

## The Industrial Court (procedure) Rules, 2010



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IN EXERCISE of the powers conferred by section 21 (4) of the Labour Institutions Act, 2007, the Rules Board, in consultation with the Chief Justice, makes the following Rules:—

### THE INDUSTRIAL COURT (PROCEDURE) RULES, 2010

#### 1. Citation.

These Rules may be cited as the Industrial Court (Procedure) Rules, 2010.

#### 2. Interpretation.

In these Rules, unless the context otherwise requires—

“affidavit of service” means an affidavit of service in the form prescribed in these Rules;

“appeal” means an appeal made to the Court by a party against an order, a decision or proceedings under any written law;

“appellant” means a party who initiates an appeal;

“claim” includes any claim, complaint, application, reference, motion or trade dispute referred to the Court by a party for adjudication under any written law;

“claimant” means a party who files a claim, with the Court under any written law;

“Court” means the Industrial Court and includes a judge of the Industrial

Court duly appointed under the Act;

“division” means a division of the Court, established by the Principal Judge, under section 16 (1) of the Act;

“Judge” means a Judge of the Court appointed under the Act and includes the Principal Judge;

“member” means a member of the Court appointed under section 17 of the Act;

“notice” includes a notice of motion;

“notify” means to give a notice in writing;

“party” means a person, a trade union, an employer, employer’s organization or any corporate body directly involved or affected by an appeal, or claim to which the Court has taken cognizance or who is a party to a collective agreement referred to Court for registration;

“pleading” includes the statements in writing of the claim or demand of an applicant, and the defence by a respondent thereto, the reply of the applicant to any defence or a counterclaim of a respondent.;

“Registrar” includes a Deputy Registrar;

“registry” means any office designated by the Court for the purposes of filing pleadings under these Rules;

“respondent” means a person against whom a suit has been instituted in the Court or who replies to any pleadings in Court and includes any interested party to a suit;

“statement of claim” means a memorandum of claim filed in Court by a

party under rule 4;

“suit” means a claim, an appeal, or any proceedings before the Court for determination;

“summon” means a notice requesting a party or a witness to appear before the Court.

### 3. Sittings of the Court.

The Court may sit in any division of the Court established by the Principal Judge under section 16(1) of the Act.

4. A party who wishes to refer a dispute to the Court under any written law shall file a statement of claim setting out—

(a) the name, the physical and the mailing address and full particulars of the claimant;

(b) the name, the physical and mailing address and the description of the respondent;

(c) the name, the physical and mailing address of any other party involved in the dispute;

(d) the facts and grounds for the claim specifying issues which are alleged to have been violated, infringed, breached or not observed and in the case of trade dispute the rights of the employees not granted or to be granted, any other employment benefits sought and the terms of collective bargaining agreement on which the jurisdiction of the Court is being invoked;

(e) any principle or policy, convention, law or industrial relations issue or management practice to be relied upon; and

(f) the relief sought.

5. Verifying Affidavit to accompany a statement of claim.

(1) A statement of claim filed under rule 4 shall be accompanied by an affidavit verifying the facts relied on.

(2) Where a claimant, in the course of hearing seeks to adduce additional evidence, the claimant may, with the leave of the Court, file a further affidavit or adduce oral evidence.

6. (1) Where a trade dispute is referred to the Court in accordance with the provisions of the Labour Relations Act—

(a) the statement of claim shall be signed by the authorized representative of the party referring the trade dispute to the Court; or

(b) where the trade dispute has been a subject of conciliation, the statement of claim shall be accompanied by—

(i) a report by the conciliator on the conciliation process supported by minutes of the conciliation meetings; and

(ii) a certificate of conciliation issued by the conciliator under section 69 (a) of the Labour Relations Act.

(2) Where the trade dispute has been a subject of conciliation and the conciliator has not issued a certificate, the statement of claim shall be accompanied by an affidavit sworn by the claimant or by the representative of that claimant attesting to the reasons why the conciliator has not issued a certificate of conciliation.

