

Lesotho

Labour Code Order, 1992

Labour Court Rules, 1994

Legal Notice 35 of 1994

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In exercise of the powers conferred upon me by section 27 of the Labour Code Order, 1992 and pursuant to section 26 of the Interpretation Act, 1977, I, Brendan Peter Cullinan Chief Justice, in consultation with the President of the Labour Court, do hereby make the following Rules—

Part I – Preliminary

1. Citation and commencement

These Rules may be cited as the Labour Court Rules, 1994, and shall come into operation on the date on which Division D of Part III of the Code shall come into operation.

2. Interpretation

In these Rules, subject to the provisions of section 4 of the Code, unless the context otherwise requires—

"**amalgamation**" means an amalgamation of two or more registered trade unions or registered employers' organisations as one trade union or employers' organisation, as the case may be, registered under section 178(2) of the Code;

"**appeal**" means an appeal filed under rule 31;

"**appellant**" means a person filing an appeal;

"**applicant**" means a person filing an originating application or an application under these Rules;

"**application**" includes an originating application, according to the context;

"**Court**" means the Labour Court established under section 22 of the Code and includes the President or a Deputy President when so authorised under the Code or rule 25(3)(a) of these Rules;

"**days**", in the computation of time expressed in days prescribed by these rules or fixed by any order of Court, includes all days other than Sundays and public holidays;

"**interim relief**" is that relief which the Court may grant to one party *ex parte* until such time as the other party may be heard;

"**interlocutory relief**" is that relief which the Court may grant pending final order;

"**members**" or "membership" of the Court means the members thereof hearing the matter in question, and shall include the President or a Deputy President;

"**originating application**" means an application instituting proceedings under rule 3;

"**party**" means a litigant in any proceedings under these Rules and includes his representative under section 28 of the Code;

"**President**" means the President of the Labour Court appointed under section 23(1)(a) of the Code and shall include a Deputy President of the Labour Court appointed under section 23(1)(b) of the Code;

"**Register**" means the register maintained by the Registrar wherein shall be recorded all applications and appeals filed in the Court and the Court's decision or award in respect thereof;

"**Registrar**" means the Registrar of the Labour Court appointed under section 22(2) of the Code, and includes, save for the provisions of rule 38(1), a Deputy Registrar of the Labour Court appointed under section 22(2);

"**Registry**" means the office of the Court;

"**Registry stamp**" means the rubber or other form of stamp utilised in the Registry to imprint the date on any document;

"**respondent**" means a person against whom an originating application, appeal or application is brought under these Rules or who is cited as such in accordance with these Rules;

"**seal**" means to make an imprint, whether embossed or otherwise, upon a document by applying thereto the Seal of the Court as prescribed under rule 37;

Part II – General rules

3. Originating application

Proceedings for the determination of any matter by the Court shall be instituted by any interested person or persons presenting, or delivering by registered post, to the Registrar an originating application, which shall be in writing in or substantially in accordance with Form LC 1 contained in Part A of the Schedule and shall

- (a) set out in full the title of the matter;
- (b) contain in full the name and address and postal address of the applicant;
- (c) contain in full the name and address and postal address of the person or persons against whom relief is sought, or who is or are required to be joined as respondent or respondents under these Rules;
- (d) be divided into paragraphs (including sub-paragraphs) in respect of content, which paragraphs shall be consecutively numbered and which shall, as nearly as possible, each contain a distinct averment;
- (e) contain the grounds on which relief is sought;
- (f) contain a clear and concise statement of the material facts upon which the applicant relies, with sufficient particularity to enable the respondent to reply thereto;
- (g) contain the nature of the relief sought or the question for the determination of the Court;
- (h) be signed and dated by the applicant.

4. Registration of originating application

Upon receipt of an originating application, the Registrar shall assign a number thereto, seal it and enter it in the Register and shall forthwith send a sealed copy of the application to the respondent by the means provided under section 223 of the Code if the respondent is a trade union, or in any other case by means of registered post, accompanied in all cases by a written notice including information, as appropriate to the case, concerning the means and time for entering an appearance, the consequences of the failure to do so and the right to receive a copy of the Court's decision.

5. Appearance by respondent

A respondent may within fourteen days of receipt by him of a copy of the originating application, enter an appearance to the proceedings by means of presenting, or delivering by registered post, to the Registrar and to the applicant an answer to the originating application, which shall be in writing in or substantially in accordance with Form LC 2 contained in Part A of the Schedule and which shall set out the grounds on which the respondent intends to oppose the application. The provisions of rule 3 shall apply *mutatis mutandis* to such answer. The Registrar shall seal the answer and enter it in the Register.

6. Amendment of pleadings

The Court may, upon written application by any party upon written notice to any opposing party, or upon oral application at the hearing, or of its own motion, make an order, in the exercise of its discretion, amending any pleadings at any stage of proceedings before judgment.

7. Striking out

- (1) Subject to sub-rule (3), the Court may, at any stage of proceedings, of its own motion, order to be struck out any document filed in the proceedings or anything contained therein, on the grounds that it is scandalous, vexatious, frivolous, irrelevant or an abuse of the process of the Court.
- (2) Subject to sub-rule (3), the Court may upon application by the respondent, or of its own motion, order any originating application to be struck out for want of prosecution.
- (3) Before making an order under sub-rules (1) or (2), the Court shall send notice to the party against whom it is proposed that any such order shall be made, giving him an opportunity to show cause as to why such an order should not be made.

8. Joinder and representative respondents

- (1) The Court may at any time, either upon the application of any person, or of its own motion, direct any person against whom any relief is sought to be joined as a party to the proceedings, and give such consequential directions as it considers necessary.
- (2) Where there are numerous persons having the same interest in an originating application, one or more of them may be cited by the applicant as the respondent or respondents, or may be authorised by the Court, before or at the hearing, to defend on behalf of all the persons so interested.

9. Further particulars

The Court may, of its own motion, or upon application by any party to the proceedings upon written notice to any opposing party, require the latter party to the proceedings to furnish to the former party further particulars of the grounds on which he relies and of any facts and contentions relevant thereto.

10. Withdrawal

If an applicant shall at any stage give written notice to the Registrar of the withdrawal of his originating application, the Court shall dismiss such application.

