



# **THE NATIONAL INDUSTRIAL COURT OF NIGERIA**

## *Handbook of the National Industrial Court*

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## **THE NATIONAL INDUSTRIAL COURT OF NIGERIA**

### *Compendium Of:*

- *Trade Disputes Act, 2004*
- *Trade Disputes Essential Services Act, 2004*
- *National Industrial Court Act, 2006*
- *National Industrial Court Rules, 2007*
- *Constitution Of The Federal Republic Of Nigeria,  
(Third Alteration) Act, 2010*



**TRADE DISPUTES ACT, CAP T8,  
LFN, 2004.**

THE TRADE DISPUTES ACT, CAP 18, LFN, 2004  
ARRANGEMENT OF SECTIONS

**PART I-**  
**PROCEDURE FOR SETTLEMENT OF TRADE DISPUTES**

**SECTION**

1. Preliminary.
2. Exclusion of courts.
3. Obligation to deposit collective agreements with the Minister.
4. Procedure before dispute is reported.
5. Apprehension of trade dispute by the Minister.
6. Reporting of dispute if not amicably settled.
7. Notice requiring compliance with Sections 3 and 5.
8. Appointment of conciliator, etc.
9. Reference of dispute to arbitration tribunal if conciliation fails.
10. Tenure of office of members of the Panel.
11. Tenure of office of Chairman and members of the Panel.
12. Provisions supplementary to section 9.
13. Issue of tribunal's award and procedure thereon.
14. Reference of dispute to National Industrial Court if tribunal's award is objected to.
15. Interpretation of award of arbitration tribunal or National Industrial Court.
16. Interpretation of agreements.
17. Direct reference to National Industrial Court in certain special cases.
18. Prohibition of lock-outs and strikes before issue of award of National Industrial Court.
19. Prohibition of grant of general wage increase.

**PART II- THE NATIONAL INDUSTRIAL COURT**

20. Establishment of National Industrial Court.
21. Jurisdiction of Court.
22. Appeals from the Panel.
23. Enforcement of awards.
24. Power of committal for contempt.
25. Right of Appeal.
26. Appointment of members of Court.
27. Appointment of Assessors.
28. Power to continue with proceedings notwithstanding incapacity of member of Court or Assessor.
29. Tenure of office of members of Court.
30. Tenure of office of President and members of Court.
31. Salaries and allowances of members of Court.

2

32. Application of certain provisions of Cap 424.

**PART III --- BOARD OF INQUIRY**

33. Power to appoint board of inquiry.  
34. Reports of board of inquiry.

**PART IV---- SUPPLEMENTARY PROVISIONS: THE INDUSTRIAL COURT, ARBITRATION  
TRIBUNALS AND BOARDS OF INQUIRY**

35. Bodies to which Part IV applies.  
36. Powers of such bodies.  
37. Practice and procedure.  
38. Appearance of legal practitioner.  
39. Restriction on publication of report of proceedings.

**PART V--- SUPPLEMENTARY PROVISIONS:  
APPLICATION OF ACT TO STATE TRADE DISPUTES**

40. Application of Act to State Trade Disputes.

**PART VI----MISCELLANEOUS AND GENERAL**

41. Fifteen days' notice to be given by workers in essential services before ceasing work.  
42. Fifteen days' notice to be given by workers before ceasing work in circumstances involving danger to persons or property.  
43. Special provision with respect to payment of wages during strikes and lock-outs.  
44. Panels of employers' and workers' representatives.  
45. Appointment of officers and servants for purpose of Act.  
46. Expenses.  
47. Offences by bodies corporate.  
48. Interpretation.  
49. Application of Act to workers employed by or under the State other than armed forces, police, etc.  
50. Savings.  
51. Power to make order for appointment of public trustee.  
52. Short Title and repeal.

