



Access to the Operations & Services
of
***The National Industrial Court
of Nigeria***



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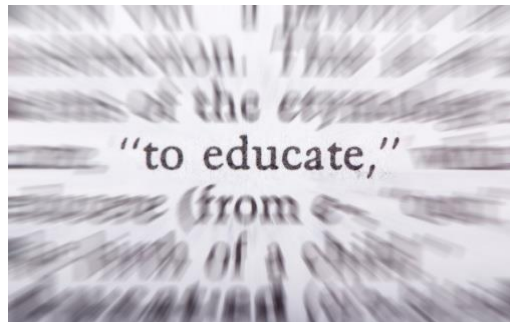
Quick Reference Guide
Judicial Divisions of the National Industrial Court of Nigeria

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3	ENUGU	No 6 Aguleri Street, Independence Layout Enugu	0704 075 4305
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5	JOS	No 34A, Ibrahim Taiwo Road, Jos	0704 010 1204
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13	PORT HARCOURT		
14	KADUNA		

*Welcome
to
The National Industrial Court of Nigeria*



Purpose of the Booklet



This booklet is a guide to the services of the National Industrial Court of Nigeria

VISION

To be a specialised Superior Court of record dispensing social justice, setting standards for management and labour jurisprudence, promoting industrial peace and contributing to total economic development of Nigeria.

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1.0 Introduction

1.1 What the National Industrial Court is.

The National Industrial Court is a judicial institution established in 1976 vide the Trade Disputes Act (TDA) Cap 432, Law of the Federation of Nigeria (LFN) 2004. The Court became functional in 1978. Due to a number of shortcomings in the TDA which impacted adversely on the workings of the Court, the National Industrial Court Act, 2006, re-established the National Industrial Court as superior court of record with jurisdiction on labour and industrial relation matters.

The 1999 Constitution (Third Alteration) Act, 2011, established the Court as a superior court of record specifically and expressly under the Constitution. The Court has and exercises exclusive jurisdiction in civil causes and matters relating to labour, employment, trade unions, industrial relations, and matters arising from workplace, the conditions of service, including health, safety welfare of labour employee, worker and matters incidental thereto and connected therewith.

Section 254C (5) of the 1999 Constitution Third Alteration Act, 2011 confers on the National Industrial Court jurisdiction and powers in criminal causes and matters arising from any cause or matter on which jurisdiction has been conferred on it.

The Court is dedicated and specialized with exclusive jurisdiction in civil causes and matters relating to,

1. Labour laws
2. Industrial actions;
3. Interpretation of laws;
4. National minimum wage;
5. Unfair labour practice or international best practice in labour matters;
6. Discrimination or sexual harassment at workplace;
7. Application or interpretation of international labour standards;
8. Child labour;
9. Collective agreements;
10. Payment or non-payment of salaries, wages, etc;
11. Appeals from any award or judgement of the Court

1.2 Membership of National Industrial Court.

- i. The Membership of the Court consists of the President of the Court and such number of Judges as may be prescribed by an Act of the National Assembly
- ii. The President of the Court is responsible for the overall control and supervision of the administration of the Court;
- iii. The President of the Court is a qualified legal practitioner in Nigeria of not less than ten years standing with considerable knowledge and experience in the law and practice of industrial relations and employment conditions in Nigeria.

- iv. A Judge of the Court is a qualified legal practitioner of not less than ten years standing with considerable knowledge and experience in the law and practice of industrial relations and employment in Nigeria

1.3 Appointment of Judges of the Court.

- i. The President of the Court is appointed by the President of the Federal Republic of Nigeria on the recommendation of the National Judicial Council and confirmed by the Senate of the Federal Republic of Nigeria,
- ii. A Judge of Court is appointed by the President of the Federal Republic of Nigeria on the recommendation of the National Judicial Council.

1.4 Types of cases before the National Industrial Court.

The Court is empowered to hear and resolve all-

- i. Disputes relating to or connected with employers and employees relationship;
- ii. Disputes relating to or connected with environment, conditions and or terms of work;
- iii. Disputes relating to or connected with health of workers;
- iv. Disputes relating to or connected with workplace safety;
- v. Disputes relating to or connected with welfare of labour, employee and workers;
- vi. Disputes relating to or connected with Factories Act, Trade Disputes Act, Trade Unions Act, Labour Act, Workmen's Compensation Act or any other Act or Law relating to labour, employment, industrial relations, workplace or any other enactment replacing the Act or Laws;
- vii. Disputes related to or connected with an order granted to restrain any person or body from taking part in any of the following;
 - a. Strike;
 - b. Lock-out;
 - c. Industrial action;
 - d. Conduct in contemplation or furtherance of a strike;
- viii. Disputes related to or connected with any disputes over the interpretation and application of Human Rights as they relate to any employment, labour, industrial relations, trade unionism, employer's association or any other matter which the Court has jurisdiction to hear and determine;
- ix. Disputes related to or connected with any dispute arising from minimum wage for the Federation or any part of the Federation;

