the Act and section 88 of the Employment and Labour Relations Act 2004;
- “public holiday” means a day which is declared to be or proclaimed as a public holiday under the Public Holidays Act;
- “record” means a record in written or electronic form and includes tape recording;
- “Registrar” means the Registrar and the Deputy Registrar of the Court appointed in terms of section 54 of the Act and includes any other person authorized to act in the place of the Registrar or Deputy Registrar;
- “representative” means any person authorized under section 56 of the Act to represent a party;
- “Rules” means these Rules;
- “serve” means service on other parties;
- “service” has the meaning as ascribed in rule 9;
- “tape recording” includes a sound track, film, magnetic tape, record or any other materials on which visual images, sound or other information can be recorded.

Acts Nos
6 of 2004
and 7 of
2004
Cap. 35

PART II
ADMINISTRATION AND PROCEDURES

- Court of Record, law, equity and mediation
- 3.-(1) The Labour Court shall be a court of record, law, equity and mediation and shall keep—
- (a) its judgments, rulings, orders, decrees or deeds of settlement given;
 - (b) evidence given;
 - (c) objections made to any evidence received or tendered;
 - (d) on-the-spot inspection and any matter recorded as a result of that inspection and reports; and
 - (e) proceedings generally.
- (2) The record referred to in subrule (1), shall be kept in such forms as the Court may deem fit.
- (3) A transcript of electronic recordings, a portion of the transcript or recording may be made to the Court upon request by any of the parties from time to time.
- (4) Any transcript of electronic recordings shall be certified as correct, by the person making such notes or transcripts and shall be filed with the Registrar.
- (5) A certified transcript of electronic recordings shall be deemed to be correct unless proven otherwise.
- (6) A person may make copies of any document filed to the Court from time to time, and in the presence of the Registrar, unless directed otherwise by the Judge.
- Language of the Court
- 4.-(1) The language of the Court shall be bi-lingual in either English or Kiswahili or both, as the case may be.
- GN. No. 451 of 1985
- (2) The proceedings, judgment, ruling, decision, order or decree shall be written in either language and may be translated to the other language by translators sworn or affirmed under rule 19 of the these Rules as may be necessary.

5. The Chief Justice may establish zonal centres and appoint a Judge in-charge of any such zonal centre as he may determine, and each zonal centre shall discharge the functions of the Court as may from time to time, be determined by the Judge Chairman.

Zonal centres of the Court

6.-(1) A party initiating referral proceedings to the Court shall file a statement of complaint as prescribed in Form No.1 of the Schedule to these Rules and shall-

Initiating proceedings, referrals, response and reply

- (a) have a heading containing the following information-
 - (i) the title of the matter;
 - (ii) the case number assigned by the Registrar;
 - (iii) an address of the party filing the document at which that party will accept notices and service of all documents in the proceedings; and
 - (iv) a notice advising the other party that if he intends to oppose the matter, a response shall be filed in terms of subrule (3), within fifteen days of service of the statement of complaint, failure of which shall cause the matter to be set down for default judgment;
- (b) have a substantive part containing the following information-
 - (i) the names, description and addresses of the parties;
 - (ii) a clear and concise statement of the material facts and any legal issues that may arise, arranged in a chronological order, which the party relies, whereas the statement shall contain sufficient particulars to enable any opposing party to reply to the document; and
 - (iii) the reliefs sought;
- (c) be signed by the party to the proceedings;
- (d) express all dates, sums and numbers contained in the document in figures; and
- (e) be accompanied by a Schedule listing and attaching the documents that are material and relevant to the claim.

(2) Subject to the provisions of subsection (6) of Section 18 of the Act, where the matter is a referral by the Director of the Commission -

- (a) the party referring the dispute to the Director shall file a statement of complaint within fifteen days from the date which the Director notified the party of the referral of the dispute to the Court; and

G. N. No. 106 (contd.)

(b) a statement of complaint shall be accompanied with a copy of the application for the referral.

(3) A respondent on whom a statement of complaint is served may file a response to that statement.

(4) Subject to subrule (1), the response shall, with the modification as may be required by the context, contain the required information.

(5) The response shall be filed and served on all necessary parties within fifteen days from the date on which the statement of complaint was filed.

(6) The complainant may reply to the statement of the response within seven days from the date on which the response was filed.

Issuance
of docu-
ments
and the
Registrar
's duties

7.-(1) The Registrar shall assign consecutive case numbers to all documents that initiate proceedings.

(2) Proceedings initiated at any of the zonal centres shall be assigned the consecutive case numbers of that office.

(3) The Registrar shall ensure that every document subsequently filed in respect of the same proceedings is marked with the same case number.

(4) The Registrar may refuse to accept a document from any party if the document is not properly marked with the case number assigned by the Registrar.

(5) The Registrar may request a party to correct any apparent defect or error in any document that is filed.

(6) Subject to subrule (5), the Registrar shall forward the document to a Judge in chamber for directions where a party has refused to correct any document after such a request by the Registrar.

(7) The Registrar shall keep the Court's records and disallow them to be taken from the Court building without prior authorization by the Registrar.

8.-(1) All documents may be filed with the Registrar in a sufficient number of copies by—

Mode of
filing of
docu-
ments

- (a) handing the documents to the Registrar; or
- (b) sending the copies of the documents by a registered mail; or
- (c) faxing or e-mailing the documents.

(2) The document shall be deemed to have been duly filed with the Registrar on the date which that document has been—

- (a) handed to the Registrar;
- (b) sent by a registered mail to the Registrar; or
- (c) transmitted by fax or e-mail.

(3) All documents filed with the Registrar shall be in original form, but in the case of documents filed by fax or email, the original document shall be filed within fifteen days following the date on which the documents faxed or emailed were filed.

9.-(1) A document required to be served on any other person, may be served by—

Service
of
docu-
ments

- (a) handing a copy of the document to the person(s) concerned;
- (b) leaving a copy of the document at the person's place of residence or business with any other person who is apparently 18 years old or above and in charge of the premises at the time;
- (c) leaving a copy of the document at the person's place of employment with any person who is apparently 18 years old or above and in authority;
- (d) faxing or e-mailing a copy of the document to the person, if the person has a fax number or an internet facility;
- (e) handing a copy of the document to any representative authorized in writing to accept service on behalf of the person;
- (f) leaving a copy of the document at that address or by faxing it or e-mailing it to that fax number or internet facility where the person has chosen an address or fax number or e-mail address for service;
- (g) sending a registered mail to the last known address of the party and it will be presumed that service was effected on the seventh day following the day on which the document was posted; or
- (h) a substituted service as may be authorized by the Court.

Labour Courts

G. N. No. 106 (contd.)

- (2) Where the person to be served is a—
 - (a) body corporate, by serving a copy of the document on a responsible employee of the body corporate at its registered office or its principal place of business within the United Republic or its main place of business within the geographical area in which the dispute first arose or, if there is no employee willing to accept service, by affixing a copy of the document to the main door of the office or place of business;
 - (b) trade union or employers' organization, by serving a copy of the document on a responsible employee who at the time of service is apparently in charge of the main office of the union or employers' organization or the union's or employers' organization's office within the geographical area in which the dispute first arose, at that office or the union or employers' organization or, if there is no person willing to accept service, by affixing a copy of the document on the main door of that office;
 - (c) partnership, firm or association, by serving a copy of the document on a person who at the time of service is apparently in charge of the premises and 18 years of age or above, at the place of business of such partnership, firm or association or, if such partnership, firm or association has no place of business, by serving a copy of the document on a partner, the owner of the firm or the chairman or secretary of the managing partner/director or other controlling body of such association, as the case may be;
 - (d) Local Authority, by serving a copy of the document on the Director, or any person acting on his behalf;
 - (e) statutory body, by serving a copy upon the secretary or an officer or member of the board or committee of that body, or any person acting on its behalf;
 - (f) Government or Regional Administration, by serving a copy on a responsible employee of that office and any other responsible officer of the Attorney General's Chambers; and
- (3) Proof of service shall be proven in Court by—
 - (a) an affidavit of the process server or any other person who effected service;

- (b) an affidavit of the person who effected service, which shall provide proof of the correct fax number or e-mail address and confirmation that the whole of the transmission was completed where service was effected by fax or e-mail;
- (c) a signed acknowledgement of receipt by the party on whom the document is served where the person on whom the document has been served is already on record as a party; or
- (d) producing the receipt issued by the post office for the posting of the registered mail and an affidavit that the letter posted contained the document concerned.