(3) Where no conciliation has taken place at all, the statement of claim shall be accompanied by an affidavit sworn by the claimant or by the representative of that claimant attesting to the reasons why the conciliation had not taken place.

Statement of claim issued pursuant to Labour Relations Act.

Act No. 14 of 2007.

No. 14 of 2007.

7. Where a claim is referred to the Court in accordance with the provisions of any written law, other than the Labour Relations Act, the statement of claim shall—

(a) be signed by the claimant or by the advocate of that claimant; or

(b) if the claimant is a body corporate, be signed by an authorized officer of the body corporate or its advocate.

Statement of claim issued under any other written law.

8. (1) Where any written law provides for an appeal to the Court, an aggrieved person shall file a memorandum of appeal with the Court within the time specified for that appeal under the written law.

(2) Where no period of appeal is specified in the written law, an appeal shall be filed within thirty days from the date the decision that is the subject of appeal was delivered.

(3) A memorandum of appeal shall be in Form 1 set out in the First Schedule.

(4) A memorandum of appeal shall be accompanied by copies of all documentary evidence that an appellant wishes to rely on in the

Appeals. Institution of claim. appeal and a verifying affidavit.

(5) The Court may decline to hear an appeal where the memorandum of appeal filed is not in the prescribed form.

9. (1) In a suit where more than one employee is instituting a claim against one employer in respect of breach of contract, the judge may permit one employee and one statement of claim to be filed by a labour

officer or by one of the claimants in the suit on behalf of all other claimants.

(2) The claim filed under paragraph (1) shall be proved by the labour officer or by the claimant authorized by the Court.

(3) The statement of claim shall be accompanied by a schedule of the names of other claimants in the suit, their address and descriptions and the details of wages due to or the particulars of any other breaches and reliefs sought by each claimant.

(4) All claims referred to in paragraph (1) shall rank equally between the claimants, and shall be paid in full, unless the amount recovered from the respondent is less than the total amount of the claims with costs.

(5) After payment of the costs, all the claims shall abate in equal proportions among the claimants and be paid accordingly.

(6) The claimants, or any one of them, shall pay any costs given against them in a proportion as the Court shall direct. Institution of suits by several employees

10. (1) The Court shall maintain a separate filing system for claims and appeals.

(2) A party filing a suit shall file six original copies of pleadings under these Rules by depositing them at the registry and pay the prescribed.

(3) Notwithstanding paragraph (2), the Court may, depending on the number of parties, require a party to file additional copies of any pleading.

(4) A party shall indicate the physical and mailing address of that party on all filed pleadings.

(5) The Court shall allocate a cause number or appeal number to a statement of claim or appeal at the time of filing.

(6) Where a party intends to file a pleading in more than one cause or appeal, the party shall submit a sufficient number of copies for each cause or appeal.

(7) The claimant shall, after filing a statement of claim or an appeal as the case may be, cause the statement of claim or appeal to be served on the respondent by a qualified process server.

Filing procedure.

11. (1) The Court shall issue summons in Form 2 set out in the First Schedule.

(2) A claimant shall serve the summons issued under paragraph (1) to the respondent together with the statement of claim or the appeal.

(3) Where a respondent files pleadings in response to any Service of summons.

pleading filed by a claimant or an appellant, the respondent shall have the pleadings served on the claimant or the appellant by a qualified process server within fourteen days of filing.

(4) A party shall, upon effecting service of pleadings on any other party, prepare and file in Court an affidavit of service in Form 3 set out in the First Schedule.

(5) An affidavit of service shall be accompanied by evidence of acknowledgement of receipt of the served document signed by the recipient, respondent, claimant or appellant as the case may be or the persons accepting service on their behalf.

(6) If for any reason the signature of the recipient cannot be secured, the process server shall state so in the affidavit of service.

(7) Where service of pleadings under these Rules is effected through the post, the affidavit of service shall be accompanied by the certificate of mailing.

(8) The Court may effect service on behalf of any party upon, request in writing, made by the party in Form 4 as set out in the First Schedule and upon payment of a prescribed fee.