11. Pre-hearing conferences

- (1) The parties shall, when directed by the Court to do so, hold an informal conference in Chambers prior to the hearing of any matter, during which a member of the Court shall preside.

- (2) At such conference, without prejudice to the rights of the parties, consideration may be given to, and the said member of the Court may give directions as to, the following matters:
 - (a) any means whereby the dispute may be settled, inclusive of such previous endeavours as have been made by the parties to settle the dispute by agreement or otherwise;
 - (b) any agreement as to the nature and extent of the unresolved issues;
 - (c) such facts as are common cause or are admitted by any party;
 - (d) discovery or exchange of documents;
 - (e) the mode in which evidence is to be given at the hearing;
 - (f) the manner in which documentary evidence, if any, is to be dealt with;
 - (g) whether evidence on affidavit will be admitted with or without the right of any party to cross-examine the deponent;
 - (h) the necessity or otherwise for an on-the-spot inspection;
 - (i) securing the presence in Court of any witness, including any witness whom the Court may decide to call; and
 - (j) any other matter or means whereby the proceedings may be shortened.
- (3)
 - (a) Notwithstanding the provisions of sub-rule (1), any party may on reasonable notice require the other party or parties to attend a conference at a mutually convenient time, date and venue in order to attempt to agree on such matters referred to in sub-rule (2) as may be relevant.
 - (b) The Court may take into consideration with respect to costs the failure of any party to agree to or attend a conference referred to in paragraph (a).
 - (c) The parties shall draw up and sign minutes recording the matters agreed at the conference referred to in paragraph (a) and the applicant shall ensure that a copy thereof is presented, or delivered by registered post, to the Registrar prior to the hearing.

12. Notice of hearing

- (1) The President shall fix the date, time and place of the hearing of an originating application or an appeal.
- (2) The Registrar shall send notice of such hearing, in form LC 3 contained in Part A of the Schedule, not less than fourteen days prior thereto, by means of registered post, to all parties to the hearing. Such notice shall include information and guidance as to attendance at the hearing, witnesses (if any) and the production of documents (if any), and the right to representation as provided in section 28 of the Code.

13. Judgment by consent

A respondent may at any time, in writing, signed and dated by him, in respect of the whole or any part or parts of an originating application, consent to judgment. Upon application by the applicant in writing to the Registrar, the Court shall enter judgment accordingly.

14. Judgment by default

Whenever a respondent fails to file an answer to an originating application, the Court may, upon application in writing by the applicant, being satisfied as to receipt of the originating application by the respondent, enter judgment for the applicant, or make such other order or determination as it considers just.

15. Written representations

Where any party to an originating application or appeal desires to submit representations in writing for consideration by the Court, he shall present such representations, or deliver them by registered post, to the Registrar and to the other party or parties, not later than three days before the hearing of such application or appeal.

16. Failure of party to appear at hearing

If a party shall fail to appear and to be represented at the time and place fixed for the hearing of an originating application or appeal or application, the Court may, if that party is an applicant or appellant, dismiss the originating application, appeal or application or, in any case, proceed to hear and dispose of the matter in the absence of that party, or may adjourn the hearing to a later date;

Provided that before deciding to dismiss or dispose of any originating application or appeal in the absence of any party, the Court shall consider any written representations by that party submitted in pursuance of rule 15.

17. The hearing

- (1) Except with the agreement of all parties thereto, the hearing of an originating application or appeal shall be held in public;

Provided that the Court may exclude from the hearing persons other than the parties thereto and their representatives, in the circumstances and the interests prescribed in section 12(10) of the Constitution.

- (2) The Court shall conduct the hearing of an originating application or appeal in such manner as it considers most suitable to the clarification of the issues before it and generally to the just handling of the proceedings; it shall, so far as appears to it appropriate, seek to avoid formality in its proceedings and, subject to the provisions of section 29(3) of the Code, it shall not be bound by the rules of evidence in proceedings before courts of law.
- (3) At the hearing of an originating application a party shall be entitled to appear, to be represented, to give evidence, to call witnesses, to question any witness and to address the Court.
- (4) At the hearing of an appeal a party shall be entitled to appear, to be represented and to address the Court.

18. On-the-spot inspection

- (1) During the course of a hearing referred to in rule 17 the Court, upon written application before the hearing or oral application at the hearing, or of its own motion, may order an on-the-spot inspection.
- (2) Where the Court makes an order under sub-rule (1) it may at any time prior to the final determination of the matter before the Court enter any building, factory, workshop or other place or premises whatsoever and inspect the same or any work or machinery or interrogate any person therein in respect of anything situated therein or any aspect relating to the said matter.

19. Record

- (1) A record shall be kept of all proceedings before the Court including
 - (a) any evidence given in court;
 - (b) any objection made to any evidence tendered or received;

- (c) any on-the-spot inspection by the Court and any matter submitted to the Court or observed by the Court as a result of such inspection;
 - (d) any decision, award or ruling given by the Court;
 - (e) the proceedings of the Court generally.
- (2) Such record shall be kept by such means, including shorthand notes, or electronic audio recording, as the Court may deem expedient.

20. Interpretation of proceedings

- (1) The proceedings of the Court shall be conducted and recorded in the English language. Where a party or a witness or other person wishes to speak in a language other than the English language, a duly qualified person, having been duly sworn or affirmed, shall interpret the proceedings.
- (2) If any document filed in Court is in a language other than English, there shall be filed therewith a translation thereof in English certified to be correct by a duly sworn translator.

21. Decision or award of Court

- (1) The Court shall give reasons for its decision or award.
- (2) The decision or award of the Court and the reasons therefor shall be in writing, signed by the members of the Court;

Provided that at the conclusion of the hearing the decision or award of the Court may be reserved, or may be pronounced orally at the hearing by the President and recorded, when the reasons therefor may also be so pronounced and recorded or, save in the case of an order made by the Court under section 185(5) of the Code, reserved;

Provided further that any decision or award so pronounced shall be reduced to writing and signed by the President.

- (3) Any decision, or award, or the reasons therefor, reserved under sub-rule (2), shall be reduced to writing and shall be signed by the members of the Court and may be delivered by any member thereof sitting alone;

Provided always that such delivery shall in the case of an application under section 232(4) of the Code be effected within the period provided in that section.