(4) Where the Court is dissatisfied that service has taken place in accordance with this rule, it may make any order as to service that it deems necessary.

10.-(1) Where a response and any further reply thereto are filed the parties to the proceedings shall hold a pre-trial conference before the Registrar or the Mediator attached to the Court in terms of subrule (2) within fifteen days of the date of filing of the response and any further reply.

Pre-trial
confer-
ence by
the
Registrar
and
Mediators

(2) During a pre-trial conference, the parties shall first attempt to reach an amicable settlement by any means available to the parties, including mediation on—

- (a) facts that are common cause;
- (b) facts that are in dispute;
- (c) the issues that the Court is required to decide upon;
- (d) the precise relief claimed and if compensation is claimed the amount of the compensation and its calculation;
- (e) discovery, exchange of documents and the preparation of a paginated bundle of documentation in a chronological order;
- (f) the manner in which documentary evidence is to be dealt with, including any agreement on the status of documents and whether these documents or parts of documents, will be admissible as evidence of what they purport to be;
- (g) whether evidence in respect of an affidavit will be admitted with or without the right of any party to file counter affidavit, reply to it or to cross-examine the deponent, with leave of the Court;

G. N. No. 106 (contd.)

- (h) which party shall commence;
- (i) the necessity for any on-the-spot inspection;
- (j) securing the presence of any witness at Court;
- (k) the resolution of any preliminary points that are intended to be taken;
- (l) the exchange of witness statements;
- (m) expert evidence;
- (n) any other means by which the proceedings may be shortened;
- (o) an estimate of the time required for the hearing; and
- (p) whether an interpreter is required or not, and if so, for which languages and the manner of securing his presence at Court;

(3) Where the parties have reached a settlement, the Registrar or Mediator shall draw a consented settlement order or award respectively to be signed by parties and their advocates if any, and the Registrar or Mediators which shall be deemed to be a decree of the Court.

(4) Where settlement has failed, the parties shall draw up and sign a non settlement order as set out in subrule (2) to this Rule.

(5) The Chief Justice may, after consideration of the prevailing economic and other relevant circumstances, prescribe, from time to time, such a remuneration to be paid to mediators attached to the Court sitting in any proceedings of the Court under this rule.

Judge's
direc-
tions and
powers
on pre-
trial mat-
ters

11.-(1) Subject to this subrule, where no settlement has been reached during the pre-trial conference, the Registrar shall forward the file to the Judge Chairman or Judge-in-charge of the Court for assignment and the presiding Judge, on receiving such file may direct—

- (a) the Registrar to enroll the matter for hearing if he is satisfied that the matter is ready for hearing; or
- (b) that an informal conference be held before the presiding Judge in chamber to deal with any of the pre-trial matters; or
- (c) the parties to convene a formal pre-trial conference at a date, time and place fixed by the Registrar, in which conference the presiding Judge shall, deal with any of the pre-trial matters.

(2) Subject to paragraphs (a) and (b) of subrule (1), the presiding Judge may, at a pre-trial conference held, make any appropriate orders for the further conduct of proceedings and any other orders necessary.

12. Where a party fails to attend any pre-trial conference convened in terms of rules 10 (1), 11(1)(a) or (b) or fails to comply with the directions made by the presiding Judge in terms of rule 11, the matter may be enrolled for an ex-parte hearing or dismissed, as the case may be, on the direction of the presiding Judge and the defaulting party shall not be permitted to appear at the hearing unless the Court, on sufficient cause shown, makes appropriate orders.

Non-compliance

13.-(1) Where the presiding Judge decides that any directions given in terms of rules 6, 7, 8, 10, 11 and 12 have been satisfied, he shall direct the Registrar to enroll the matter for hearing.

Enrolment for hearing

(2) Where the Registrar receives a direction under subrule (1), he shall enroll the matter and notify the parties of the time, date and place fixed for hearing.

14. A document which has not been disclosed during the pre-trial conference may not, except with the leave of the Court, be granted on whatever terms the Court deems fit, be used for any purpose at the hearing by the person who was obliged to disclose it, except that the document or tape recording may be used by a person other than the person who was obliged to disclose it.

Discovery of documents

15.-(1) Any party intending to call an expert witness shall serve a notice to that effect, together with a summary of the evidence and opinion of the expert witness, not less than fifteen days before the date appointed for hearing unless the Court directs otherwise:

Expert witnesses

Provided that the Court may allow a shorter or longer period which is less or more than fifteen days.

(2) Where a party fails to comply with the provisions of subrule (1), the Court may not admit the evidence or admit it only on sufficient cause being shown.

16.-(1) Any party who requires a witness to attend any proceedings to give evidence on his behalf may have a summons issued by the Registrar for that purpose.

Witness summons

12. Where a party fails to attend any pre-trial conference convened in terms of rules 10 (1), 11(1)(a) or (b) or fails to comply with the directions made by the presiding Judge in terms of rule 11, the matter may be enrolled for an ex-parte hearing or dismissed, as the case may be, on the direction of the presiding Judge and the defaulting party shall not be permitted to appear at the hearing unless the Court, on sufficient cause shown, makes appropriate orders.

Non-compliance

13.-(1) Where the presiding Judge decides that any directions given in terms of rules 6, 7, 8, 10, 11 and 12 have been satisfied, he shall direct the Registrar to enroll the matter for hearing.

Enrolment for hearing

(2) Where the Registrar receives a direction under subrule (1), he shall enroll the matter and notify the parties of the time, date and place fixed for hearing.

14. A document which has not been disclosed during the pre-trial conference may not, except with the leave of the Court, be granted on whatever terms the Court deems fit, be used for any purpose at the hearing by the person who was obliged to disclose it, except that the document or tape recording may be used by a person other than the person who was obliged to disclose it.

Discovery of documents

15.-(1) Any party intending to call an expert witness shall serve a notice to that effect, together with a summary of the evidence and opinion of the expert witness, not less than fifteen days before the date appointed for hearing unless the Court directs otherwise:

Expert witnesses

Provided that the Court may allow a shorter or longer period which is less or more than fifteen days.

(2) Where a party fails to comply with the provisions of subrule (1), the Court may not admit the evidence or admit it only on sufficient cause being shown.

16.-(1) Any party who requires a witness to attend any proceedings to give evidence on his behalf may have a summons issued by the Registrar for that purpose.

Witness summons

G. N. No. 106 (contd.)

(2) A summons shall be substantially in the Form No.3 in the Schedule to these Rules and shall be signed by the Registrar.

(3) Where a witness is required to produce any document as evidence or any thing in the witness's possession, the summons shall specify the document or thing to be produced.

(4) After the issuance of summons, it shall be served by the process server in any manner as prescribed in rule 9.

(5) A witness who has been required to produce any document or thing at the proceedings shall hand it over to the Registrar as soon as practicable after service of the summons has been effected, unless the witness claims that the document or thing is privileged, in which case the presiding Judge shall decide on its admissibility during the trial.

(6) After the witness has handed over any document or thing to the Registrar, the Registrar shall cause that document or thing to be inspected by any party to the proceedings.

(7) Once the inspection is complete subject to the provisions of subrule (6), the Registrar shall return the document or thing to the witness after obtaining a copy thereof for record purposes.

Evidence
and reg-
ulation
of pro-
ceedings

17.-(1) The Court, for the purposes of dealing with any matter referred to it, shall be entitled to elicit all such information as in the circumstances may be considered necessary without being unreasonably bound by the rules of evidence in civil or criminal proceedings, which would have the effect of interfering or defeating the good ends of justice and may by order, require any person to—

- (a) furnish in writing or otherwise such particulars in relation to any matter as may be required; or
- (b) attend before the Court and give evidence on oath; or produce any document;
- (c) Provided that, if any witness refuses to furnish any particulars or to answer any question or to produce any document or thing on the grounds that it may incriminate him or any other lawful ground, he shall not be required to furnish such particulars or to answer such questions or to produce any document or thing nor shall he be liable to any penalty for refusing to do so.