12. (1) Service on a corporate body may be effected—

(a) on the secretary, the director or any other principal officer of the corporate body;

(b) where the process server is unable to find any of the officers of the corporate body mentioned in subparagraph (a), by—

(i) leaving the pleadings with an employee of the corporate body to be identified by the process server; or

(ii) leaving the pleadings at the registered office of the corporate body; or

(iii) sending the pleadings by prepaid registered post to the registered postal address of the corporate body; or

(iv) leaving the pleadings at the place where the corporate body carries out business; or

(v) sending the pleadings by registered post to the last known postal address of the corporate body if the corporate body does not have a registered office or postal address.

(2) Notwithstanding anything contained in this rule, a party may, with leave of the Court, effect service of process by any other method of service. Service on a corporate body.

13. Response to pleadings.

(1) If a party served with a with a statement of claim or a memorandum of appeal intends to respond to the claim or appeal, the party shall, within fourteen days from the date of service file and serve a response to the claim or appeal.



(2) A respondent's statement of response shall contain—

(i) the respondent's name and address for purposes of service of process;

(ii) a reply on issues raised in the statement of claim or appeal;

(iii) any admission of statement of facts set out in the statement of claim or appeal as the respondent admits, and a denial of any statements made in the statement of facts or appeal that the respondent does not admit;

(iv) any additional statements of facts which the respondent may wish to make in support of its reply;

(v) grounds upon which the respondent may wish to rely;

(vi) any principle or policy, convention, law or industrial relations or management practice to be relied upon;

(vii) a counterclaim; or

(viii) relief that might be sought by the respondent against the claimant or the appellant.

(3) A party may respond to an application by filing grounds of opposition to the application verified by an affidavit.

(4) The Court may, on application by a party to any proceedings, extend or reduce the time within which a responding party may respond to a pleading.

#### 14. Pleadings generally.

(1) A pleading shall be divided into paragraphs numbered consecutively, each allegation being so far as appropriate contained in a separate paragraph.

(2) Dates, sums and other numbers shall be expressed in figures and not words save for where a party is quoting a passage from a secondary document.

(3) A party may through pleadings raise any point of law or quote any provision, statement or principle of law.

(4) Pleadings may contain evidence:

Provided that the Court may require the evidence to be verified by an affidavit or sworn oral evidence.

(5) A party may, by notice, object to a pleading stating grounds of objection:

Provided that no objection may be raised to any pleading on the ground of any want of form.

(6) A party may, with the leave of the Court, amend pleadings:

Provided that where leave is granted to a party to amend any pleading, a responding party shall have a corresponding right of to amend that party's pleadings.

(7) Where the Court, on its own motion or on application by a party, is satisfied that a pleading does not adequately set the particulars required by the Court, or for any other reason the Court requires clarification of any pleading or submission by a party, the Court may request the party to provide further details as it may consider necessary within such period as it may determine or specify.

(8) A party requested to provide further details shall provide to the Court and the other party the details required.

(9) A party shall notify the Court when submitting a statement of claim or a response to a statement of claim under rule 4 and rule 11(1) of any witnesses a party proposes to call in support of that party's submissions and shall, at the same time notify the other party of the same.

(10) A party may, with the leave of the Court, call other witnesses.

15. Setting down the case for hearing.

Upon expiry of fourteen days from the date of filing and serving response to a statement of claim or a response to memorandum of appeal or such period as may be fixed by the Court, a party may apply to the Court to issue directions on hearing of the case:

Provided that the Court may, on application of either party give direction within the shortest period possible.

16. Interlocutory application and temporary injunctions.

(1) An interlocutory application shall be by notice of motion and shall be heard in an open Court.

(2) A party shall, before filing a motion, notify all the parties of the intended motion:

Provided that the Court may, if satisfied that the delay caused by proceedings in the ordinary way would cause irreparable or serious mischief, may make an order ex parte upon terms as to costs or otherwise and subject to such undertaking, if any, as the Court considers just, and a party affected by that order may move to set it aside.