- (4) All decisions and awards of the Court shall be registered by the Registrar in the Register and shall be sealed by him and communicated and published pursuant to the provisions of section 38(2) of the Code.

22. Interim or interlocutory relief

- (1) Applications for interim or interlocutory relief arising before proceedings have been otherwise instituted shall be included in an originating application for final relief, filed pursuant to rule 3, stating why the matter is urgent, in or substantially in accordance with paragraph 5 of Form LC 1 contained in Part A of the Schedule.
- (2) Applications *ex parte* for interim relief shall be heard forthwith by the Court.
- (3) Applications for interlocutory relief under sub-rule (1) shall be heard on not less than seven days' notice, or as the President may direct.
- (4) Applications for interim or interlocutory relief arising after the institution of proceedings by originating application or appeal and all other applications incidental to such proceedings, shall be in writing in or substantially in accordance with Form LC 4 contained in Part A of the Schedule and shall be presented, or delivered by registered post, to the Registrar and, in the case of interlocutory

applications, to the opposing party or parties on not less than four days' notice, or as the President may direct.

- (5) The Court's order in the matter may be drawn up by the Registrar in or substantially in accordance with Form LC 5 contained in Part A of the Schedule.

23. Interdicts

Where the Court grants an interdict, it may grant an interim interdict *ex parte* or an interlocutory interdict, in Chambers, or a final interdict in open Court.

24. Postponement and adjournment

The Court may postpone the day or time fixed for or adjourn any hearing, particularly with a view to promoting conciliation and settlement or withdrawal.

25. Composition of Court

- (1) When hearing any matter other than an interlocutory matter, the composition of the Court shall be that provided in section 23(5) of the Code.
- (2) Where during the course of such hearing a vacancy arises or vacancies arise in the membership of the Court, provided the remaining members constitute a majority of the original membership of the Court, the decision of the remaining members shall be the decision of the Court: provided further that where there is no majority decision, the hearing shall be commenced *de novo* before the Court composed of other members.
- (3)
 - (a) In addition to the jurisdiction conferred upon the President under Division D of Part III of the Code, unless the context of the Code otherwise requires, all interim and interlocutory matters before the Court may be heard by the President in Chambers.
 - (b) In granting interim or interlocutory relief the Court or the President may make such order, as an interim or interlocutory order, as could be made under the Code as a final order;

Provided always that the President may, upon application, vary or rescind before the final hearing any interlocutory order so made by him and the Court may likewise vary or rescind before the final hearing any such order made by the Court or the President.

26. Representation of parties

Where a party is represented by a legal practitioner, or any of the persons specified in section 28(1)(a) of the Code, that party shall file in Court a written authority for such representation in or substantially in accordance with Form LC 6 contained in Part A of the Schedule.

27. Non-adherence to Rules

- (1) Failure to comply with any requirements of these Rules shall not invalidate any proceedings unless the Court otherwise directs.
- (2) Notwithstanding anything contained in these Rules, the Court may in its discretion, in the interests of justice, upon written application, or oral application at any hearing, or of its own motion, condone any failure to observe the provisions of these Rules.
- (3) The time prescribed by these Rules or by order of the Court or President for doing any act may be extended (whether it has already expired or not) or abridged, and the date appointed for any purpose may be altered, by order of the Court or President.
- (4) The Court may, if it considers that to do so would lead to the more expeditious or economical disposal of any proceedings, or would otherwise be desirable in the interests of justice, dispense

with the taking of any step required or authorised by these Rules, or may direct that any such step be taken in some manner other than that prescribed in these Rules.

Part III – Specific functions of the Court

28. Applicability of rules in other Parts

The rules contained in the other Parts of these Rules shall apply *mutatis mutandis* to those contained in Part III where appropriate and save where otherwise prescribed.

29. Application to resolve ambiguity in Court's award or decision

- (1) A party making application to the Court in the exercise of its jurisdiction under section 24(q) of the Code to resolve an ambiguity in its own award or decision shall do so in or substantially in accordance with Form LC 4 contained in Part A of the Schedule presented, or delivered by registered post, to the Registrar and to the other party or parties in the matter in which the award or decision was made, as respondents to the application, on not less than fourteen days' notice, or as the Court or President may direct.
- (2) A respondent may within ten days of receipt by him of the application under sub-rule 1 enter appearance by presenting, or delivering by registered post, to the Registrar and the applicant a notice, in or substantially in accordance with Form LC 7 contained in Part A of the Schedule, of his intention to oppose the application.
- (3) The Court shall give its decision in the matter after hearing the parties and considering written representations, if any, filed by them.

30. Unfair dismissal: Application for condonation under section 70(2)

- (1) An applicant seeking condonation of the late filing of an originating application claiming unfair dismissal shall present, or deliver by registered post, such application to the Registrar and the respondent named therein and also a written application for such condonation, in or substantially in accordance with Form LC 4 contained in Part A of the Schedule, giving not less than fourteen days' notice thereof to the said respondent, or as the Court or President may direct.
- (2) The respondent may enter appearance pursuant to rule 29(2).
- (3) Notwithstanding rule 25(3)(a), such application for condonation shall be heard by the Court as constituted under section 23(5) of the Code.

31. Appeal under sections 154(5), 175(2) and 184

- (1) An appeal to the Court
 - (a) under section 154(5) of the Code, against the refusal of an attesting officer, under section 154(3), to attest and register a contract of foreign service; or
 - (b) under section 175(2), against the refusal of the Registrar of Trade Unions & Employers' Organisations, under section 175(1), to register any trade union, employers' organisation or amalgamation; or
 - (c) under section 184, against the refusal of the said Registrar, under section 182, to register a change of name of any registered trade union or employers' organisation or amalgamation,shall be instituted by any person aggrieved by any such refusal (hereinafter referred to as "the appellant") within fourteen days of notification of such refusal, by means of a notice of appeal in or substantially in accordance with Form LC 8 contained in Part A of the Schedule presented, or delivered by registered post, to the Registrar.