(2) Except as is provided for in the Acts or Rules made hereunder, the Court as the case may be, may regulate the procedure in any proceedings as it shall deem fit.

18.—(1) Subject to the provisions of subsection (1)(a) and (b) of section 53 of the Act, the two panels of assessors shall be nominated by the Council, one panel of assessors representing the interest of Association of Tanzania Employers and the other one representing the interest of the Trade Union Congress of Tanzania.

Nomina-
tion of
assessors
and their
opinion

(2) After assessors have been nominated the Chairman of the Council shall forward the names of the two panels of assessors to the Registrar.

(3) The panel of assessors nominated by the members of the Council shall be nominated in respect of the Court and every zonal centre of the Court which shall be reviewed by the members of the Council after an expiry of every two years.

(4) At the conclusion of proceedings before the Court, the presiding Judge shall—

- (a) seek and record the opinion of the assessors present, but shall not be bound by such opinion; and
- (b) where he disagrees with the opinion of any assessor, he shall give reasons.

(5) The Chief Justice may, after consideration of the prevailing economic and other relevant circumstances and in consultation with the Minister responsible for labour matters, prescribe from time to time, such amount of sitting allowance to be paid to assessors sitting in any proceedings of the Court.

19. Before any interpreter or translator interprets or translates in Court or elsewhere in relation to court work, he shall take an oath or an affirmation as prescribed in Form No.2 in the Schedule to these Rules before a Judge of the Court:

Oath or
affirma-
tion of
office by
inter-
preters
and
transla-
tors

Provided that any person admitted and enrolled as a sworn interpreter or translator of any division of the High Court of Tanzania shall be deemed to be a sworn or affirmed interpreter or translator for the Court.

G. N. No. 106 (contd.)

Hearing
of suit

20.—(1) The complainant has the right to begin unless the respondent admits the facts alleged by the complainant and contends either on a point of law or on some additional facts alleged by the defendant and where the complainant is not entitled to any part of the relief which he seeks, in which case the respondent has the right to begin.

(2) Except where both parties agree otherwise, the trial of a suit shall be with the aid of two assessors who are generally knowledgeable of the field concerning the trial suit.

(3) Where, in the course of the trial, one of the assessors is absent, the Court may proceed and conclude the trial with the remaining assessor as the case may be.

(4) On the day fixed for the hearing of the suit or on any other day to which the hearing is adjourned—

- (a) the party having the right to begin shall state his case and produce his evidence in support of the issues which he is bound to prove;
- (b) the other party shall state his case and produce his evidence if any, and may then address the Court generally on the whole case; and
- (c) the party having the right to begin may then reply generally on the whole case.

(5) Where there are several issues the burden of proof lies on the other party and the party having the right to begin may, either produce his evidence on those issues or reserve it by way of response to the evidence produced by the other party, and in the latter case, the party having the right to begin may produce the evidence and the other party may then reply specifically on the evidence so produced by the party having the right to begin, enter save that the party having the right to begin will then be entitled to reply generally on the whole case.

(6) The evidence of witnesses in attendance shall be taken orally in an open Court in the presence, personal direction and supervision of the presiding Judge.

(7) The evidence of each witness shall be taken down in the language of the Court, by or in the presence, personal direction and supervision of the presiding Judge, not ordinarily in the form of question and answer, but in that of a narrative and the presiding Judge shall sign and date the same.

(8) The Court may, on its own motion or on the application of any party or his advocate, take down any particular question and answer or any objection to any question, if there appears to be any special reason for so doing.

(9) Where any question asked to a witness is objected to by any party or his advocate and the Court allows the same to be asked, the presiding Judge may write down the question, the answer, the objection and the name of the person asking it, together with the decision of the Court thereon.

(10) The presiding Judge shall record such remarks as it deems necessary in respect to the demeanour of any witness while under examination and may direct a court recorder to make a record of the whole, or any part of, or the substance of the evidence of any witness or other proceedings.

(11) A record made in accordance with subrule 10 shall, as soon as practicable, be processed by the same or any other court recorder who shall certify the script to be correct and complete and it shall form part of the record.

(12) For the purpose of this rule "court recorder" means any person appointed by the Judge Chairman to be a court recorder.

(13) Where a presiding Judge is precluded by death, transfer or other cause from concluding the trial of a suit, his successor may deal with any evidence or memorandum written down or made under the foregoing rules as if such evidence or memorandum has been written down or made by him or under his direction under the said rules and may proceed with the suit from the stage it was left by his predecessor.

(14) Where a witness is about to leave the jurisdiction of the Court or other sufficient cause is shown to the satisfaction of the Court why his evidence should be taken immediately the Court may—

G. N. No. 106 (contd.)

- (a) upon the application of any party or of the witness, at any time after the institution of the suit, take the evidence of such witness; or
- (b) if such evidence is not taken forthwith and in the presence of the parties, give such notice as it thinks sufficient, on the day fixed for the examination, to the parties.

(15) The Court may, at any stage of a suit—

- (a) recall any witness who has been examined and may ask him such questions as the Court deems fit;
- (b) inspect any property or thing arising from the question.

Judgment
and
decree

21.—(1) After the hearing of the case, the Court shall pronounce judgment in an open Court, either at once or at a future date of which, due notice shall be given to the parties or their advocates.

(2) The presiding Judge may pronounce a judgment written by his predecessor but not pronounced.

(3) The judgment shall be written by, or reduced into writing under the personal direction and supervision of the presiding Judge in the language of the Court and shall be dated and signed by such presiding judge as of the date on which it is pronounced in an open Court and once signed it, shall not afterwards be altered or added save as provided by these Rules.

(4) The judgment shall contain a concise statement of the case, the points for determination, the decision thereon and the reasons for such decision.

(5) The decree shall bear the date on which the judgment was pronounced and, when the Judge is satisfied that the decree has been drawn up in accordance with the judgment he shall then sign the decree.

(6) Where a Judge has vacated office after pronouncing judgment without signing the decree, a decree drawn up may be signed by his successor.

22.—(1) Where members of the press are allowed to be present at any proceedings under the Act, a fair and accurate report or summary of proceedings including the evidence adduced thereat may be published: Offences

Provided that, until the judgment, ruling, order, decree or award of the Court is delivered or pronounced by the Court, no comments shall be published of the proceedings on any evidence adduced thereat.

- (2) A person who—
- (a) before a judgment, order, ruling or decree of the Court has been delivered, disclose or publishes—
 - (i) the reliefs or outcome of the judgment, order, ruling or decree; or
 - (ii) any comment on the proceedings or any evidence adduced thereat;
 - (b) discloses or publishes the proceedings or part of the proceedings, evidence taken or deliberations of the Court held in camera or directed to be withheld from disclosure or publication; or
 - (c) speaks in a manner likely to threaten any witness or disrupt the proceedings of the Court or to intimidate any person summoned for giving evidence or producing a document, exhibit or anything required in Court,

commits an offence and upon conviction shall be liable to a fine not less than five hundred thousand shillings but not exceeding five million shillings or to imprisonment for a term of three months or to both.

(3) It shall be in the discretion of the Court to admit or exclude the public or members of the press, as the case may be, from any proceedings and from the premises where proceedings are taking place.

23.—(1) Where any party desires to institute a dispute relating to any contravention of this Act or any other Labour laws or breach of a contract, common law, tort or vicarious liability arising out of an employment within the pecuniary jurisdiction of the High Court, he shall present a statement of complaint to the Court.

Disputes
originat-
ing from
the Court

Labour Courts

G. N. No. 106 (contd.)

(2) Where the dispute or complaint is against the Government it shall be instituted in the Court and a copy of complaint shall be served on the Attorney General.

(3) Every statement of complaint or response shall be substantially in accordance with Form No.1 in the Schedule to these Rules.