(3) In a suit where an injunction is sought, a claimant or an applicant may, irrespective of whether he is seeking compensation, any time after the commencement of the suit apply to the Court for an interim or temporary injunction to restrain the respondent from committing a

breach of contract or an injury complained, or any injury of a like kind arising out of the same contract or relating to the same property or right.

(4) Where an application is made to the Court under paragraph

(3) for a temporary or an interim injunction, the Court may, by order, grant an injunction on such terms as the Court thinks fit.

(5) A notice of motion shall state in general terms the grounds of the application and where the motion is supported by an affidavit, both the notice of motion and a copy of the affidavit shall be served.

(6) Where a motion or any other application is served either without a hearing date or more than seven days before the date fixed for its hearing, a respondent who wishes to oppose the application shall, within seven days of service, file and serve on the applicant, in addition to any affidavit, a statement of the grounds upon which the respondent will oppose the application.

determining the suit without prejudicing the applicant, the Court may discourage interlocutory proceedings.

(8) Notwithstanding anything contained in this provision-

(a) the Court shall not grant an ex parte order that reinstates into employment an employee whose services has been terminated; and

(b) an ex parte order shall be granted once for a period fourteen days and shall not be extended.

17. Pre-trial procedure.

(1) Where a party intends to rely on a document that has not been identified in a verifying affidavit filed as part of the pleading or where no verifying affidavit is filed, a party shall make sufficient copies of

each document for the Court and serve the other party with a copy before the case is set down for hearing.

(2) A party shall submit to the Court original documents or where the original is not available, a certified copy of the original.

#### 18. Case management.

(1) The Court may, on its own motion and where considers it fit, serve a pleading on any other party whom it is satisfied may be interested in the matter being considered.

(2) The Court may summon any person or expert for the purposes of an examination of facts and full adjudication of a dispute.

(3) A party may request the Court that a particular expert, if any, who took part in and is conversant with particulars of any matter in issue makes representation in writing or be called upon to attend the hearing of the case and give evidence.

(4) The Court may serve the parties in a suit with pleadings and documents.

(5) The Court shall encourage parties to proceedings before it to enter into conciliation, negotiations and agreements and where a consensus is reached, consent to that effect shall be recorded by the Court at any time before conclusion of the hearing of the proceedings and the Court shall adopt the consent reached by the parties as its own ruling in that matter.

#### 19. Witness summons.

(1) The Court may, on its own motion or at the request of a party, summon for examination any person who has information relevant to any of the issues before the Court.

(2) The summons for examination shall be signed by the Registrar and

shall—

(a) require the person named in the summons to appear before the Court;

(b) state the date, time and the place at which the person must appear;  
and

(c) sufficiently identify any book, a document or an object required to be produced by that person.

(3) The Court may direct the party at whose request summons is issued to pay, at a reasonable rate determined by the Court, witness fees, travel and subsistence allowances to a person summoned to appear before the Court.

(4) The Court may administer an oath or accept an affirmation from a person summoned to give evidence before it.

(5) Witness summons shall be in Form 5 set out in the First Schedule.

20. Notice of hearing.

(1) The Court shall, with due regard to the convenience of all parties, fix a date, time and place for hearing.

(2) The Court not less than twenty-one days before the date fixed for hearing, cause to be sent to each party a hearing notice specifying the date, time and place of hearing:

Provided that the Court may for reasons to be recorded, fix an earlier hearing date or may proceed with a case on priority basis.

21. Determination by documentary evidence.

The Court may, subject to an agreement by all parties, proceed to determine a suit before it on the basis of pleadings, affidavits, documents

filed and submissions made by the parties.

## 22. Proceedings in the absence of either party.

Where a hearing notice was served on the parties, the Court may proceed with the case before it in the absence of any party thereto if—

(a) that party has indicated that, that party does not wish to attend the hearing;

(b) that party fails to appear for the hearing without providing any reasons; or

(c) the Court is satisfied that the reasons forwarded to it by that party are not of such a nature as to prevent the attendance of that party.