- (2) The particular attesting officer or the Registrar of Trade Unions & Employers' Organisations, as the case may be, and the Attorney-General shall be respondents to such appeal.
- (3) The appellant shall attach to the notice of appeal
 - (a) (i) in the case of an appeal under section 154(5), the particular contract of foreign service, with the refusal of the attesting officer and the reason therefor endorsed thereon pursuant to section 154(4);
 - (ii) in the case of an appeal under section 175(2) or section 184, the communication from the Registrar of Trade Unions & Employers' Organisations conveying the grounds of refusal; and
 - (b) a copy of any relevant documentation including correspondence between the parties in the matter.
- (4) The respondents may within fourteen days of receipt by them of the notice of appeal enter an appearance by means of presenting, or delivering by registered post, to the Registrar and to the appellant a notice in or substantially in accordance with Form LC 9 contained in the Schedule, of their intention to oppose the appeal.
- (5) The determination of the appeal shall be upon the record and upon any written representations made under rule 15 or any oral representations at the hearing;

Provided that the Court may in any case order that evidence may be given at the hearing.

32. Application under section 185(2) to cancel registration of Trade Union or Employers' Organisation

- (1) An application to the Court under section 185(2) by the Registrar of Trade Unions & Employers' Organisations to cancel the registration and the certificate of registration of a registered trade union or employers' organisation shall be instituted by way of originating application filed pursuant to rule 3;

Provided that no such application shall be so instituted unless the said Registrar, pursuant to section 185(3), shall have first given the particular registered trade union or employers' organisation not less than two months' previous notice in writing of his intention to make such application.

- (2) The registered trade union or employers' organisation served with a notice under sub-rule (1) may anticipate such application at any time within the said period of two months, by instituting proceedings by way of originating application under these Rules, seeking to show cause against the proposed cancellation of its registration.
- (3) Where the proposed application by the said Registrar is not so anticipated, the matter shall be determined by the Court upon the basis of the originating application filed by the said Registrar. Where however the proposed application by the said Registrar is so anticipated, he shall not file an originating application, but instead the matter shall be determined by the Court upon the basis of the proceedings instituted by the particular registered trade union or employers' organisation.
- (4) The respondent to the originating application filed with the Registrar may enter appearance by way of answer pursuant to rule 5.

33. Application under section 213 or 214 seeking restraint of misuse of funds or property of Trade Union or Employers' Organisation

- (1) Where under section 213 or 214 of the Code any interested person or persons or the Registrar of Trade Unions and Employers' Organisations or the Attorney-General seek an interdict restraining unauthorised or unlawful expenditure or withholding of the funds of, or the unlawful possession or

control of or dealing with the property of a trade union or employers' organisation, they shall do so by way of originating application, seeking a final interdict, filed pursuant to rule 3.

- (2) The following shall be respondents to such application:—
 - (a) the person or persons against whom relief is sought; and
 - (b)
 - (i) the trustees for the time being of the trade union or employers' organisation concerned, as the case may be, where such trustees are not themselves the applicants; or
 - (ii) where such union or organisation, as the case may be, has been dissolved, the person or persons in whom, under the rules of such union or organisation, the funds thereof vest.
- (3) Where, in addition to a final interdict, the applicant or applicants seek an interim or interlocutory interdict, application therefor shall be made pursuant to rule 22(1).
- (4) A respondent may enter appearance to the originating application by way of answer pursuant to rule 5.

34. Reference by Minister to Court under section 227(4) of non-consent to arbitration

- (1) Where under section 227(4) of the Code the Minister wishes to refer to the Court the issue whether consent to arbitration is being unreasonably withheld by any party or parties, he shall do so by way of originating application, filed pursuant to rule 3, to which the said party or parties shall be respondents.
- (2) A respondent may enter appearance by way of answer pursuant to rule 5.

35. Application under section 227(9) claiming excess of jurisdiction by arbitrator

- (1) Where under section 227(9) of the Code a party to an arbitration under that section seeks the Court's determination as to whether or not the arbitrator exceeded his jurisdiction, he shall do so by way of originating application, filed pursuant to rule 3, to which the other party or parties to the arbitration and the arbitrator shall be respondents.
- (2) The applicant shall attach to such application a copy of the record of the arbitration proceedings.
- (3) A respondent within fourteen days of receipt by him of the originating application may enter appearance by presenting, or delivering by registered post, to the Registrar and the applicant a notice, in or substantially in accordance with Form LC 7 contained in Part A of the Schedule, of his intention to oppose the application.

36. Application by Minister under section 232(4) for ruling on trade dispute

- (1) Where under section 232(4) of the Code the Minister wishes to apply to the Court for a ruling on a trade dispute, he shall do so by way of originating application, filed pursuant to rule 3, to which the parties to such dispute shall be respondents.
- (2) The Minister shall cause a copy of the report of the Labour Commissioner in the matter and other relevant papers to be attached to such application.
- (3) The Minister shall cause a copy of such application and relevant papers to be served upon or delivered by registered post to the respondents, so that they may receive the application on or before the date on which it is received by the Registrar.
- (4) Within seven days of the receipt by them of the Minister's application, the respondents may enter appearance by way of answer pursuant to rule 5.
- (5) Upon receipt of the application by the Minister, the Registrar, after complying with rule 40(1), shall forthwith place it before the President, who shall forthwith fix the date, time and place of hearing,

that is. not later than Sixteen days after receipt by the Registrar of the application and the Registrar shall forthwith issue notice of the hearing in Form LC 3 contained in Part A of the Schedule not less than ten days prior thereto and otherwise in accordance with rule 12(2).

37. Application under section 231 for an order forbidding continuance of action in furtherance of unlawful strike or lock-out

- (1) The Attorney-General or any person claiming to be aggrieved by the action of another person in declaring instigating or inciting others to take part in or otherwise acting in furtherance of a strike or lock-out that is stipulated to be unlawful under sections 230 or 232(5) of the Code may apply under section 231 to the Court for an order forbidding the continuance of such action.
- (2) Such application shall be made by way of originating application filed pursuant to rule 3. Where interim or interlocutory relief is sought, rule 22(1) shall apply.
- (3) The person against whom the order is sought shall be the respondent to the application and he may enter appearance by way of answer pursuant to rule 5.
- (4) Where no originating application has been filed under subrule (2) and the Minister has made application under section 232(4) for a ruling on a trade dispute, provided the person against whom an order under section 231 is sought is a respondent to the proceedings under section 232(4), the Minister may, pending final order in such proceedings, apply to the Court for an order under section 231, either by way of interim or interlocutory written application in or substantially in accordance with Form LC 4 contained in Part A of the Schedule, or by way of oral application at the hearing under section 232(4);

Provided that where the Minister proceeds by way of written application, the person against whom the order is sought shall be respondent thereto and shall be given, in the case of an interlocutory application, notwithstanding rule 22(3), not less than two days' notice;

Provided further that the Court may at any time before delivering its ruling under section 232(4), or in the course of such delivery, make a final order under section 231.