(4) Where any dispute or matter originates in the Court, it shall proceed to inquire into such dispute or matter without causing undue delay within the meaning of rule 20.

(5) Without prejudice to subrule (3), the Court—

- (a) shall receive, hear and consider any submissions, arguments or evidence made, presented or tendered by or on behalf of the—
- (i) employees concerned;
 - (ii) trade union of which such employees are members;
 - (iii) employer concerned;
 - (iv) group of persons which in the opinion of the Court, represents the interest of the employers in Tanzania and of which the employer concerned is a member;
- (b) may seek an opinion in such manner as it deems appropriate, from any Government department, person, institution or organization based in the United Republic on any aspect of financial, economic and employment policies, research findings or any matter relevant to the dispute;
- (c) shall make a judgment, ruling, decree or order and pronounce it to the parties in conformity with rule 21, except that—
- (i) such a decision may be made to have a retrospective effect to any date which is not earlier than the date on which the dispute arose;
 - (ii) before the Court considers any of the needs under this subrule and in terms of section 52(1) of the Act, the parties to the proceedings shall be notified of such need and have an opportunity to give their opinion.

PART III APPLICATIONS

24.—(1) Any application shall be made on notice to all persons who have an interest in the application.

Applica-
tions
before
the Court

(2) The notice of application shall substantially comply with Form No.4 in the Schedule to these Rules, signed by the party bringing the application and filed and shall contain the following information—

- (a) the title of the matter;
- (b) the case number assigned to the matter by the Registrar;
- (c) the relief sought;
- (d) an address at which that party will accept notices and service of all documents in the proceedings;
- (e) a notice advising the other party that if he intends to oppose the matter, that party shall deliver a counter affidavit within fifteen days after the application has been served, failure of which the matter may proceed ex-parte; and
- (f) a list and attachment of the documents that are material and relevant to the application.

(3) The application shall be supported by an affidavit, which shall clearly and concisely set out—

- (a) the names, description and addresses of the parties;
- (b) a statement of the material facts in a chronological order, on which the application is based;
- (c) a statement of the legal issues that arise from the material facts; and
- (d) the reliefs sought.

(4) A notice of opposition, a counter affidavit or both shall—

- (a) be filed within fifteen days from the day on which the application is served on the party concerned.
- (b) substantially be in conformity with the necessary changes required by the context of subrules (1) and (2).

(5) The party initiating the proceedings may file a replying affidavit within seven days from the day on which a notice of opposition, counter affidavit or both are filed.

(6) The replying affidavit shall only address the issues raised in the counter affidavit and shall not introduce new issues of fact or of law except with the leave of the Court.

(7) The Registrar shall—

G. N. No. 106 (contd.)

- (a) fix a date for the hearing of the application after a replying affidavit is filed or after the time limit for filing a counter affidavit or a replying affidavit has lapsed, whichever occurs first; and
- (b) notify the parties of the date, time and place for the hearing of the application.

(8) An application to make a settlement agreement or arbitration award or order of the Court which is unopposed shall be enrolled by the Registrar on notice to both parties and the Court may make any relevant order in the absence of the parties.

(9) Notwithstanding the provisions of this rule, the Court may, where it deems fit, entertain an oral application or where the parties to the dispute consents to the order being made.

(10) The Court shall deal with an application in any manner it deems fit, which may include—

- (a) making an order for holding the purposes of a pre-trial conference;
- (b) referring a dispute for the hearing of oral evidence; and any other relevant orders.

(11) The applications which shall be brought by way of a chamber summons supported by an affidavit are as follows—

- (a) interlocutory applications;
- (b) other applications incidental to or pending proceedings referred to in these Rules and not specifically provided for in these Rules; and
- (c) any other applications for directions.

(12) The requirement in paragraph (a) of subrule 12 that affidavits shall be filed, shall not apply to applications that deal only with procedural aspects.

Urgent relief under certificate of urgency

25.—(1) A party that applies for urgent relief shall file an application under a certificate of urgency that complies with the requirements of rule 24 and if applicable, rule 25.

(2) The affidavit in support of the application shall contain—

- (a) the reasons for urgency and the necessity of the relief sought;
and
 - (b) the reasons why the requirements of the Rules were not complied with, as the case may be.
- (3) The party bringing the application shall sign the affidavit.
- (4) The Registrar shall fix a date, time and place for the hearing of the application.
- (5) As soon as the Registrar has fixed a date, time and place for the hearing, the party bringing the application shall serve a copy of the application, together with information obtained from the Registrar, on the respondent.
- (6) The party bringing the application shall satisfy the Court when the application is heard that a copy of the application has been served on the respondent or that notice of the content of the application was served on the respondent for his attention by other means.
- (7) Any party who intends to oppose the application or to make any representations relating to the application, shall file a counter affidavit immediately after the application has come to that party's notice, save that a presiding Judge may make such interim orders as may be necessary.
- (8) Subject to the provisions of subrule (7), any other person who has not notified the Registrar may appear before the Court and be heard at the hearing:
- Provided that, at any stage of the proceedings, on good cause being shown, the Court may allow any person who is not a party but is interested to appear to be heard on whatever terms the Court may decide.
- (9) The Court shall deal with an urgent application in any manner it thinks just, and may make any necessary orders.

PART IV .

REVIEW, REVISION AND APPEAL TO THE COURT

Applica-
tion for
review
of
awards

26.—(1) A party seeking to review a decision or proceedings of a responsible person or body performing a reviewable function justifiable by the Court, shall file a chamber application of review to the body or person and to all other affected parties.

(2) The chamber application shall—

- (a) be made by a chamber summons supported by an affidavit setting out the factual and legal grounds upon which the applicant relies to have the decision or proceedings corrected or set aside;
- (b) call upon the responsible person or body to show cause why the decision or proceedings should not be reviewed or corrected; and
- (c) require the responsible person or body to dispatch, within ten days after receipt of the chamber application, to the Registrar the record of the proceedings sought to be corrected or set aside, together with such reasons as are required by law or desirable to provide, and to notify the applicant that this has been done.

(3) Subject to the provision of subrule (2), the responsible person or body upon whom a Chamber Application is served shall timeously comply with the direction in the Chamber Summons.

(4) Where the responsible person or body fails to comply with the direction or fails to apply for an extension of time to do so, any interested party may apply, on notice, for an order compelling compliance with the direction.

(5) The Registrar shall make available to the applicant the record which is received from a responsible person or body on such terms as the Registrar deems appropriate to ensure for its safety.

(6) The applicant shall—

- (a) make copies of such part of the record as may be necessary for the purposes of the review and certify each copy as true and correct; and

- (b) submit to the Registrar and each of the other parties a copy of the record or part of the record, as the case may be, and a copy of the reasons filed by the responsible person or body.
- (7) The costs of transcription of the record, copying and service of the record, shall be met by the applicant.
- (8) The applicant shall within fifteen days after the Registrar has made the record available amend, add to or vary the contents of the chamber application supported by an affidavit, by—
 - (a) a notice accompanied by an affidavit; or
 - (b) filing of a notice that the applicant stands by his Chamber Application and service to the opposite party.
- (9) Any person wishing to oppose the granting of the order prayed in the chamber application shall, within fifteen days after receipt of the notice of amendment or notice that the applicant stands by his Chamber Application, file a counter affidavit to the allegations made by the applicant.
- (10) The applicant may file a reply to an affidavit within seven days after receipt of a counter affidavit.
- (11) Notwithstanding the provisions of this rule, the Court may, where it deems it fit to do so, entertain an oral application or where the parties to the dispute consent to the order being so made.

27.—(1) Any review shall be instituted by filing a written notice of review to the Registrar within fifteen days from the date the decision to be reviewed was delivered.

Reviews
of judgments in
cham-
bers

- (2) Any person considering himself aggrieved by a judgment, decree or order from which—
 - (a) an appeal is allowed, but from which no appeal has been preferred; or
 - (b) no appeal is allowed, and who, from the discovery of any new and important matter or evidence which, after the exercise of due diligence, was not within his knowledge or could not be produced by him at the time when the judgment or decree was

Labour Courts

G. N. No. 106 (contd.)

passed or order made, or on account of some mistake or error apparent on the face of the record, or for any other sufficient reason, desires to obtain a review of the judgment, decree or order made against him,

(c) may apply for a review of the judgment, decree or order to the Court.