- x. Disputes relating to or connected with unfair labour practice or international best practices in labour, employment and industrial relation matters;
- xi. Disputes relating to or connected with any dispute arising from discrimination or sexual harassment at workplace;
- xii. Disputes and matters relating to or connected with or pertaining to the application or interpretation of international labour standards;
- xiii. Disputes and matters related to or connected with child labour, child abuse, human trafficking, or any matter connected therewith or related thereto;
- xiv. Disputes relating to determination of question as to the interpretation and application of any;
 - a. collective agreement;
 - b. an award of made by an arbitration tribunal in respect of a trade dispute or trade union dispute;
 - c. award or judgment of the Court
 - d. Trade union dispute or employment dispute as may be recorded in the memorandum of settlement
 - e. Trade union constitution, the constitution of an association of employers or any association relating to employment, labour, industrial relations or work place
- xv. Disputes relating to or connected with any personnel matter arising from any free trade zone in the Federation or any part thereof;
- xvi. Disputes relating to or connected with disputes arising from payment or non-payment of salaries, wages, pensions, gratuities, allowances, and benefits and any other entitlement of any employee, worker, political or public office holder, a judicial officer, or any civil or public servant in any part of the Federation and matters incidental thereto;
- xvii. Disputes relating to or connected with-
 - a. Appeals from the decisions of the Registrar of Trade Unions, or matters relating thereto or connected therewith
 - b. Appeals from the decisions recommendations of any administrative body of commission of enquiry, arising from or connected with employment, labour, trade unions or industrial relations
 - c. Such other jurisdiction, civil or criminal and whether to the exclusion of any other court or not

- a. Disputes relating to or connected with registration of collective agreement;
- b. Disputes related to, connected with or pertaining to the application of any international convention, treaty or protocol of which Nigeria has ratified, relating to labour, employment, workplace, industrial relations or matters connected therewith
- c. Entertain any application for the enforcement of the award, decision, ruling or order made by any Arbitral Tribunal or Commission, or Administrative body or Board of Inquiry relating to or connected with, arising from or pertaining to any matter which it has jurisdiction to entertain.

1.5 Powers of the National Industrial Court.

The 1999 Constitution Third Alteration Act, 2011 confers on the National Industrial Court all powers of a High Court. The Court is empowered-

- i) To confirm a judgment, an award or order made by the Court, tribunal or body mentioned in the matter before it;
- ii) To vary a judgment, an award or order made by the Court, tribunal or body mentioned therein;
- iii) To set aside a judgment, an award or order made by the Court , tribunal or body mentioned therein;
- iv) To order a rehearing and determination on such terms as it thinks just;
- v) To order judgment to be entered for any party;
- vi) To make a final order or other order on such terms as it may think fit to ensure the determination on the merits of the matter in dispute between the parties;

Other Powers.

- vii) To make an order of mandamus requiring any act to be done
- viii) To make an order of prohibition prohibiting any proceedings cause or matter; and
- ix) To make an order of certiorari removing any proceedings, cause or matter into the Court for any purpose.
- x) To grant urgent interim reliefs;
- xi) To make a declaratory order;
- xii) To appoint a public trustee for the management of the affairs and finances of a trade union or employees' organization involved in any organizational disputes;
- xiii) To make appropriate order for an award of compensation or damages in any circumstance contemplated by the NICA, 2006 or any Act of the National Assembly dealing with any matter that the Court has jurisdiction to hear ; and

- xiv) To make an order of compliance with any provision of any Act of the National Assembly dealing with any matter that the Court has jurisdiction to hear.

1.6 Operations of the National Industrial Court

The Court combines the rule of law applicable in conventional law courts with flexibility, expediency, reliability and affordability often associated with specialised courts.

The Judges of the Court have considerable knowledge and experience in the law and practice of industrial relations and employment conditions in Nigeria.

In all civil matters the Court is bound by the Evidence Act.

In exercising its criminal jurisdiction, the Court applies the Criminal Code, Penal Code, Criminal Procedure Act, Criminal Procedure Code and Evidence Act in the determination of criminal matters brought before it.