## 23. Consolidation of cases.

The Court may consolidate suits if it appears that in any number of suits

(a) some common question of fact or law arises; or

(b) it is practical and appropriate to proceed with the issues raised in the suits simultaneously.

## 24. Hearing procedure. Cap 80.

(1) The Court shall give directions as may be necessary to enable the parties to prepare for the hearing.

(2) The Court shall, at the beginning of the hearing, explain the order of the proceedings which the Court proposes to adopt.

(3) The Court shall not be bound by rules of evidence under the Evidence Act:

Provided that the claimant or the appellant shall be given the first

opportunity to present that claimant's or that appellant's case.

(4) Evidence before the Court may be given orally or if the Judge so orders, by affidavit or a written statement and the Court may at any stage of hearing, require the attendance of a deponent or an author of a written statement if the attendance is required for the purposes of examination of the facts deponed or written.

(5) The Court shall conduct the hearing in a manner it considers most suitable to the just handling and recording of proceedings and shall, if appropriate, avoid legal technicalities and formalities.

(6) The Court may use electronic modes of presentation and recording of evidence.

(7) The Court may require a witness to give evidence on oath or affirmation and the Court may, for that purpose, administer the oath or the affirmation.

(8) The Court may at its own request or at the request of a party to a suit be provided with visual demonstration facilities for the display of any maps, photographs, charts, diagrams and demonstrations or illustrations of texts and any other documents that are to be used for the purposes of making a finding in the matter for determination before it.

25. Close of hearing.

(1) Upon completion of the hearing and presentation of the facts and evidence and statements by parties, witnesses and experts, if any, the Court shall declare the hearing closed.

(2) The Court shall not re-open hearing or review facts unless it, for sufficient reason, considers it fit to do so or as provided for in rule 32(1).

26. Submissions.



(1) Upon hearing all facts and evidence and the consideration of the matters in question, the parties may orally submit or file written submissions, summing up their respective cases before the Court.

(2) Where written submissions are made, three original copies of the submission shall be filed with the Court and additional copies served on each party to the proceedings.

## 27. Decision of the court.

(1) The Court shall, after considering all relevant facts and supporting documents and in accordance with the procedures set in these Rules—

(a) where the suit was originated by a statement of claim, deliver an award,

(b) where the suit was originated by a memorandum of appeal, deliver a judgment, or

(c) in any other proceedings, deliver a ruling:

Provided that, subject to these Rules and to any other written law, the Court may at any time in the conduct of its proceedings issue—

(a) an injunctive order;

(b) a prohibitory order;

(c) a declaratory order;

(d) an order for specific performance;

(e) an order for payment of costs;

(f) an order for payment of interest on any principal sum awarded by the

Court; or

(g) any other order to meet the ends of justice.

(2) A decision of the Court shall contain concise statement of facts and the reasons for the decision.

(3) The decision of the Court shall be in writing and signed by the Judge sitting with two members and duly sealed:

Provided that where the parties have, by consent, agreed that the judge sits alone or with one member, the judge sitting or the judge and the sitting member shall sign the award.

(4) A party may appeal against the decision of the Court on matters of law.

## 28. Costs and Interest.

(1) The Court shall be guided by section 12(8) of the Act in awarding costs to a party.

(2) The Court shall not award exemplary or punitive costs.

(3) Where a suit involves a liquidated amount that is claimed and specified at the time of filing a statement of claim and the Court orders that the amount claimed or part of the amount be paid to the claimant, the Court may in addition to that order, direct that interest be paid on the liquidated amount awarded at applicable interest rates as if the suit was filed in the High Court.

## 29. Record of proceedings and decision.

(1) The Registrar shall cause a record of the proceedings and the decisions of the Court to be made.

(2) The record of the proceedings and decisions of the Court shall be made available to any interested person upon request and upon payment of the prescribed fee.

(3) The record of proceedings and decisions of the Court referred to in paragraph (1) shall be kept in accordance with the provisions of the Act and any other written law governing the keeping of judicial records.