(3) A party who is not appealing from a decree or order may apply for a review of judgment notwithstanding the pendency of an appeal by some other party except where the ground of such appeal is common to the applicant and the appellant, or when, being respondent, he can present to the appellate court the case on which he applies for the review.

(4) A copy of the notice to review shall be served on all interested parties.

(5) The notice to review shall substantially be as prescribed in Form No.6 in the Schedule to these Rules.

(6) On receipt of a notice to review, the Registrar shall as soon as possible supply a certified copy of the decision sought.

(7) On receipt of a copy of the decision of the review, the applicant shall within fifteen days file a concise memorandum of review stating the grounds for the review sought without narratives or arguments.

(8) Any party on whom a notice to review has been served may, within fifteen days after the filing of the applicant's memorandum of review subject to subrule (7), file a concise statement of response in respect of the memorandum of review without narratives or arguments.

(9) Where the Registrar receives a statement of response in terms of subrule (8) or the time limit for filing of the statement of response lapses, whichever occurs first, the review shall, subject to the provisions of subsection (3) of section 50 of the Act, be placed before the presiding Judge and assessors who passed the decision for hearing and decision.

28.—(1) The Court may, on its own motion or on application by any party or interested person, call for the record of any proceedings which have been decided by any responsible person or body implementing the provisions of the Acts and in which no appeal lies or has been taken thereto, and if such responsible person or body appears—

Revision
of judg-
ments

- (a) to have exercised jurisdiction not vested in it by law; or
- (b) to have failed to exercise jurisdiction so vested; or
- (c) to have acted in the exercise of its jurisdiction illegally or with material irregularity; or
- (d) that there has been an error material to the merits of the subject matter before such responsible person or body involving injustice,
- (e) the Court may revise the proceedings and make such order as it deems fit:

Provided that, any party to the proceedings or otherwise likely to be adversely affected by such revision shall be given an opportunity to be heard.

(2) Any order or direction given by the Court to the responsible person or body from which the proceedings being revised originated shall be complied with forthwith.

29. Any appeal to the Court under the Acts, shall be instituted by filing a notice of appeal with the responsible person or body whose decision is under appeal and a copy thereof shall be filed with the Registrar.

Appeals

30.—(1) Unless any of the Acts otherwise provides, the notice of appeal shall be substantially as prescribed in Form No.5 in the Schedule to these Rules to be filed within fifteen days of the date on which the person filing such notice is notified of the decision which is the subject of the appeal.

Notice of
appeal
and
records

(2) A copy of the notice of appeal shall be served on all interested parties.

(3) On receipt of notice of appeal, the responsible person or body whose decision is under appeal shall—

G. N. No. 106 (contd.)

- (a) provide a written record of the proceedings and the reasons for the decision;
- (b) prepare and submit certified records of proceedings and reasons for the decision within fifteen days of the filing of the notice of appeal to the Registrar.

(4) Where the responsible person or body fails to comply with the direction or fails to apply for an extension of time to do so, any interested party may apply, on notice, for an order compelling compliance with the direction.

(5) The Registrar shall make available to the appellant the record which is received on such terms as he deems appropriate.

(6) The appellant shall make copies of such part of the record as may be necessary for the purposes of the appeal.

(7) The costs of transcription of the record, copying and service of the record shall be met by the appellant.

Memorandum of appeal

31.—(1) The appellant shall file a concise memorandum of the appeal and serve copies thereof to the other parties and respondent within fifteen days after receipt of the written record.

(2) A memorandum of appeal shall be accompanied by a certified copy of the decision appealed against.

(3) The memorandum of appeal shall set forth concisely and under distinct heads, without argument or narrative, the grounds of appeal to the decision appealed against, specifying the points which are alleged to have been wrongly decided, and such grounds shall be numbered consecutively.

(4) The respondent in an appeal may file a concise statement of response against the appeal within fifteen days after being served with the appellant's memorandum of appeal.

(5) Subject to the provisions of subrule (4), when the Registrar receives the statement of response or after the time limit for filing the statement of response lapses, whichever occurs first, he shall fix a date for the hearing of the appeal.

(6) The appellant shall not, except by the leave of the Court, argue or be heard in support of any ground of objection not set forth in the memorandum of appeal, save that the Court in deciding the appeal shall not be confined to the grounds of objection set forth in the memorandum of appeal or taken by leave of the Court under this rule:

Provided that, the Court shall not reach its decision on any other ground unless the party who may be affected thereby has had a sufficient opportunity of contesting the case on that ground.

32.-(1) Except as to limitation of time, no appeal shall be defeated by reason only of non-compliance with any provision of these Rules.

Hearing
of appeal

(2) Unless the Court dismisses the appeal under subrule (3) it shall fix a day for hearing the appeal and such day shall be fixed with reference to the current business of the Court, the place of residence of the respondent and the time necessary for the service of the notice of appeal, so as to allow the respondent sufficient time to appear and answer the appeal on such a fixed date.

(3) On the day fixed, or on any other day to which the hearing may be adjourned, the appellant shall be heard in support of the appeal.

(4) The Court shall then, if it does not dismiss the appeal at once, hear the respondent against the appeal, and in such case the appellant shall be entitled to reply.

(5) Where on the day fixed or on any other day to which the hearing may be adjourned, the appellant does not appear when the appeal is called on for hearing, the Court may make an order for the appeal be dismissed.

(6) Where the appellant appears and the respondent does not appear, the appeal shall be heard *ex parte*.

(7) Where an appeal is dismissed under subrule 4 or subrule 5, the appellant may apply to the Court for the re-admission of the appeal and, where it is proved that he was prevented by any sufficient cause from appearing when the appeal was called on for hearing, the Court shall re-admit the appeal on such terms as it thinks fit.

Labour Courts

G. N. No. 106 (contd.)

(8) Where it appears to the Court at the hearing that any person who was a party to the suit in the court from whose decree the appeal is preferred, but who has not been made a party to the appeal, is interested in the outcome the appeal, the Court may adjourn the hearing to a future date to be fixed by the Court and direct that such person be made a respondent.

(9) Where an appeal is heard ex-parte and judgment is pronounced against the respondent, he may apply to the Court to re-hear the appeal and, if he satisfies the Court that the notice was not duly served or that he was prevented by sufficient cause from appearing when the appeal was called on for hearing, the Court shall re-hear the appeal as it thinks fit.

Constitu-
tion of
the Court
on
Appeals

33. The Court shall be constituted by a presiding Judge sitting with not less than two assessors nominated by the presiding Judge from each of the panels appointed under subsection (2) of section 50 of the Act.

Withdra-
wals and
post-
pone-
ments of
matters

34.-(1) A party who has initiated proceedings and wants to withdraw the matter shall file a notice of withdrawal as soon as possible and the Court shall proceed to mark the matter accordingly, on such terms as to costs or otherwise in accordance with these rules.

(2) Where the parties reach a settlement, the party who initiated the proceedings shall notify the Registrar of the settlement as soon as possible.

(3) The parties may, with leave of the Court, agree to postpone the hearing, to such date as the Court may direct.

Re-
enroll-
ment of
post-
poned
matters

35.-(1) Where a matter is postponed sine die, any party to the matter may apply to the Registrar for it to be re-enrolled, but no preference may be given to that matter on the roll, unless the Court orders otherwise.

(2) The Registrar shall fix a time, date and place for the hearing and shall send a notice as prescribed in Form No.3 in the Schedule to these Rules.

(3) Where a matter is postponed in Court to a specific date, the Registrar need not send any notice to the parties.

36.—(1) Where a matter is struck off the file due to the absence of a party who initiated the proceedings, the matter may be re-enrolled if that party provides the Court with a satisfactory explanation by an affidavit, for his failure to attend the Court.

Matters struck off the file

(2) The affidavit shall be filed in Court and the Registrar shall place it to be heard by a Judge in chambers to decide whether the matter may be re-enrolled or not.