**SCHEDULES.**

**FIRST SCHEDULE**

***Essential Services***

**SECOND SCHEDULE**

***Enactments Repealed***

**CHAPTER T8**  
**TRADE DISPUTES ACT**

An Act to make provisions for the settlement of trade disputes and other matters ancillary thereto. 1976 No. 7  
1<sup>st</sup> January, 1976 Commencement

**PART 1-PROCEDURE FOR SETTLING TRADE DISPUTES**

1. (1) Where a trade dispute exists or is apprehended, the provisions of this Part of this Act shall apply in relation to the dispute. Preliminary
- (2) In this Part, unless the context otherwise requires-  
"the dispute" means trade dispute in question; and  
"party" means a party to the dispute.
2. (1) Subject to the provisions of subsection (3) of Section 21 of this Act, no person shall commence an action, the subject matter of a trade dispute or any inter or intra union dispute in a court of law and accordingly, any action which, prior to the commencement of this section is pending in any court shall abate and be null and void. "Exclusion of Courts"
- (2) Notwithstanding the provisions of the Constitution of the Federal Republic of Nigeria 1979, any interim or interlocutory order, judgment or decision made by any court other than the National Industrial Court established under this Act, in respect of any trade dispute, inter or intra union dispute prior to the commencement of this section shall cease to have effect. 1992 No. 47
- (3) A person who contravenes the provisions of section (1) of this section commits an offence and is liable on conviction to a fine of ten thousand naira or imprisonment for a term of one year or both
3. (1) Where there exists any collective agreement for the settlement of trade dispute, at least three copies of the said agreement shall be deposited by the parties thereto with the Minister- Obligation to deposit collective agreements with the Minister.
- (a) In the case of collective agreement entered

THE TRADE DISPUTES ACT, CAP 18, LFN, 2004

into on or after the date of commencement of this Act, within thirty days of that date; and

b) in the case of collective agreement entered into on or after the date of commencement of this Act, within fourteen days of the execution thereof, and any person who fails to deposit copies of the said agreement within the period prescribed in the foregoing provisions of this subsection, shall be guilty of an offence under this Act, and shall, on conviction be liable to a fine of N100.00

1988 No. 39.

1977 No. 54

(2) Where, before the commencement of this Act, a collective agreement has been deposited with the Minister pursuant to the provisions of any enactment repealed by this Act, that agreement shall be deemed to have been deposited in accordance with subsection (1) of this section.

(3) Subject to the provisions of this Act, the Minister may, upon receipt of copies of a collective agreement deposited in accordance with subsection (1) of this section, make an order, the terms of which may in respect of that agreement specify that the provisions of the agreement or any part thereof as may be stated in the order shall be binding on employers and workers to whom they relate.

(4) If any person fails to comply with the terms of the said order he shall be guilty of an offence and be liable on conviction to a fine of N100.00 or to imprisonment for six months.

4. (1) If there exists agreed means for settlement of the dispute apart from this Act, whether by virtue of the provisions of any agreement between organizations representing the interest of employers and organizations of workers or any other agreement, the parties to the dispute shall first attempt to settle it by that means.

Procedure before dispute is reported.

(2) If the attempt to settle the dispute as provided in subsection (1) of this section fails, or if no such agreed means of settlement as are mentioned in that subsection exists, the parties shall within seven days of the failure (or, if no such means exists, within seven days of the date

5

THE TRADE DISPUTES ACT, CAP 78, LFN, 2004

on which the dispute arises or is first apprehended) meet together by themselves or their representatives, under the presidency of a mediator mutually agreed upon and appointed by or on behalf of the parties, with a view to the amicable settlement of the dispute.

5. (1) Notwithstanding the foregoing provisions of this Act, where a trade dispute is apprehended by the Minister he may in writing inform the parties or their representative of his apprehension and of the steps he proposes to take for the purpose of resolving the dispute.

Apprehension of trade dispute by the Minister 1977 No. 54

(2) Such steps as the Minister may, pursuant to this section, take may include-

(a) the appointment of a conciliator under section 8 of this Act; or

(b) a reference of the dispute or any matter relating thereto for settlement to the Industrial Arbitration Panel under section 9 of this Act; or

(c) a reference of the dispute to a board of inquiry under section 33 of this Act.

6. (1) If within seven days of the date on which a mediator is appointed in accordance with section 4(2) of this Act the dispute is not settled, the dispute shall be reported to the Minister by or on behalf of either of the parties within three days of the end of the seven days.

Reporting of dispute if not amicably settled 1968 No.39.

(2) A report under this section shall be in writing and shall record the points on which the parties disagree and describe the steps already taken by the parties to reach a settlement.

7. (1) The Minister shall, if not satisfied that the requirements of sections 4 and 6 of this Act have been substantially complied with, issue to the parties a notice in writing specifying the steps which must be taken to satisfy those requirements and may specify in the notice the time within which any particular step must be taken.

Notice requiring compliance with sections 4 and 6.