(4) An award, a judgment, a ruling, an order or a decision of the Court certified, signed and sealed by the Registrar shall be conclusive evidence of the existence of the award, the judgment, the ruling, the order or the decision of the Court.

### 30. Decree.

(1) The Registrar shall draw, seal, and issue an order and a decree of the Court.

(2) An order or a decree shall be drawn in accordance with the decision of the Court and shall specify clearly in paragraphs the relief granted and any other determination and costs, if any.

### 31. Execution and warrants.

(1) The Registrar shall issue an execution order and a warrant of arrest.

(2) Rules on execution of an order and a decree applicable in the High Court shall be applicable to an order and a decree of the Court.

### 32. Review.

(1) A person who is aggrieved by a decree or an order of the Court may apply for a review of the award, judgment or ruling—

(a) if there is a discovery of new and important matter or evidence which, after the exercise of due diligence, was not within the knowledge of that person or could not be produced by that person at the time when the decree was passed or the order made; or

(b) on account of some mistake or error apparent on the face of the record; or

(c) on account of the award, judgment or ruling being in breach of any written law; or

(d) if the award, the judgment or ruling requires clarification; or

(e) for any other sufficient reasons.

(2) An application for review of a decree or order of the Court under subparagraphs (b),

(c), (d), or (e), shall be made to the judge who passed the decree, or made the order sought to be reviewed.

(3) A party seeking review of a Court decree or order of the Court shall apply to the Court in Form 6 set out in the First Schedule.

(4) An application under paragraph (3) shall be accompanied by a memorandum supporting the application and the Court shall proceed to hear the parties in accordance with section 26 of the Act.

(5) The Court shall, upon hearing an application for review, deliver a ruling allowing the application or dismissing the application.

(6) Where an application for review is granted, the Court may review its decision to conform to the findings of the review or quash its decision and order that the suit be heard again.

(7) An order made for a review of a decree or order shall not be subject to further review.

### 33. Correction of errors.

The Court shall cause any clerical mistake, incidental error or omission

to be rectified without reference to the parties and shall notify the parties of the mistake, incidental error or omission.

#### 34. Seal of the Court.

(1) The Seal of the Court shall be authenticated by the signature of the Registrar.

(2) In the absence of the Registrar, a Deputy Registrar designated by the Principal Judge for that purpose, may authenticate the Seal of the Court.

#### 35. Collective Agreements.

(1) An employer or an organization of employers that have entered into a collective agreement shall lodge a copy of the agreement with the Minister within fourteen days of its execution.

(2) The Minister shall furnish the Court with a copy of each collective agreement that has been lodged with the Minister pursuant to this Rule, and the Minister may also furnish the Court with such information and comments as the Minister considers necessary.

(3) Where the Minister objects to the registration of a collective agreement, a copy of the agreement furnished to the Court shall be accompanied by a statement of the objection giving reasons for objection.

(4) The Court shall maintain a register of collective agreements that have been accepted by the Court for registration.

(5) A collective agreement shall not take effect until it has been registered by the Court.

#### 36. Court to regulate its procedure.

Subject to these Rules, the Court may regulate its own procedure.

37. Registration of Collective Agreements

The Fees chargeable by the court for filing pleadings, instruments and procedures shall be as set out in the Second Schedule as amended from time to time:

Provided that the court may, on application by a party, waive all or any fee chargeable.

38. LN. No. 186/1965 LN. No. 118/1973.

Industrial Court (Procedure) Rules and The Trade Unions (Appeals) (Amendment) Rules are revoked.

FIRST SCHEDULE

FORM 1

(r.8 (3))

IN THE INDUSTRIAL COURT OF KENYA

APPEAL UNDER SECTION.....OF.....

APPEAL NO..... OF.....

IN THE MATTER OF APPEAL OF

[NAME OF APPELLANT]

APPELLANT

AND

[NAME OF THE INSTITUTION OR AUTHORITY  
AGAINST WHOSE DECISION APPEAL IS LODGED]

RESPONDENT

OR

[NAME OF INTERESTED PARTY {IF APPLICABLE} SECOND  
RESPONDENT

1. Take Notice that the Appellant appeals against the decision of the

2. The Appeal relates to

.....