(3) The presiding Judge before whom the affidavit is placed may order that an application for re-enrolment be made and in that event, the application shall be in accordance with rule 24

37.—(1) Where no response has been filed within the prescribed period or any extended period granted by the Court within which to file a response, the presiding Judge in Chamber may enter judgment by default provided that the respondent may request on good cause shown the presiding Judge to raise up the default judgment.

Default judgment

(2) Where a default judgment has been entered or an extension of time has been granted, the complainant or the respondent as the case may be may apply to the presiding Judge for necessary orders.

38.—(1) The Court may, in addition to any other powers it may have, on its own motion, set aside, rescind or vary any order or judgment if such order or default judgment—

Rescinding default judgment

- (a) was erroneously sought or granted in the absence of any party affected by it upon showing good cause in accordance with subrule (2);
- (b) is ambiguous or has a patent error or omission, but only to the extent of such ambiguity, error or omission; or
- (c) was granted as a result of a mistake common to the parties or fraud committed by any party.

(2) Subject to the provisions of subrule (1), any affected party or person may, within fifteen days after acquiring knowledge of an order or default judgment granted in the absence of that party, apply on

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notice to all interested parties to set aside, vary or rescind the order or default judgment and the Court may, upon good cause shown, make such orders as it deems fit.

Consent
orders

39.—(1) A party who opposes any proceedings may, at any time before a decision is made, consent to the whole or any part of the relief sought in the proceedings.

(2) Subject to the provisions of subrule (1), the consent may be oral or in writing, and if in writing, it shall be signed and dated by the parties consenting to the relief.

(3) Where the parties have consented under subrule (2), the presiding Judge in chamber with or without assessors shall make the necessary orders.

Grounds
of argu-
ment

40.—(1) The Court may, at any time call on the parties to specify concise grounds of argument in writing on the main points that they intend to argue.

(2) The grounds of argument shall—

- (a) include a chronology of the material facts;
- (b) contain, in its first reference to a factual allegation, a page and paragraph or line reference to the record or bundle of documents;
- (c) include a list of the authorities referred to;
- (e) specify, in its first reference to a text book, journal or article, the author, title, edition and page number, as the case may be, and
- (e) contain, in its first reference to a reported or unreported case, full citation of the case that is, the year, volume, commencement page, court, page and marginal reference to which specific reference is made, save that the unreported cases, certified copies referred thereof shall be attached.

Submis-
sions by
an
*Amicus
Curiae*

41.—(1) Any person interested in any proceedings before the Court may, on application to the presiding Judge, be admitted to the proceedings as an *amicus curiae* on the terms and conditions and with the rights and privileges determined by the presiding Judge.

(2) The Court on its own motion or on application from any party to the dispute may appoint an *amicus curiae* who shall abide by the provisions of this Rule.

(3) Subject to the provisions of subrule (1), the terms, conditions, rights and privileges may be amended in accordance with the directions of the presiding Judge.

(4) An application as required by subrule (1), shall be made not later than fifteen days prior to the hearing date.

(5) An application relating to the admission of an *amicus curiae* shall—

- (a) describe the interest of the *amicus curiae* in the proceedings;
- (b) identify the position to be adopted by the *amicus curiae* in the proceedings; and
- (c) clearly, succinctly and without unnecessary elaboration set out the submissions to be advanced by the *amicus curiae*, their relevance to the proceedings and that person's reasons for believing that the submissions of *amicus curiae* will be useful to the Court and different from those advanced by the other parties.

(6) An *amicus curiae* has the right to lodge a written argument, provided that the written argument—

- (a) is clear, succinct and without unnecessary elaboration;
- (b) is not a repetition of any matter described in the argument of the other parties; and
- (c) raises new contentions that may be useful to the Court or good ends of justice.

(7) In the event of new matters or arguments being raised by the *amicus curiae*, any party will have the right to file a written argument within seven days from the date on which the argument of the *amicus curiae* was served on the parties.

(8) An order of the Court may be made providing for honorarium payment from the parties or any of them or any person or the Court, whoever calls for the intervention of the *amicus curiae*.

G. N. No. 106 (contd.)

Partner-
ships,
firms
and asso-
ciations

42.—(1) A partnership, firm or association may be a party to any proceedings in its own name and the proceedings may be initiated against it by any other party.

(2) A party in the proceedings against a partnership, firm or association shall not allege the names of the partners, owner, members or office – bearers.

(3) Any party to the proceedings against a partnership, firm or association may, by a written notice require the other party to provide it within fifteen days of the service of the notice with the names and addresses of the partners, owner, members or office-bearers of the partnership, firm or association and a copy of its memorandum or constitution as at the date on which the cause of the proceedings arose.

(4) A partnership, firm or association that has been served with a notice in accordance with subrule (3) shall comply with it within the prescribed period and in the event of non-compliance or a dispute in respect of the identity of partners, owner, members or office-bearers, the Court may, on application, decide on the issue.

(5) Once the necessary information has been furnished, the partners, owner, members or office bearers shall become parties to the proceedings.

(6) Where proceedings are instituted against a partnership, firm or association and it appears that the partnership, firm or association has been dissolved, the proceedings may continue against the persons alleged to be or stated by the partnership, firm or association to be partners or members.

(7) The execution in respect of a judgment against a partnership, firm or association shall first be levied against its assets and if unsatisfied, the execution shall be levied against the private assets of any person held to be a partner or member, who shall be estopped from denying being such a partner or member as if a judgment had been entered against that person.

Repre-
sentation
of parties

43.—(1) A representative who acts on behalf of any party in any proceedings shall, by a written notice, advise the Registrar and all other parties of the following particulars—

- (a) the name of the representative;
- (b) the postal address and place of employment or business; and any available fax number, e-mail and telephone number.

(2) Any party who terminates a representative's authority to act and then acts in person or appoints another representative shall give a notice to the Registrar and all other parties concerned of the changes.

(3) Subject to the provisions of subrules (1) and (2), on receipt of a notice the address of the representative or the party, as the case may be, will become the address for notices to and for service on that party of all documents in the proceedings, save that any notice duly sent or any service duly effected elsewhere before receipt of that notice will, for all purposes be valid, unless the Court orders otherwise.

(4) A representative who ceases to act for a party in any proceedings shall—

- (a) serve a notice to that effect to that party and all other parties concerned;
- (b) after receipt of a notice, subject to the provisions of paragraph (a), the address of the party formerly represented shall become the address for notices to and for service on that party of all documents in the proceedings, unless a new address is furnished for that purpose.

44.—(1) The Court may join any number of persons, whether jointly, jointly and severally, separately, or in the alternative, as parties in the proceedings, if the right to relief depends on the determination of substantially the same question of law or facts.

Joinder
of parties
and rep-
resenta-
tive suit

(2) Where there are numerous persons having the same interest in a suit, one or more of such persons may, with the permission of the Court appear and be heard or defend in such dispute, on behalf of or for the benefit of all persons so interested, except that the Court shall in such case give at the complainant's expenses, notice of the institution of the suit to all such persons either by personal service or where it is from the number of persons or any other service reasonably practicable, by public advertisement or otherwise, as the Court in each case may direct.

G. N. No. 106 (contd.)

(3) The Court may on its own motion or on application and on notice to every other party—

- (a) make an order joining any person as a party in the proceedings if the party to be joined has an interest in the subject matter of the proceedings; and
- (b) when making an order under paragraph (a), give such further directions in the proceedings as it deems fit.

(4) Any person entitled to be joined as a party in any proceedings may, on notice to all parties, at any stage of the proceedings, apply for leave to intervene as a party and the Court may make an order or give such further directions in the proceedings as it deems fit.

(5) Where a party to any proceedings has been incorrectly or defectively cited or joined, the Court may, on application and on notice to the party concerned, correct the error or defect and make any other necessary order.

(6) Where in any proceedings it appears necessary to substitute a person for an existing party, any party to such proceedings may, apply with notice to all other parties, to the Court for an order substituting that party for an existing party and the Court may make such order or give such directions in relation to the matter as it deems fit.