(2) Where after the expiration of the period specified in the notice issued under subsection(1) above or, if no period is specified, after the expiration of fourteen days



THE TRADE DISPUTES ACT, CAP T8, LFN, 2004

following the date the notice is issued, the dispute remains unsettled and the Minister is satisfied-

(a) that the steps specified in the notice have been taken, or

(b) that either party is, for its part, refusing to take those steps or any of them,

the Minister may proceed to exercise such of his powers under section 8, 9, 17 or 33 of this Act as may appear to him appropriate.

**8.** (1) The Minister may for the purposes of section 7 of this Act appoint a fit person to act as conciliator for the purpose of effecting a settlement of the dispute.

Appointment of conciliator, etc.

(2) The person appointed as conciliator under this section shall inquire into the causes and circumstances of the dispute and by negotiation with the parties endeavour to bring about a settlement.

(3) If a settlement of the dispute is reached within seven days of his appointment, the person appointed as conciliator shall report the fact to the Minister and shall forward to him a memorandum of the terms of settlement signed by the representatives of the parties, and as from the date on which the memorandum is signed (or such earlier or later date as may be specified therein), the terms recorded therein shall be binding on the employers and workers to whom those terms relate.

1988 No. 39

(4) If any person does any act in breach of the terms of a settlement contained in the memorandum signed pursuant to subsection (3) of this section, he shall be guilty of an offence and be liable on conviction-

(a) in the case of a worker or trade union, to a fine of N200.00; and

(b) in the case of an employer or organization representing employers, to a fine of N2,000.00.

(5) If a settlement of the dispute is not reached within seven days of his appointment, or if, after attempting negotiation with the parties, he is satisfied that he will not be able to bring about a settlement by means thereof, the person appointed as conciliator shall

forthwith report the fact to the Minister.

9. (1) Within fourteen days of the receipt by him of a report under section 5 of this Act, the Minister shall refer the dispute for settlement to the Industrial Arbitration Panel established under this section.

Reference of dispute to arbitration tribunal if conciliation fails.

(2) The Industrial Arbitration Panel (in this section referred to as "the Panel" ) shall consist of a Chairman, a vice-chairman and not less than ten other members all of whom shall be appointed by the Minister so however that of the ten other members –

Composition of Arbitration Panel.

(a) two shall be persons nominated by organizations appearing to the Minister as representing the interests of employers; and

(b) two shall be persons nominated by organizations appearing to the Minister as representing the interests of workers.

(3) For the purpose of the settlement of any dispute referred to the Panel by the Minister, the Chairman of the Panel shall constitute an arbitration tribunal in accordance with whichever of paragraphs (a), (b) and (c) of subsection (4) of this section appears to him to be appropriate having regard to the subject matter of the dispute and the means by which an attempt to settle the dispute was made in pursuance of the foregoing provisions of this Act.

(4) An arbitration tribunal may consist of-

(a) a sole arbitrator selected from among the members of the Panel by the Chairman; or

(b) a single arbitrator selected from among the members of the Panel by the Chairman and assisted by assessors appointed in accordance with subsection (5) of this section; or

(c) one or more arbitrators nominated by or on behalf of the employers concerned and an equal number of arbitrators nominated by or on behalf of workers concerned, all nominations being made from among the members of the Panel, and presided over by the Chairman or vice-chairman.

(5) The assessors for an arbitration tribunal which is to consist of a single arbitrator assisted by assessors shall be appointed by the Chairman as follows:-

(a) one or more shall be persons nominated by or on behalf of the employers concerned from the panel of employers' representatives drawn up under section 44 of this Act; and

(b) an equal number shall be persons nominated by or on behalf of the workers concerned from the panel of workers' representatives drawn up under the said section 44 of this Act:

Provided that if after seven days of being required to do so by the Chairman, the employers or workers concerned or their representatives fail to make a nomination for the purpose of any appointment falling to be made in accordance with this subsection, the Chairman may appoint from the appropriate panel such persons as he thinks fit.

(6) The award of an arbitration tribunal consisting of a single arbitrator assisted by assessors shall be made and issued by the arbitrator only; and if, in the case of an arbitration tribunal consisting of more than one arbitrator, all the members of the tribunal are unable to agree as to their award, the matter shall be decided by a majority of them.

(7) In this section, "Chairman" means the chairman of the Industrial Arbitration Panel appointed pursuant to subsection (2) of this section; and functions conferred on the Chairman may in the absence of the chairman be exercised by the vice-chairman.