Procedure before the Court is regulated by the Constitution of the Federal Republic of Nigeria 1999 (as amended) National Industrial Court Act, 2006 and the National Industrial Court Rules, 2007, the Tades Disputes Act, 1990 (as Amended)

1.7 Courts with Similar Jurisdictions

There are similar Industrial/Labour Courts in other jurisdictions such as Trinidad and Tobago, Ghana, Tanzania, India, Ireland, South Africa and other countries.

1.8 Other means for resolving labour industrial relations matters outside the Court

There are other means of resolving labour, employment and industrial relations disputes. These include dialogue, arbitration, mediation and conciliation.

The Court encourages parties to exhaust reasonable avenues to resolve their disputes before they recourse to litigation. The Court recognises the importance of tribunal, arbitration, mediation and conciliation. When parties are not satisfied with the decisions from these organs, they can then appeal the decision or bring it on as original application.

1.9 National Industrial Court Alternative Dispute Resolution Centre.

The 1999 Constitution Third Alteration Act, 2011 provides for the establishment of an Alternative Dispute Resolution Centre within the premises of the Court. The Centre offers varied alternative means of disputes resolution on matters which jurisdiction is conferred on the Court.

1.10 Referring Decision of Alternative Dispute Resolution Centre to Court.

By the operation of law, the Court has jurisdiction over ANY civil and criminal dispute on matters which jurisdiction is conferred on the Court. As such any dispute could be referred to or filed with the Court irrespective of the previous attempts at resolution.

1.11 Court fees.

By virtue of Section 36 (1) (e)(i) of the NIC Act, 2006, the Court is empowered to regulate fees to be paid for filing cases referred to it. Order 31 of the National Industrial Court Rules 2007 expatiates on fees generally.



ENUGU JUDICIAL DIVISION. 6 AGULERI STREET INDEPENDENCE LAYOUT, ENUGU

Frequently Used Terms/Phrases:

1. What is a Trade Dispute?

Trade dispute is any dispute between employers and employees, including disputes between their respective organisations and federations which is connected with:

- a) the employment or non-employment of any person;
- b) terms of employment and physical conditions of work of any person;
- c) the conclusion or variation of a collective agreement, and
- d) an alleged dispute.

2. What is an Action?

An action means a civil proceeding between a claimant and a defendant and any contempt proceeding.

3. Who is a Claimant?

This is every person asking any relief (otherwise than by way of counter –claim as a defendant) against any person any person by any form of proceeding, whether the proceeding is by action, suit, petition, motion, summons or otherwise.

4. What is Collective Agreement?

This is any agreement in writing regarding working conditions and terms of employment concluded between:

- a) An organisation of employers or an organisation representing employers (or an association of such or such organisation) of the one part, and
- b) An organisation of employees or an organisation representing employees (or an association of such organisation) of the other part.

5. Who is an Employee?

This means a person employed by another under oral or written contract of employment whether on a continuous, part-time, temporary or casual basis and includes a domestic servant who is not a member of the family of the **employer**.

6. Who is an Employer?

Any individual or body corporate or unincorporated who has entered into a contract of employment to employ any person as an employee or apprentice.

7.0 What is an adjournment?

An adjournment is the postponement of a session, hearing, trial or other proceeding to another date or time. It is granted within the judge's discretion

2.0 PRACTICE MATTERS

2.1 Initiation of cases

An originating process/application in which the Court has jurisdiction shall be filed in any registry of the Court nearest to where the defendants or respondents reside or have presence or in which the defendant or respondent carries on business and in compliance with all the Rules of Order 2 of the National Industrial Court Rules, 2007. The matter may be commenced in any of the Judicial Divisions where any of the party to the suit resides, have presence, or carries on business.

2.2 Commencing of cases

Cases are commenced by way of filing and sealing the Complaint Form 1 provided by the Court. You are expected to state clearly the specific relief(s) which you are seeking for. All complaints either by way of originating application or appeal shall be accompanied by all relevant documents and information required by Rules of Orders 3, 4, 5 & 6 of the NIC Rules, 2007.

If you instruct or authorise someone to represent you, all subsequent correspondences will be sent to your representative. Therefore if you or your representative change addresses during the course of the case you must notify the Court.

2.3 Case management: Duration

If you are a defendant or respondent or a party or the legal practitioner representing a party, you have within 14 days of service of the originating process to file a Memorandum of Appearance in the Registry of the Court.

If you are a defendant or respondent or party served with a Complaint/or originating process and the accompanying documents OR in the cases of Notice of Appeal or Notice of Cross Appeal with the accompanying documents, you have 14 days within which to make your intention to defend and or counter claim in the action. You have to file the necessary documents as required by the Rules in Order 9 of the National Industrial Court Rules 2007.