(7) An application to join any person as a party to the proceedings or to be substituted for an existing party shall be accompanied by copies of all documents previously issued and submitted.

(8) No suit shall be defeated by reason of the misjoinder or non-joinder of parties, and the Court may, in every suit, deal with the matter in controversy as regards to the right and interests of the parties actually before it.

Extension
decrees

45.—(1) Where any interested party other than a decree or award holder, is of the opinion that it is desirable to extend any decree passed by the Court or the Commission in respect of any dispute between any other parties in a similar situation as his own, he may within sixty days after the decision submit a formal application to the Court which passed or executed the decree for such extension.

(2) Where an application is made to the Court under subrule (1), the Court shall proceed to hear the application and parties to the decree or award which is the subject matter of the intended extension shall be served and may be heard if they wish, and the Court may, if it is satisfied that the proposed extension is desirable, make an order extending the decree or award in such manner as it may direct.

46.—(1) In all contested proceedings, including applications for urgent relief, the documents that are filed with the Registrar shall be paginated by the party initiating the proceedings.

Pagina-
tion

(2) The party initiating the proceedings shall compile and serve an index on the other party before the matter is heard.

(3) The parties shall ensure that the copies of the documents filed with the Registrar are paginated in accordance with the index.

47.—(1) The Court may make an order consolidating any separate proceedings pending before it if it deems expedient and just to do so.

Consoli-
dation of
proceed-
ings

(2) Subject to the provisions of subrule (1), the Court may make an order on its own motion or upon an application by any interested party

48.—(1) Every decision of the Court shall be binding on the employer and employees to whom it relates from the date when it takes effect.

Enforce
ment of
Court
orders

(2) It shall be an implied term of the contract between employers and employees to whom the decision relates that, the rate of the wages to be paid and the conditions of employment to be observed under the contract shall be in accordance with that decision until it is varied by subsequent decision, agreement, or any written law.

Cap. 33

(3) For the avoidance of any doubt, every decision of the Court notwithstanding that it has not yet been published in the Gazette, or that any party has a right of appeal or review, or intends to file an action in any court on grounds referred to in subrule (1), or that any party has a right of appeal or revision or reference or intends to file an action in any court to challenge the same decision, shall be enforced by the Court itself exercising the powers conferred by the provisions of Order XXI of the Civil Procedure Code Act, or in any other civil court of competent jurisdiction as if it was a decree of the Court.

(4) For the purpose of this rule, "decision" means any decision, judgment, award, decree, ruling, settlement agreement or Order made by the Court, the Labour Commissioner, Commission or other body authorized by law to have its decision or orders enforced by this Court.

(5) Every decision of the Court shall be published in the *Gazette*.

(6) Every decision shall take effect on the date on which it is specified in the decision except that if the date of decision is not specified therein, the decision shall take effect on the date of its delivery.

(7) Any decision of the Court may be made to have retrospective effect which is not earlier than the date covered by the facts from which the dispute arose.

(8) Where any question arises as to the interpretation of any decision of the Court, or the Labour Commissioner, or the Commission, any party to the decision may apply to the Court for a decision on such a question, and the Court shall decide the matter after hearing the parties and the decision of the Court shall be notified to the parties and shall be deemed to form part of and shall have the same effect in all respect as the main decision.

Enforce-
ment of
decisions
and
awards
of the
Commis-
sion and
other
responsi-
ble per-
son or
body

49.—(1) Subject to the provisions of subsection (4) of section 87 and subsection (2) of section 89 of the Act, where a decision of the Mediator or an award of an Arbitrator from the Commission is required to be enforced by the Court or where a decision of any other responsible person or body under any other provisions of the Acts, the Commission or such other responsible person or body may transmit—

- (a) a copy of decision or award;
- (b) a certificate setting forth the extent to which the decision or award has been executed by the Commission or such other responsible person or body and the whole or part of the decision or award which remains unsatisfied for the Court to execute to the full satisfaction of the decision or award.

(2) The decree holder, interested party, beneficiary or otherwise may apply formally to the Court for the execution of the decision or award of the Commission or such other responsible person or body as a decree of the Court.

50. No appeal, review or revision shall lie on interlocutory or incidental decisions or orders, unless such decision has the effect of finally determining the dispute.

Appeal, review or revision on interlocutory or incidental decisions or orders

PART V
COST, FEES AND INTEREST

51.—(1) No costs, fees or interests whether commercial or court fees or interests whatsoever shall be payable before the Court in respect of any proceedings under the provisions of the Acts.

Costs, fees and interest in frivolous and vexatious proceedings

(2) Notwithstanding subrule (1), where any proceedings appear to the Court to be frivolous or vexatious, the Court may, in its discretion, order the party initiating such proceedings to pay general or specific costs incurred, or to pay fees or interest, as the Court deems fit and in case default of payment in a specific time set by the Court, the said party shall be liable to distress on his assets and properties, failure in satisfaction of which, he shall be liable to imprisonment for a period not exceeding six months:

Provided that, such general or specific costs, fees or interest may be imposed upon the occasion of the trial without any action or proceedings for recovery.

PART VI
REFERENCE BY THE LABOUR COMMISSIONER AND APPEALS TO THE COURT OF APPEAL

52.—(1) Subject to the provisions of subsections (1) and (3) of section 58 of the Act, the Labour Commissioner in making any reference to the Labour Court shall draw a statement setting the facts of the case and the points of law arising there from upon which he desires to have the judicial opinion or decision to the Labour Court,

Labour Commissioner's reference to the Court

G. N. No. 106 (contd.)

which statement shall be served upon the Council and filed with the Registrar in accordance with rule 8.

(2) The Registrar shall record the reference in accordance with subrule (1),(4),(5) and (6) of rule 7 and shall send the reference to the Judge Chairman or Judge in-charge, as the case may be.

(3) The Judge chairman, Judge in-charge or presiding Judge, as the case may be shall hear the reference and make any decision, order or direction as he deems fit.

(4) Where such reference may be of interest to any party or person, such party or person, the Council, Attorney General and the Labour Commissioner shall be served with a copy of the reference and shall have a right of audience in the Court.

(5) Where any registered trade or employer's union, organization, association or federation intends to be joined as a party to the reference may do so and comply with paragraph (a) of subrule (3) of rule 44.

Certificate
issued by
the Court
on
Labour
Commis-
sioner's
reference
to the
Court of
Appeal

53.—(1) Subject to the provisions of subsection (2) of section 58 of the Act, the Labour Commissioner in making reference to the Court of Appeal of Tanzania shall draw up a statement of points of law from the cases and their full citation attaching certified copies of all such cases he considers are in conflict and refer the same to the Judge chairman or any Judge in-charge or any presiding Judge assigned by the Judge chairman or Judge in-charge who shall certify the existence or non-existence of such points of law or make any comments found desirable for consideration by the Court of Appeal of Tanzania:

Provided that, the Court before issuing a certificate under this rule may invite the Attorney General, Labour Commissioner, an *amicus curiae*, and any interested party, including the parties in the conflicting decisions which is the subject of the reference to address the Court.

(2) For avoidance of any doubt, the Court, where it thinks it is unnecessary to be addressed by anybody, shall proceed to issue a certificate as it deems fit.

54. Subject to the provisions of section 57 of the Act, any appeal to the Court of Appeal of Tanzania shall be in conformity or as nearly as possible with the provisions of the Court of Appeal of Tanzania Rules, 1979.

Appeals to the Court of Appeal of Tanzania

PART VII
MISCELLANEOUS PROVISIONS

55.—(1) Where a situation arises in proceedings or contemplated proceedings which these rules do not provide the Court may adopt any procedure that it deems appropriate in the circumstances.

Procedures specifically not provided for

(2) In the exercise and performance of its powers and functions, or in any incidental matter, the Court may act in a manner that it considers expedient in the circumstances, to achieve the objects of the Act and, or the good ends of justice.

56.—(1) The Court may extend or abridge any period prescribed by these Rules on application and on good cause shown, unless the Court is precluded from doing so by any written law.

