

TIONS TO
OLD/MINIMISE
TRENCHMENT

DYMENT

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d. Youth Development

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

RULES

Made under section 15(1)(e)

THE LABOUR INSTITUTIONS (MEDIATION AND ARBITRATION)
RULES, 2007

Citation Title

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

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THE LABOUR INSTITUTIONS (MEDIATION AND ARBITRATION)
RULES, 2007

PART I
PRELIMINARY PROVISIONS

1. These Rules may be cited as the Labour Institutions (Mediation and Arbitration) Rules, 2007.

2. In these rules unless the context requires otherwise—

“Commission” means the Commission for Mediation and Arbitration established by section 12 of the Labour Institutions Act and shall include a mediator or an arbitrator appointed by the Commission;

“day” means a calendar day;

“deliver” means serve on other parties and file with the Commission;

“Labour Court” means the Labour Division of the High Court established by section 50 of the Act and includes any Judge of the Court;

“party” means any party to the proceedings before the Commission; “rules” means rules for the conduct of proceedings before the Commission for Mediation and Arbitration;

“serve” means to serve in accordance with rule 6 and “service” has a corresponding meaning;

“summons” means a formal document issued by the Commission commanding a person named therein to appear before it at a certain time and place for purposes specified therein;

“taxing officer” means any person appointed as such by the Commission in terms of rule 34 of these Rules.

PART II
FILING AND SERVICE OF DOCUMENTS

3.-(1) The offices of the Commission shall be open every day from Monday to Friday, except public holidays, between the hours of 07.30 and 15.30, or as may be determined by the Commission.

(2) Documents may be filed with the Commission during the hours referred to in sub-rule (1).

(3) Notwithstanding sub-rule (2), documents may be faxed at all time to the Commission.

4.-(1) Subject to sub-rule (2), for the purpose of calculating any period of time in terms of these rules, the first day shall be excluded and the last day shall be included.

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

5.-(1) A document shall be signed by the party or any other person entitled under the Act or these rules to represent that party in the proceedings.

(2) Where proceedings are jointly instituted or opposed by more than one employee, documents may be signed by an employee who is mandated by the other employees to do so.

(3) Subject to sub rule (2) a list in writing, of the employees who have mandated a particular employee to sign on their behalf, must be attached to the document. The list must be signed by the employees whose names appear on it.

6.-(1) A party shall serve a document to the other party –

(a) by delivering or handing a copy of the document to

(i) the person concerned;

(ii) a representative authorised in writing to accept service on behalf of the person;

(iii) a person who appears to be at least 18 years old and in

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charge of the person's place of residence, business or place of employment at the time;

(iv) a person identified in sub-rule (2);

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

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

(ii) any premises in accordance with sub-rule (3);

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

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

(2) A document may also be served to—

(a) a company or other body corporate by handing a copy of the document to the person in charge or acting on behalf of the person in charge at its registered office, its principal place of business within Tanzania or its main place of business within the area in which the dispute first arose;

(b) an employer by handing a copy of the document to the person in charge or acting on behalf of the person in charge at the workplace where the employees involved in the dispute ordinarily work or worked;

(c) a trade union or employers' organisation by handing a copy of the document to the person in charge or acting on behalf of the person in charge at the main office of the union or employers' organisation or its office in the area in which the dispute arose;

(d) a partnership, firm or association by handing a copy of the document to the person in charge or acting on behalf of the person in charge at the place of business of the partnership, firm or association or, if it has no place of business, by serving a copy of the document on a partner, the owner of the firm or the chairman or secretary of the managing or other controlling body of the association, as the case may be;

(e) a statutory body, by handing a copy to the secretary or similar officer or member of the board or committee of that body, or any person acting on behalf of that body; or

(f) the Ministry or local government authority, by handing a copy to the person in charge or acting on behalf of the person in charge at its head office or its office in the area in which the dispute arose.

(3) Where a person identified in sub-rule (2) is not willing to accept service, such service may be effected by affixing a copy of the document to the main door of the premises concerned.

(4) The Commission may order service in any appropriate manner other than those prescribed in this rule.

7.—(1) A party shall prove that a document was served in terms of these rules by providing the following:

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

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

(c) if a document was served by hand—

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

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

(2) Where proof of service in accordance with sub-rule (1) is provided, it shall be presumed until the contrary is proved otherwise, that the party on whom it was served has knowledge of the contents of the document.

(3) A party shall serve on the other party the original of a document filed by him through fax if such other party requested to be served through fax.

(4) A party shall be required to comply with such a request within seven days of the request

(5) Subject to sub-rule (3) the Commission may accept proof of service in a manner other than those prescribed in this rule, if the Commission believes it is sufficient.

8.-(1) A party shall file documents with the Commission at its head office or office in the area in which the dispute arose—

- (a) by handing the document to that office;
- (b) by sending a copy of the document by registered post to that office; or
- (c) by faxing the document to that office

(2) A document shall be said to have been filed to the Commission when—

- (a) it is handed to the office as specified in rule 7(1);
- (b) it is sent by registered post and received by the office as specified in rule 7(1); or
- (c) the transmission of a fax to the office specified in rule 7(1) is completed.

(3) A party shall only file the original of a document filed by fax, if requested to do so by the Commission. A party shall comply with a request to file an original document within seven days of the request.

9. Any document or notice sent by registered post by a party or the Commission may be presumed, within seven days after it was posted to have been received by the person to whom it was sent.

Documents and notices sent by registered post

Time limits for referring disputes

10.-(1) Disputes about the fairness of an employee's termination of employment must be referred to the Commission within thirty days from the date of termination or the date that the employer made a final decision to terminate or uphold the decision to terminate.

(2) All other disputes must be referred to the Commission within sixty days from the date when the dispute arises.

11.-(1) This rule applies to any dispute, referral document or application delivered outside the applicable time prescribed in the Act or these Rules.

(2) A party shall apply for condonation, by completing and delivering the prescribed condonation form when delivering the document or application to the Commission. This form must be served on all parties to the dispute.

(3) An application for condonation shall set out the grounds for seeking condonation and shall include the referring party's submissions on the following—

- (a) the degree of lateness;
- (b) the reasons for the lateness;
- (c) its prospects of succeeding with the dispute and obtaining the relief sought against the other party;
- (d) any prejudice to the other party; and
- (e) any other relevant factors.

(4) The application condonation shall be processed in accordance with Rule 29 of these Rules.

(5) Where the Commission's prescribed form is correctly completed, served on all parties to the dispute and delivered to the Commission, the application shall be deemed to have been properly lodged in terms of rule 29 of these Rules.

(6) The Commission may assist a referring party to comply with this rule.

PART III

MEDIATION

12.-(1) A party shall refer a dispute to the Commission for mediation by completing and delivering the prescribed form ("the referral document").

(2) The referring party shall—

Seeking of condonation for documents delivered late

Mediation of referring dispute the Commission