3. The decision Appealed against is

.....

4. The Appeal is to be determined by the Industrial Court at a date, time  
and place to  
be set by Notice to the Parties.

(2) The Appeal is based on the following grounds [set out each ground  
concisely]

.....

.....

.....

.....

.....

.....

(attach any relevant documents)

(3) The decision sought for is:

.....

.....

.....

.....

.....

.....

(4) And take note that the Appellant appoints..... as Appellant's representative in this matter

(5) Take note also that the Appellant shall accept services of all documents on the above matter at the Appellant's address which is set below:

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

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

.....  
Appellant/Advocate  
\_\_\_\_\_

FORM 2  
(r.11 (1))

NOTICE OF SUMMONS

To.....  
.....(name)  
of (address)

Take notice that a statement of claim/memorandum of appeal has been filed in the Industrial Court at ..... in Cause/Appeal No.....20..... in which you are named as Respondent. Service



of the  
summons on you was ordered to be by this notice.

A copy of the summons and the Statement of Claim/Memorandum of Appeal is herewith attached.

Unless you file a Response within fourteen days from the date of this summon, the suit will be heard and determined in your absence.

Dated at .....this.....day  
of.....200.....

.....

Registrar

FORM 3

(r.11 (4))

AFFIDAVIT OF SERVICE

I.....of.....

.....

an \*advocate/a police officer/a process server of the court make oath and stay as follows:

(1) On.....,

200.....at.....(time) I

served the summons in this suit on.....at

(place) by

tendering a copy thereof to \*him/her and requiring a signature on the original.

\*He/She \*signed/refused to sign the summons. He/She was personally known to

me/was identified to me

by.....and

admitted that \*he/she was the Respondent.

(2) Not being able to find.....the Respondent

on.....,

200.....at.....(time) I

served the summons on .....(name) an employee of the

Respondent who is working with the Respondent.

(3) (Otherwise specify the manner in which the summons was served).

SWORN by the said.....this.....day

of....., 200.....

Before me

A Commissioner of Oaths/Magistrate

\*Delete as necessary

---

FORM 4

(r.11 (8))

## REQUEST TO THE COURT TO EFFECT SERVICE

To the Registrar

Industrial Court of Kenya

1. The \*Claimant/Appellant/Respondent hereby requests the Registrar to effect service

of process on the \*Claimant/Appellant/Respondent.

2. The Physical address of the \*Claimant/Appellant/Respondent for

purpose of this suit  
is as follows:

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

3 The \*Claimant /Appellant/Respondent has paid the requisite fee for service.

DATED at NAIROBI this.....day  
of.....20.....

\*Claimant/Appellant/Respondent

\*Delete as necessary

FORM 5  
(r.19 (5))

IN THE INDUSTRIAL COURT OF KENYA

FORM OF PLEADINGS

INDUSTRIAL COURT CAUSE/APPEAL

NO.\*.....OF.....

IN THE MATTER OF APPEAL OF CAUSE/APPEAL

BETWEEN

[NAME OF  
CLAIMANT/APPELLANT\*].....CLAIMAN  
T/APPELLANT

AND

[NAME OF RESPONDENT].....

RESPONDENTS

SUMMONS FOR ATTENDANCE

You are hereby summonsed to appear in person before the above-named Court at

.....on .....day of.....and thereafter to remain

in attendance until excused by the Court in regard to all matters within your knowledge

relating to the matter pending before the Court wherein the Claimant/Appellant/Applicant\* is seeking as follows:

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

YOU ARE REQUIRED to bring and produce to the Court the following; [insert accurately the document, book or thing to be produced]

- 1.....
- 2.....

BE INFORMED that should you on any account neglect to comply with any of the provisions of this summons the Court will be left with no option but to resort to the provisions of Rule 32 of the Industrial Court Rules. (\*delete whichever is not applicable)

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

.....