Extension of time limits and condonation

(2) Where a party fails to comply with any notice or direction given subject to the provisions of these Rules, any interested party may apply on notice for an order that the notice or directive be complied with within a period that may be specified, and that failure to comply with the order, the party in default will not be entitled to any relief in the proceedings.

(3) The Court may, on good cause shown, condone non-compliance with the period prescribed by the Court.

57. The Judge chairman of the Court shall cause to be prepared and submit to the Chief Justice the report of the Court's operation and activities at such intervals as the Chief Justice may direct.

Report submitted to the Chief Justice

—————
SCHEDULE
—————

FORMS

FORM NO.1

(Rule 6)

THE HIGH COURT OF TANZANIA

LABOUR DIVISION

STATEMENT OF COMPLAINT

1. In the matter of the Complaint/Application/Review/Appeal/Reference/ Revision No..... of 20.....

BETWEEN

(Complainant)

AND

(Respondent)

2. Particulars of the party instituting proceedings

2.1 First applicant

Name:

Physical address:

Postal address:

Telephone Number:

Fax Number:

E-mail:

Representative (if any):

Name:

Physical address:

Postal address:

Telephone Number:

Fax Number:

E-mail:

(Or on record with Labour Court Code):

Reference number:

2.2 Other Applicants, if any

Name:

Physical address:

Postal address:

Telephone Number:

Fax Number:

E-mail:

Representative (if any):

Name:

Physical address:

Postal address:

Telephone Number:

Fax Number:

E-mail:

(Or on record with Labour Court Code):

Reference Number:

2.3 Nature of complaint (e.g. unfair dismissal / termination, breach of contract, tort etc)

.....

Section of the Law applicable in terms of which the proceedings are instituted

.....

Labour Courts

G. N. No. 106 (contd.)

Name and Section of other Acts.

3. Particulars of the First and Second Respondent (if any)

3.1 First respondent:

Name:

Physical address:

Postal address:

Telephone Number:

Fax Number:

E-mail:

Representative (if any):

Name:

Physical Address:

Postal Address:

Telephone Number:

Fax Number:

(or on record with Labour Court Code):

Reference Number:

E-mail:

4. Other Respondent(s):

Name:

Physical Address:

Postal Address:

Telephone Number:

Fax Number:

FORM NO.2
(Rule 19)

Oath/Affirmation of Office of Interpreters and Translators

I..... (Full names)

do hereby swear/affirm that whenever I may be called on to perform the functions of an interpreter or translator in any proceedings in the Court, I will truly and correctly and to the best of my ability interpret or translate from the language I am called on to interpret or translate into one or other of the official languages and vice versa.

Signed and dated atthis.....day of20..

.....
The Surname and Initials of the Interpreter / Translator

.....
The Signature of the Interpreter / Translator

Sworn / Affirmed before me:
Official Stamp

Name:

Signature:.....

Judge of the Court:.....

Address:

.....
.....

Labour Courts

G. N. No. 106 (contd.)

LCF 3
Fomu Na. 3
(Form No. 3)

FORM NO.3

(Rule 16)

JAMHURI YA MUUNGANO WA TANZANIA
(THE UNITED REPUBLIC OF TANZANIA)
MAHAKAMA YA TANZANIA
(THE JUDICIARY)
DIVISHENI YA MAHAKAMA YA KAZI YA
MAHAKAMA KUU
(LABOUR DIVISION OF THE HIGH COURT)



Kanuni 16

(Rule 16)

S a m a n s i

(S u m m o n s)

Lalamiko/Rufaa/Maombi/Mapitio/Marudio/Marejeo/ Na ya mwaka

(Complaint/Appeal/Application/Review/Revision/Referral(Reference) No.....of year

Baina ya

(Between)

..... Mlalamikaji/mwombaji

..... (Applicant)

Na

(And)

..... Mlalamikiwa/Mjibu Maombi

..... (Respondent)

Kwa

(To)

1.

2.

3.

4.

Taja majina, kazi, mahali pa biashara au makazi
(State names, occupation and place of business or residence)

Unatakiwa kufika binafsi mbele ya Mahakama hii
ikikaa.....
(You are required to appear in person before this Court at)
.....

Mnamo tareheMwezi 20 saa na kubakia Mahakamani
(On the)(day of) 20~~08~~ ... (at time) (and to remain in attendance)
hadi uruhusiwe na Mahakama kuondoka, kwa ajili ya
(until excused by the Court, in order to)
kuhusiana na mambo yoyote unayoyafahamu juu ya tukio lililopo Mahakamani kama
anavyodai kwamba :-

- 1.
- 2.
- 3. (nk)

(in regard to any matters within your knowledge relating to an action pending in
the Court in which (claims that):-

- 1.
- 2.
- 3. (etc)

toka kwa (mdau/wadau)

- 1.
- 2.
- 3. (nk.)

(from the party/parties)

Labour Courts

G. N. No. 106 (contd.)

1.
2.
3. (etc)

Pia unatakiwa kuvileta na kuviwasilisha vizibiti Mahakamani
(Eleza kwa usahihi nyaraka, vitabu au kitu kinginecho
kitakachowasilishwa).

(You are further required to bring and produce exhibits to the Court)
(Describe accurately each document, book or other thing to be
produced).

Na unatahadharishwa kuwa usipuuze asilani kutii samansi hii vinginevyo
utaadabishwa kwa kutozwa faini au kufungwa jela .

(You are further cautioned that you shall on no account neglect to comply with this
summons lest you render yourself liable to a fine or Imprisonment).

Imesainiwa hapa leo tarche mwezi mwaka
(Signed at) (today this) (day of) 20.....

.....
Msajili
(Registrar)

FORM NO.4

(Rule 24 (2))

NOTICE OF APPLICATION

Held at

Application Number

Between

..... (Applicant)

and

..... (Respondent)

TAKE NOTICE THAT the Applicant intends to apply to the Court at a date and time fixed by the Registrar for an order in the following terms:

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

AND TAKE NOTICE THAT the applicant appoints as Applicant's representative in this matter.

AND TAKE NOTICE THAT the Applicant will accept service of all the proceedings in the above matter at the address of the offices of the Applicant's representative, which is set out below:

AND FURTHER TAKE NOTICE THAT the affidavit of will be used in support of the application.

Signed and dated at this day of 20.....

Applicant's representative Address:

Signature of the
Applicant's Representative

Telephone Number:

Fax Number:

Labour Courts

G. N. No. 106 (contd.)

Reference Number:

E-mail:

FORWARDED TO:

THE REGISTRAR

Address:

.....

.....

.....

Telephone Number:

Fax Number:

Reference Number:

E-mail:

SERVED TO:

.....

Respondent's Representative

Postal Address:

.....

.....

.....

Telephone Number:

Fax Number:

Reference Number:

E-mail:

Received copy hereby on this.....day of..... 20..

.....

For the Respondent

FORM NO.5

(Rule 29)

NOTICE OF APPEAL

TAKE NOTICE that.....being dissatisfied with the decision of
.....

Given at.....on the.....
day of20.....intends to appeal to the
Labour Court against the whole of the said decision or part of the said decision:

The address for service of the appellant is:

It is intended to serve copies of this notice on:

Dated this day of..... 20.....

Signature of the Appellant/Advocate/Representative for the Appellant

Filed in the High Court of Tanzania (Labour Division)

at.....

this.....day of..... 20.....

.....
Registrar

Labour Courts

G. N. No. 106 (contd.)

LCF 6

FORM NO.6

(Rule 27 (5))

NOTICE OF REVIEW

TAKE NOTICE that.....being dissatisfied with the
decision in complaint number..... of 20.....
between..... and.....
given by at.....on
the.....
day of20..... intends to seek for review to
the Labour Court against the whole or part of the said decision:

The address for service of the applicant is:

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

It is intended to serve copies of this notice on:

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

Dated this day of..... 20.....

Signature of the Applicant/Advocate/Representative for the Applicant

To: The Registrar at:

.....

Labour Courts

G. N. No. 106 (contd.)

Filed in the High Court of Tanzania (Labour Division) at.....
this.....day of..... 20....

.....
Registrar

Dar es Salaam,
....., 2007

BARNABAS A. SAMATTA,
Chief Justice