If you fail to indicate your interest to defend the matter, the Court may hear the matter and give judgment. However, you have 30 days thereafter to apply to the Court showing good cause why it should set aside this judgment for you to make your appearance and defence of the matter on its merits.

If you will not be able to meet the time limit for filing your case, you should inform the Court in writing of your intention to file the case as soon as possible. If you are outside the time limit you could ask the court to extend the time limit (the Court Rules in Order 8 provides for this). You will have to give the reason why you are late. The Court will then decide whether to extend the time or not.

2.4 Progress of Cases

The next thing is the expression of interest to defend your matter. You do this, by indicating your intention to defend or counterclaim within 14 days by filing a statement of defence, list of witnesses and copies of documents to be relied upon at the trial. See Order 9 of the National Industrial Court Rules, 2007.

2.4 Application for Direction

The Court could, either on its own initiative or on the application of a party, make and/or give whatever directions it considers necessary or desirable to enable it deal with the case fairly and justly or for the case to be properly prepared for hearing.

A party who wishes to make an application for any direction should do so by writing to the Court stating his name and address, the reference number, the direction sought and the reasons for seeking the direction.

2.5 Hearing of Application.

Cases are prepared to be heard. In some cases, the Court may direct a pre-hearing review to identify and resolve any matter, which appears to be in dispute, and which needs to be settled before the main hearing can take place.

2.6 Withdrawal or settlement out of Court

You can withdraw or discontinue a claim or part of it by giving in writing a notice of discontinuance or withdrawal of all or part of the claim; an appeal/application if a party does not oppose it. It is also possible for the parties to apply to settle the proceedings “out of court” or through the Alternative Dispute Resolution window of the Court.

2.7 Source of help

The Court’s registry staffs are available from 8.00 am to 4.00 pm Mondays to Fridays (except during holidays, See Holidays of the Court) to attend and respond to correspondences and telephone calls and give advice on procedural matters.

However, they **CANNOT** advise you on the merits of your case or how to prepare it.

NOTE:

If you want such advice you should seek professional help from a solicitor or other qualified person.

3.0 THE HEARING

3.1 When and where will my case be heard?

As soon as parties have proper opportunity to prepare the case, and ready for hearing, the Court will arrange for it to be listed. Both parties may be consulted about their availability and that of their witnesses and representatives; but the Court will expect all persons involved in the hearing to make themselves available within a reasonable time scale.

Hearings can be commenced in the Judicial Division where the suit has been filed, except where several defendants or parties to the suit reside or carry out businesses out of the Judicial Division where the suit has been filed. The Court may order or direct that suit be commenced in anyone of those Judicial Divisions most convenient for the trial of the suit.

3.2 Can I request the Court to decide the case without a hearing?

Yes, you can request for summary judgment if you believe that there is no defence to the claim especially where there is only one defendant or respondent. In a suit involving more than one respondent the Court will weigh your claim of defence on each party involved in the suit and will thereby decide on whether to grant hearing or not.

3.3 Will the hearing be in public?

Hearings are normally held in public unless the Court directs that it is necessary to conduct all or part of the hearing in chambers. If you want your reference to be heard in private you should write the Court.

Hearing in Chambers shall be in due consideration of the interests of morals, public order, national security or the protection of the private lives of the parties as well as due regards to fairness to the parties or prejudice to the interests of parties. Also, the Court must be satisfied that a hearing in private would not prejudice the interest of justice.

3.4 I need the evidence of a witness: what do I do?

You will indicate in your application your intention to rely on the evidence of a witness. In any case, the Court may compel any person to give evidence or produce any document in his possession even if he had not been hitherto summoned.

You will be responsible for the cost of getting your witness to the Court.

If a witness is reluctant to attend, the Court may compel attendance by means of a **witness summons** which is available in the Court.

If the other party does **not** dispute the evidence of a witness, it can be presented in writing (a “**witness statement**”) but all disputed

evidence must be given in person at a hearing. You may wish to disclose the witness's statements to each other.

3.5 What if I fail to attend a hearing?

If a claimant or his counsel fails to attend a hearing, and there is no good cause to show for the absence then the Court may strike out the action. If the respondent or defendant fails to appear despite the proof of service, then the Court may consider the matter before it.

3.6 What happens at the end of a hearing?

At the end of a hearing the Court shall deliver its judgment orally in open court and shall direct it to be entered. If the Court reserves its judgment at the end of a hearing, parties to the suit shall be served notice of the date of delivery of judgment.