Registrar

FORM 5

(r.32 (3))

CAUSE/APPEAL NO.....OF.....20  
IN THE MATTER OF APPLICATION FOR REVIEW  
BETWEEN

[Name of  
Applicant].....Ap  
plicant

[Name of  
Respondent].....Resp  
ondent

The Registrar  
The Industrial Court  
P.O. Box 47606  
NAIROBI

REVIEW OF AWARD

We/I.....the  
Applicant party  
being aggrieved by the award, in Cause  
No.....dated.....  
submit(s) that the ward requires review and enclose herewith the  
requisite memoranda in  
support of the application for review. The Applicant party wishes/does  
not wish to be  
heard in respect of the application for review and intends/does not intend  
to call witnesses  
in support of its claim.

Dated at this.....day

of.....20.....

.....  
Applicant/Advocate

Drawn & Filed by:  
(Applicant on the review application)

To be served upon:  
(Respondent to the review application)

**SECOND SCHEDULE**

(r. 37)

**FEES**

No. Pleading KSh.

1. Sale of forms: per form per 50 forms 5  
150

2. On filing a Statement of Claim

(a) Individuals employees

(i) Fee on Statement of claim

(ii) Supporting affidavit

(iii) Annexure

(b) Any other party

(i) Fee on Statement of Claim

(ii) Supporting Affidavit

(iii) Annexure (per document)

(c) Filing Reply to Claim

(d) Replying affidavit

(e) Annexure (per document) 200

75

20

500

75

10

500

75

10

3. (a) On filing Interlocutory Application

(b) Affidavits in support of Applications

(c) Annexure ( per document) 250

75

10

4. (a) On filing Grounds of Opposition

(b) Replying Affidavits

(c) Annexure (per document) 250

75

10

5. (a) On filing Application for Review of the Award

(b) Affidavits in support of Application

(c) Annexure ( per document) 500

75

10

6. (a) On filing Response to Application for Review

(b) Affidavit in support of Application

(c) Annexure per document 500

75

10

7. (a) On filing Appeals from the Decision of Registrar of Trade Unions.

(b) Affidavit in support of Appeals

(c) Annexure per document 5000

75

10

8. (a) On filing Appeals from the decision of the Minister.

(b) Affidavit in support of Appeal.

(c) Annexure per document. 2,000

75

10

9. (a) On Filing Appeals other than Appeals from the decision of the Registrar of Trade Unions or the Minister.

(b) Affidavit in support of Appeal.

(c) Annexure (per document.) 1,000

75

10

10 . (a) On filing Memorandum of Reply to any Appeal.

(b) Replying Affidavit.

(c) Annexure per document 1,000

75

10

11. (a) On filing Affidavit of Service, Supplementary or further Affidavits. 75

10

12. Issue of summons/Notice of Appearance. 50

13. Taking out witness summons or any other summons not provided for 100

14. Filing Memorandum of Appearance of Notice of Appointment of advocates 100

15. For filing any document for which no fee is prescribed under this schedule 75

16. Certification/attestation of documents 75

17. For swearing an affidavit (Cap 15) 50

18. Certification/attestation of documents 75

19. For swearing an affidavit (Cap 15) 50

20. On filing matter under certificate of urgency 550

21. On application for adjournment at time of hearing.400

22. On filing consent orders. 150

23. (a) On filing application for execution

(b) Issuance of execution order

(c) Notice to show course

(d) Issuance of Notice to show course

(e) Issue of attachment warrant



- (f) Issue of sale warrant. 250  
150  
150  
150  
50  
50  
24. Application of decree 100  
25. On filing a bill of costs. 250  
26. Application for judgment 30  
27. Application to draw/be issued with Court order 50  
28. Issue of a certificate by registrar after award is given by the Court  
100  
29. On filing any application for which no provision is made under this  
schedule 1,000

Dated the 4th May, 2010.

CHARLES CHEMUTTUT,  
Chairman,  
Rules Board.