Part IV – Filing and service of documents

38. Court Seal

The Seal of the Court shall be a metal seal, capable of making an imprint, whether embossed or otherwise, on paper, of such design as the President may direct;

Provided that a seal in the form of a rubber stamp may be used until such time as a metal seal is provided.

39. Registrar and Deputy Registrars

- (1) The Registrar shall have custody of the Seal, the Register and the records of the Court and shall exercise such functions as are assigned to him under the Code and these Rules or as may be assigned to that Deputy Registrar by the President.
- (2) A Deputy Registrar shall exercise such functions, other than those contained in sub-rule (1), as are assigned to the Registrar under these Rules, or as may be assigned to him by the President.

40. Office hours of Registry

- (1) The Registry shall be open on every day of the year except on Saturdays, Sundays, public holidays and such other days as the President may direct.
- (2) Subject to any order of the President, the Registry shall be open to the public on working days from 09.00 hours to 12.00 hours and from 14.00 hours to 16.00 hours.

41. Filing of documents in Court

- (1) Every originating application, appeal, answer, application, notice or other document to be filed with the Court shall be scrutinised by the Registrar and if it is in order shall be admitted to the file, entered in the register and given a case number. Every such document shall be sealed by the Registrar and shall thereupon be deemed to be filed.
- (2) If a document is not in order by reason of any formal defect, it shall be returned by the Registrar for rectification of the defect.

42. Copies of documents

Wherever under these Rules any originating application, appeal, answer, application, notice or other document is required to be filed with the Registrar, there shall also be so filed eight copies of such document, but the Registrar may in any case order that a greater or lesser number of copies shall be so filed.

43. Service of documents

- (1) Where service upon any person of any originating application, answer, appeal, notice, application or other document is required or authorised by these Rules, it may be presented to him personally or it may be delivered to him by sending it to him by registered post to his postal address for service or where no principal place of business or to his last known postal address.
- (2) Where service of any such document upon the Registrar is required or authorised by these Rules, it may be presented to the Registrar or a Deputy Registrar personally or be sent by registered post to the Registrar at: The Registrar's Chambers, The Labour Court, P.O. Box 116, Maseru 100.
- (3) The Court may direct that service of any document be dispensed with or be effected otherwise than in the manner prescribed in these Rules.

Part V – Court process**44. Summons to witness**

A summons under section 29(2) of the Code for the attendance of a witness shall be in accordance with Form LC 11 contained in Part B of the Schedule and shall be signed by the Registrar.

45. Warrant to apprehend

A warrant under section 30(1) of the Code for the apprehension of a person summoned under section 29(2) to attend as a witness shall be in accordance with Form LC 12 contained in Part B of the Schedule and shall be signed by the President.

46. Warrant of detention of witness

An order under section 30(2) of the Code to detain a witness in custody shall be effected by warrant in accordance with Form LC 13 contained in Part B of the Schedule and shall be signed by the President.

47. Warrant of diurnal detention for contempt of Court

An order under section 32 of the Code to remove and detain in custody until the rising of the Court any person guilty of contempt of the Court shall be effected by warrant in accordance with Form LC 14 contained in Part B of the Schedule and shall be signed by the President.

48. Warrant of detention to enforce payment of judgment sum

An order under section 34 of the Code to detain a party in prison until a judgment sum is paid shall be effected by warrant in accordance with Form LC 15 contained in Part B of the Schedule and shall be signed by the President.

49. Committal for contempt of Court

An order by the Court in the exercise of its jurisdiction under section 24(p) of the Code committing a person to prison for contempt of Court shall be effected by a warrant in accordance with Form LC 16 contained in Part B of the Schedule, signed by the President and shall be full authority to the officer in charge of a prison and to all other persons for carrying into effect the detention described in the warrant.

50. Bond by employer

Where under section 37 of the Code the President orders an employer to post a bond, such bond shall be in accordance with Form LC 17 contained in Part A of the Schedule.

Part VI – Court fees, costs and forms**51. Court fees**

Subject to the provisions of section 74(1) of the Code, the fees specified in Part C of the Schedule shall be paid by the party at whose instance they are incurred, and may be afterwards recovered as cost of cause, if the Court so order. The Court or the President may, on account of the poverty of any party, or for other sufficient reasons, if it or he sees fit, dispense with the payment of any fee.

52. Revenue stamps

The fees shall be paid in the Court by means of adhesive revenue stamps issued by the Government:

Provided that the Registrar may, in his discretion, on his being satisfied that either by reason of the non-availability of the requisite revenue stamps at the time or by reason of any other good cause shown to his satisfaction undue delay or hardship may be incurred, accept cash for the fees payable, recording such reason upon the document in question.

53. Documents to be stamped

The document to be stamped shall be the document indicated in the first column of Part C of the Schedule. Such document shall be stamped before presentation or delivery to the Registrar. The Registrar shall ensure that each and every document is sufficiently and properly stamped on the face thereof before accepting the same.

54. Cancellation of stamps

Upon receipt of any such document, the Registrar shall forthwith cancel such revenue stamps by means of impressing with indelible ink partly on or across each and every such stamp and partly upon the document to which it is affixed, the Registry stamp with the true date of such impression and by writing his initials across or within the impression in such manner as effectively and permanently to render the revenue stamp incapable of being used for stamping any other document.

55. Refund of value of stamps

- (1) When any document not requiring to be stamped is inadvertently stamped or when stamps to a value in excess of those specified in Part C of the Schedule are inadvertently affixed or such document is not presented to or is not accepted for filing by the Registrar, the document may at the

instance of the party by whom it was so stamped be cancelled and substituted by one bearing the correct value of stamps.

- (2) Refunds to the value of the stamps affixed to any document cancelled under the provisions of sub-rule (1) may be made by the Registrar to the party responsible for the stamping thereof;

Provided that—

- (i) the application is made to the Registrar within thirty days of the date of cancellation of such document; and
- (ii) the application is accompanied by the cancelled document which shall be attached by the Registrar to the voucher in support of the refund and shall thenceforth be the property of the Government.