3.7 Can the Court review its decision?

Yes. You can only ask the Court to review its decision if you think the Court's decision was wrongly made as a result of an error on the part of the Court staff or new evidence has become available since the conclusion of the hearing. If you wish to request a review you must do so within 14 days after the date the decision was sent to the parties or yourself.

3.8 Can the Court award costs to any party?

Yes. The Court can award cost at its discretion; the cost of every suit whole or part shall be at the discretion of the Court. A successful party in a suit may be ordered to pay cost of any particular proceeding of the Court. The Judge may summarily fix the amount of cost at the time of delivery of judgment. However, the Court may stay proceeding pending the payment of cost of any party.

3.9 Would my judgment be enforced?

The Court has all the powers of a High Court and will ensure the enforcement of its decision through the use of its internal enforcement machinery.

3.10 Could I appeal the decisions of the Court?

Yes. Appeals against decisions of the Court lie to the Court of Appeal only on questions of fundamental human rights as contained in Chapter IV of the 1999 Constitution of the Federal Republic of Nigeria (as amended)

Welcome to the National Industrial Court of Nigeria.

We will be happy to help you if we can. However, we are allowed to help only in certain ways. We want to be fair to everyone in a case. This is a list of some things the court staff CAN and CANNOT do for you.

Please read it carefully before asking the court staff for help.

- **WE CAN** explain and answer questions about how the court works.
- **WE CAN** tell you what the requirements are to have your case considered by the court.
- **WE CAN** give you some information from your case file.
- **WE CAN** provide you with samples of court forms that are available.
- **WE CAN** provide you with guidance on how to fill the forms.
- **WE CAN** usually answer questions about court deadlines.
- **WE CANNOT** give you legal advice. Only your lawyer can give you legal advice.
- **WE CANNOT** tell you whether you should bring your case to court.
- **WE CANNOT** give you an opinion about what will happen if you bring your case to court.
- **WE CANNOT** recommend a lawyer.
- **WE CANNOT** talk to the Judge for you about what will happen in your case.
- **WE CANNOT** let you talk to the Judge outside of the court.
- **WE CANNOT** change an order issued by a Judge.

Preparing for your Court Appearance

Whenever you contact or appear in Court, it is important to have the information notifying you of your docket or indictment number, date to appear and the division and location of the courtroom in which you are scheduled to appear. If you have a legal representative you should meet with him/her to discuss your case.

On the day of your Court appearance.

- ❖ Arrive on time. If you are late, the Presiding Judge may postpone, dismiss or decide your case in your absence.
- ❖ When entering the courtroom, remove all hats and turn off your cell phones, IPAD, and pages.
- ❖ Bring your court notice with you; it contains your case information.
- ❖ Do not bring any food or beverages into the courtroom.
- ❖ Upon arriving in court, notify the Registrar's Office of your arrival and your case number.
- ❖ When your name or case number is announced, move to the front of the courtroom as directed by court clerk.
- ❖ If you need additional time to prepare your case, you may ask the judge to grant you an adjournment. An adjournment is the postponement of a session, hearing, trial or other proceeding to another date or time. It is within the Presiding Judge's discretion to grant or deny an adjournment.
- ❖ While addressing the court, you must use appropriate language. Address the Presiding Judge as, "My Lord" or "Your Lordship" and speak directly to the Presiding Judge not to the other party.
- ❖ If you have any document to present to the Presiding Judge, you should give it to the Registrar in court, who will give it to the Presiding Judge.
- ❖ You should not interrupt the opposing party while he/she is speaking unless when you have an OBJECTION to raise. After the other party is finished speaking, you or your lawyer may request an opportunity

from the Presiding Judge to respond. An opportunity to respond is left to the Judge's discretion.

- ❖ After each party has presented his or her side, the Presiding Judge will make a decision.

4.3 Useful Law:

- a. Constitution of the Federal Republic of Nigeria, 1999 (as amended)
- b. National Industrial Court Act, 2006;
- c. National Industrial Court Rules, 2007;
- d. Labour and Employment Laws;
- e. Civil Procedure
- f. Industrial Labour

4.4 Disclaimer

This booklet is issued for guidance purposes ONLY and does not in any way form part of the Court's rules or norms of practice.

The National Industrial Court's Rules 2007 are available at any of the Judicial Divisions.



Issued by



The National Industrial Court of Nigeria



OUR MISSION STATEMENT:

We are entrusted with the fair, flexible and efficient resolution of labour and industrial relations disputes, in order to provide harmonious relationship and clement environment that are essential for Nigeria's socio-economic development



KANO JUDICIAL DIVISION



MAIDUGURI JUDICIAL DIVISION



JOS JUDICIAL DIVISION