56. Costs

- (1) Subject to the provisions of section 74(2) of the Code, the Court may in any proceedings before it, in its discretion, award such costs as may to it seem just.
- (2) Where pursuant to section 28(1)(b) of the Code all parties, other than the Government, are represented by legal practitioners, only the fees of one Advocate or one Attorney shall be allowed between party and party.
- (3) The costs between party and party allowed in terms of a decision or award of the Court shall be calculated and taxed by the Registrar at the tariff contained in TABLE A of the Second Annexure to the Subordinate Court Rules.

Provided that an appeal shall lie on seven days' notice in writing against such taxation to the President in Chambers.

- (4) The Registrar shall certify the amount of costs taxed by him or fixed by the President, as the case may be, in accordance with Form LC 10 contained in Part A of the Schedule.
- (5) Fees for expert witnesses shall not be recoverable as costs between party and party, unless so directed by the Court.

57. Forms

The forms contained in the Schedule or forms substantially to the like effect, with such variations as the circumstances of each case may require, shall be used for all matters to which they may be applicable.

Schedule

Part A

Form LC 1 (Rules 3, 22, 32, 33, 34, 35, 36, 37)

The Kingdom of Lesotho

The Labour Court

Originating application

Case No ____ 19 ____

_____ Applicant(s)*

versus

_____ Respondent(s)*

To: Registrar,
The Labour Court,
P.O. Box
MASERU.

And to: The above-named Respondent(s)* below

1. Applicant's*/Applicants'

- (a) Name and description (eg: individual, firm, company, trade union, organisation): _____
- (b) Residential address: _____
- (c) Postal address for service of documents: _____
- (d) Postal address, including that of a registered office or place of business, and, where applicable, telephone, telex and telefax numbers:

2. Respondent's*/Respondents':

- (a) Name and description: _____
- (b) Postal address: _____

3. The grounds on which relief is sought, giving a clear and concise statement of material facts, in subparagraphs, each containing, as nearly as possible, a distinct averment: _____

4. Nature of relief sought, or reference or question for determination of Court: _____

5. (Where interim *ex parte* relief or interlocutory relief is sought)

Take notice that the matter is urgent because (*state why*) _____

Also Take Notice that application will be made on behalf of the above-named applicant(s)* (*ex parte*)* on the _____ day of _____ 19 _____ (*Allow not less than seven days' notice for interlocutory relief*) at 9.30 a.m. or as soon thereafter as it shall please the Court for an order in the following terms (*here state the relief sought*):

- (a) _____
- (b) _____
- (c) _____
- (d) _____

Signature: _____

Applicant	Capacity	Place	Date

*

Form LC 2 (Rules 5, 32, 33, 34, 36, 37)

The Kingdom of Lesotho

Labour Court

Answer

Case No ____ 19 ____

_____ Applicant(s)*

Versus

_____ Respondent(s)*

To: The Registrar

The Labour Court,

P.O. Box

MASERU.

And to: The above-named Applicant(s)*

1. Respondent's*/Respondents'

(a) Name and description (eg: individual, firm, company, trade union, organisation):

(b) Residential address: _____

(c) Postal address for service of documents: _____

(d) Postal address, including that of a registered office or place of business, and, where applicable, telephone, telex and telefax numbers: _____

2. The respondent*(s) above named herein answer*(s) the originating application of the applicant*(s) above named as follows (*set out in numbered paragraphs and subparagraphs the answer to the application*):

Signature of:

*

(Delete wherever inapplicable)

Respondent	Capacity	Place	Date

*

Form LC 3 (Rules 12, 36)

The Kingdom of Lesotho

The Labour Court

Notice of hearing

Case*/Appeal No _____ 19 _____

_____) Applicant(s)*

_____) Appellant(s)*

and

_____) Respondent(s)*

Take notice that the above cause will be heard by the Labour Court at _____ on the _____ day of _____, 19 _____, at _____ hours.

(Here insert any information or guidance as to matters contained in Rule 12(2))

Dated the _____ day of _____, 19 _____

Registrar/Deputy Registrar
Labour Court

*

Form LC 4 (Rules 22, 29, 19, 30,37)

The Kingdom of Lesotho

The Labour Court

Case*/Appeal No _____

*

(Delete wherever inapplicable)

*

(Delete wherever inapplicable)

Interim or interlocutory or general application

_____ Applicant(s)*

_____ Appellant(s)*

versus

_____ Respondent(s)*

To: The Registrar,
The Labour Court,
P.O. Box
MASERU.

And to: The above-named Respondent(s)/Applicant(s)/-Appellant(s).

Take notice that application will be made on behalf of the above-named applicant(s)/appellant(s)/respondent(s)* (*ex parte*)* on the _____ day of _____ 19 _____ at 9.30 a.m. or as soon thereafter as it shall please the Court for an order in the following terms (*here state the relief sought*):

- (a) _____
- (b) _____
- (c) _____
- (d) _____
- (e) _____
- (f) _____
- (g) _____
- (h) _____
- (i) _____
- (j) _____

Please place the matter on the roll for hearing accordingly

Signature	Capacity	Place	Date

*

Form LC 5 (Rule 22)

The Kingdom of Lesotho

*

(Delete wherever inapplicable)

The Labour Court

Case*/Appeal No _____ 19 _____

Order (General form)

_____) Applicant(s)*

_____) Appellant(s)*

versus

_____) Respondent(s)*

_____)

Upon hearing _____

(*) and upon reading the affidavit(s) of _____

It is hereby ordered by the Court that _____

Dated this _____ day of _____ 19 _____

Registrar/Deputy Registrar

Labour Court

*

Form LC 6 (Rule 26)***The Kingdom of Lesotho******The Labour Court***

Case*/Appeal No _____ 19 _____

Authority to represent

_____ Applicant(s)*

_____ Appellant(s)*

Versus

_____ Respondent(s)*

To: The Registrar,

The Labour Court,

P.O. Box

MASERU.

Take notice that I*/we, the above mentioned applicant(s)*/appellant(s)/respondent(s)

*

(Delete wherever inapplicable)

_____ have appointed _____ whose postal address is

_____ To represent me*/us in the above matter in his capacity as (state capacity under section 28(1) of the Labour Code Order, 1992)

Signature	Capacity	Place	Date

*

Form LC 7 (Rules 29, 30, 35)

The Kingdom of Lesotho

The Labour Court

Case No _____ 19 _____

Notice of intention to oppose

_____ Applicant(s)*

versus

_____ Respondent(s)*

To: The Registrar,
The Labour Court,
P.O. Box
MASERU.

And to the above-named Applicant(s)*.

- 1. Respondent's*/Respondents'
 - (a) Name and description (eg: individual, firm, company, trade union, organisation):

 - (b) Residential address: _____
 - (c) Postal address for service of documents: _____

(Delete wherever inapplicable)

(Delete wherever inapplicable)

- (d) Postal address, including that of a registered office or place of business, and, where applicable, telephone, telex and telefax numbers: _____
- 2. The above named respondent(s)* herein give(s)* notice of his/their* intention to oppose the application for (state nature of application)

Signature of Respondent	Capacity	Place	Date

*

Form LC 8 (Rule 31)

The Kingdom of Lesotho

The Labour Court

Appeal No _____ 19 ____

Notice of appeal

_____ Appellant(s)*

versus

_____ Respondent(s)*

To: The Registrar,
The Labour Court,
P.O. Box
MASERU.

And to the above-named Respondent(s)*

- 1. Appellant's*/Appellants': _____
 - (a) Name and description (eg: individual, firm, company, trade union, organisation): _____
 - (b) Residential address: _____
 - (c) Postal address for service of documents: _____
 - (d) Postal address, including that of a registered office or place of business, and where applicable, telephone, telex and telefax numbers: _____

*

(Delete wherever inapplicable)

2. Respondent's*/Respondents'
 - (a) Name and description: _____
 - (b) Postal address: _____
3. (State section of Labour Code Order, 1992 under which and the particular refusal against which the appeal is brought): _____
4. The said refusal was communicated to the appellant on (here state the date on which refusal was communicated): _____
5. The appellant appeals against the said refusal.
6. A copy of the said refusal and all relevant documentation is attached hereto.
7. The appellant'(s)* grounds of appeal are (here state in numbered paragraphs the grounds of appeal) _____

Signature	Capacity	Place	Date

*

Form LC 9 (Rule 31)

The Kingdom of Lesotho

The Labour Court

Appeal No ___ 19 _____

*

(Delete wherever inapplicable)

Notice of intention to oppose appeal

_____ Appellant(s)*

versus

_____ Respondent(s)*

To: The Registrar,
The Labour Court,
P.O. Box
MASERU.

And to: The above-named Appellant*(s).

1. Respondent's */Respondents'
 - (a) Name and description (eg: individual, firm, company, trade union, organisation):

 - (b) Residential address: _____
 - (c) Postal address for service of documents: _____
 - (d) Postal address, including that of a registered office or place of business, and, where applicable, telephone, telex and telefax numbers: _____
2. The above named respondent*(s) herein give*(s) notice of his*/their intention to oppose the above-cited appeal.

Signature of respondent	Capacity	Place	Date

*

Form LC 10 (Rule 55)

The Kingdom of Lesotho

The Labour Court

Case*/Appeal No ____ 19 ____

*

(Delete wherever inapplicable)

Order of costs

_____) Applicant(s)*

_____) Appellant(s)*

versus

_____) Respondent(s)*

_____)

The Court doth hereby order that the above-named _____ shall pay to the above-named _____ the sum of M _____ in respect of the costs in the above matter.

Dated this _____ day of _____, 19 _____

Registrar/Deputy Registrar

The Labour Court

*

Part B**Form LC 11 (Rule 44)*****The Kingdom of Lesotho******The Labour Court***

Case*/Appeal No _____ 19 _____

Summons to witness (*Supoena ad Testificandum*) * (*Supoena Duces Tecum*)

_____ Applicant(s)*

_____ Appellant(s)*

Versus

_____ Respondent(s)*

To: The Sheriff or his deputy:

INFORM _____ of _____ (*Full names, sex, occupation and place of residence and business of witness to be stated*) that he*/she is commanded to appear in person before The Labour Court at Maseru on _____ the _____ day of _____ 19 _____, at _____ o'clock in the forenoon and thereafter remain in attendance until excused by the Court, in order to testify on behalf of the above-named applicant(s)*/appellant(s)/respondent(s) in regard to all matters within his*/her knowledge relating to the above cited matter now pending in the said Court.

(*) AND INFORM him that he is further required to bring with him and to produce to the said Court _____ (*describe accurately each document, book or thing to be produced*)

*

(Delete wherever inapplicable)

_____ AND INFORM him further that he should on no account neglect to comply with this summons as if he does so he may thereby render himself liable to a fine of M400.

Dated at _____ this _____ day of _____ 19 _____

Registrar/Deputy Registrar

The Labour Court

*

Form LC 12 (Rule 45)

The Kingdom of Lesotho

The Labour Court

Case*/Appeal No _____ 19 _____

Warrant to apprehend defaulting witness

_____ Applicant(s)*

_____ Appellant(s)*

Versus

_____ Respondent(s)*

To each and all Police Officers in the Kingdom of Lesotho

WHEREAS _____ (*Full names, sex, occupation and place of residence and business of defaulting witness to be stated*) was commanded to attend in person before this Court at _____ on _____ the _____ day of _____ 19 _____, and subsequent days, to testify(*) and to produce a book, document, record or other thing in the above cause,

AND WHEREAS _____

(*) has failed to attend (*) or has failed to remain in attendance until duly excused by this Court and no sufficient reason for such failure seems to exist.

NOW THEREFORE YOU are hereby commanded to apprehend and to bring and have the said _____ before this Court at _____ on the _____ day of _____ 19 _____

Dated at _____ this _____ day of _____ 19 _____

President/Deputy President

The Labour Court

*

*

(Delete wherever inapplicable)

*

(Delete wherever inapplicable)

Form LC 13 (Rule 46)***The Kingdom of Lesotho******The Labour Court***

Case*/Appeal No _____ 19 _____

Warrant to detain in custody

_____ Applicant(s)*

_____ Appellant(s)*

versus

_____ Respondent(s)*

To each and all Police Officers in the Kingdom of Lesotho and the Officer Commanding/Officer in Charge of the Government Prison at _____

WHEREAS _____ of _____ (*Full names, sex and address to be stated*) had been summoned under section 29 of the Labour Court Order, 1992, and-

- (a) (*) has refused to be sworn or affirmed as a witness; or
- (b) (*) having been sworn or affirmed, has refused to answer fully and satisfactorily the question he was lawfully required to answer; or
- (c) (*) has refused or failed to produce a book, document, record or other item and has not excused each refusal or failure to the satisfaction of the Court.

NOW THEREFORE YOU, the said Police Officers are hereby commanded to convey the said _____ to the said prison and there deliver the said _____ to the Officer Commanding/Officer in Charge thereof together with this warrant; and you, the said Officer Commanding/Officer in Charge of the said prison are hereby commanded to receive the said _____ into your custody and to detain him*/her in custody as if he*/she were a prisoner awaiting trial, and unless he*/she sooner consents to do what is required of him*/her until the _____ day of _____, 19 _____, and on that day to convey him*/her at _____ hours before this Court to be further dealt with according to law, unless you, the said Officer Commanding/Officer in Charge, shall be otherwise ordered in the meantime and for this the present warrant shall be a sufficient authority to all whom it may concern.

Dated at _____ the _____ day of _____ 19 _____

President/Deputy President

The Labour Court

*

Form LC 14 (Rule 47)***The Kingdom of Lesotho***

*

(Delete wherever inapplicable)

The Labour Court

Warrant of diurnal detention for contempt of court

To each and all Police Officers in the Kingdom of Lesotho and the Officer Commanding/Officer in Charge of the Government Prison at _____ WHEREAS _____ of _____ (*Full names, sex and address to be stated*) was to-day _____ the _____ day of _____ 19 _____, held to be in contempt of this Court and was ordered to be removed and detained in custody until the rising of the Court to-day.

NOW THEREFORE YOU are commanded to lodge the said _____ in the _____ prison at _____ together with this warrant, in which prison the aforesaid order shall be carried into execution according to law

AND YOU the said Officer Commanding/Officer in Charge of the said prison are hereby commanded to convey the said _____ before this Court sitting at _____ at 4.00 p.m. o'clock this afternoon before the Court shall rise, there to be further dealt with according to law and for this the present warrant shall be a sufficient authority to all whom it may concern.

Dated at _____ the _____ day of _____ 19 _____

President/Deputy President

The Labour Court

Form LC 15 (Rule 48)

The Kingdom of Lesotho

The Labour Court

Case No _____ 19 _____

Warrant of detention to enforce payment of judgement sum

_____ Applicant(s)*

versus

_____ Respondent(s)*

To each and all Police Officers in the Kingdom of Lesotho and the Officer Commanding/Officer in Charge of the Government Prison at _____

WHEREAS _____ of _____ (*Full names, sex and address to be stated*) was by the judgment of the Court ordered on the _____ day of _____ 19 _____ to pay the sum of _____ to _____ of _____ (*Full names and address to be stated*) on or before the _____ day of _____ 19 _____

AND WHEREAS the said _____ has failed to make such payment within the said time and has failed to satisfy me that the failure to make payment was due to no fault on his*/her part,

NOW THEREFORE YOU, the said Police Officers are hereby commanded to convey the said _____ to the said prison and there deliver the said _____ to the Officer Commanding/Officer in Charge thereof together with this warrant;

AND YOU, the said Officer Commanding/Officer in Charge of the said prison are hereby commanded to receive the said _____ into your custody and to detain him*/her in custody until payment of the said judgment sum is made, or for a period of SIX (6) MONTHS, whichever be the shorter period, unless you, the said Officer Commanding/Officer in Charge, shall be otherwise ordered in the meantime, and for this the present warrant shall be a sufficient authority to all whom it may concern.

Dated at _____ the _____ day of _____ 19 _____

President/Deputy President

The Labour Court

Form LC 16 (Rule 49)

The Kingdom of Lesotho

The Labour Court

Warrant of committal for contempt of court

To each and all Police Officers of the Kingdom of Lesotho and the Officer Commanding/Officer in Charge of the Government Prison at _____ WHEREAS _____ of _____ (*Full names, sex and address to be stated*) was on the _____ day of _____ Review import task 19 _____, held to be in contempt of this Court and committed to prison for a period of _____

NOW THEREFORE YOU are commanded to lodge the said _____ in the prison at _____ together with this warrant, in which prison the aforesaid order shall be carried into execution according to law and for this the present warrant shall be a sufficient authority to all whom it may concern.

Dated at _____ the _____ day of _____ 19 _____

President/Deputy President

The Labour Court

Form LC 17 (Rule 50)

The Kingdom of Lesotho

The Labour Court

Case No _____ 19 _____

Bond by employer

_____ Applicant(s)*

Versus

_____ Respondent(s)*

KNOW all men by these presents that WE the undersigned _____ of _____ and _____ of _____ hereby acknowledge ourselves to be firmly bound to the Registrar of the Labour Court in an amount of _____ to be paid to the Registrar or his cessionaries or assigns, for which payment we bind ourselves jointly and severally, and our respective executors and administrators in like manner the condition of this bond being that if the said _____ duly appears before the Labour Court on _____ the _____ day of _____ 19 _____, at _____ o'clock in the forenoon to answer _____ of _____ in the above-cited proceedings and thereafter remains within the jurisdiction of the Court until its judgment has been delivered in the said proceedings and abides such judgment, this bond shall be void; otherwise it shall be of full force and effect.

Signed by us in the presence of the subscribing witnesses at _____ on this _____ day of _____ 19 _____

_____	_____
(Signed by Witnesses)	(Signed by Respondent and Surety)

Part C – Court fees (Rule 51, rule 53)

Document		Fee (M)
1.	Originating Application	20.00
2.	Answer	20.00
3.	Application	20.00
4.	Court Order	10.00
5.	Authority to Represent	6.00
6.	Notice of Intention to Oppose	10.00
7.	Notice of Appeal	20.00
8.	Notice of Intention to Oppose Appeal	20.00
9.	Order of Costs	10.00
10.	Bond by Employer	50.00
11.	Original Affidavit	5.00
12.	Annexure to Original Affidavit	1.00