**10.** The Chairman, the vice-chairman and any other member of the Panel shall, unless he previously resigns or is removed from office, hold office for a period of four years in the first instance which may be renewable only for one more term of four years.

Tenure of office of members of the Panel. 1977 No 54 1988 No 57.

**11.** Subject to the provision of this section, a person

Tenure of office

THE TRADE DISPUTES ACT, CAP 18, LFN, 2004

holding or appointed to act in the office of the Chairman, vice-chairman or who is a member of the Panel shall vacate that office when he attains age of sixty-five years:

of Chairman  
and members  
of the Panel,  
1988 No 57

Provided that the President may permit such a person to continue in his office or appointment for such a period as he may think fit after that person has attained the age of sixty-five years to enable him to make an award, deliver a decision or do any other thing in relation to proceedings that were commenced before him before he attained the age of sixty-five years.

**12.** (1) The Arbitration and Conciliation Act shall not apply to any proceedings of an arbitration tribunal appointed under section 9 of this Act or to any award made by such a tribunal.

Provisions  
supplementary  
to section 9  
Cap. A18

(2) Where an arbitration tribunal appointed under section 9 of this Act consists of a single arbitrator assisted by assessors and any vacancy occurs in the number of assessors, the Chairman of the Industrial Arbitration Panel may either-

(a) direct the tribunal to act notwithstanding the vacancy; or

(b) fill the vacancy by appointing another assessor in accordance with section 9 (3) of this Act.

(3) Where an arbitration tribunal appointed under section 9 of this Act, consists of more than one arbitrator and any vacancy occurs in their number the tribunal may, with the consent of the nominating party, act notwithstanding the vacancy.

(4) An act, proceeding or determination of an arbitration tribunal appointed under section 9 of this Act shall not be questioned on the ground that a member or assessor was not validly appointed or on the ground of any unfilled vacancy authorized by subsection (2) or (3) of this section.

(5) Where a trade dispute referred to an arbitration tribunal under section 9 of this Act involves questions as to wages, hours of work or any other terms or conditions of or affecting employments which are regulated by any statutory provisions, the tribunal shall not make any

THE TRADE DISPUTES ACT, CAP T8, LFN, 2004

awards that are less favourable to the workers concerned than those provisions.

In this subsection, "statutory provisions" means provisions contained in any written law in force in Nigeria or any part thereof, or in any instrument made in the exercise of any power conferred by any such law.

(6) The Minister may, with the approval of the Minister for Finance and Economic Development, pay to any arbitrator or assessor appointed under section 9 of this Act such remuneration as he thinks fit:

Provided that no remuneration, fees or allowances shall be paid to any public officer other than such allowances for expenses as may be expressly authorized for the purposes of this section by the Federal Civil Commission or the Civil Service Commission of the State in question, as the case may be.

**13.** (1) An arbitration tribunal constituted under section 9 of this Act-

(a) shall make its award within twenty-one days of its constitution or such longer period as the Minister may in any particular case allow; and

(b) on making its award shall forthwith send a copy thereof to the Minister, and shall not communicate the award to the parties affected.

(2) Subject to section(3) of this section, on receipt of a copy of the award of the tribunal the Minister shall immediately cause to be given to the parties or their representatives, and to be given to the parties or their representatives, and to be published in such other manner (if any) as he thinks fit, a notice-

(a) setting out the awards;

(b) specifying the time (not being more than seven days from the publication of the notice) within which the manner in which notice of objection to the award may be given to the Minister by or on behalf of either party to the dispute; and

Issue of  
tribunal's  
awards, and  
procedure  
thereon. 1988  
No 38

1977 No. 54

1988 No. 39

Repealed by  
Section 7 (5)  
of NICA, 2006

THE TRADE DISPUTES ACT, CAP T8, LFN, 2004

(c) stating that, except where notice of objection to the award is given within the time and manner so specified by one or both of the parties, the award will be confirmed by the Minister.

(3) Where on the receipt of an award of the tribunal the Minister considers it desirable to do so he may refer the award back to the tribunal for consideration and shall not exercise his power under subsection (2) of this section until the award has been reconsidered by the tribunal. 1977 No. 54

(4) If no notice of objection to the award of the tribunal is given to the Minister within the time and in the manner specified in the notice under subsection (2) of this section, the Minister shall publish in the *Federal Gazette* a notice confirming the award and the award shall be binding on the employers and workers to whom it relates as from the date of the award (or such earlier or later date as may be specified in the award).

14. (1) If notice of objection to the award of an arbitration tribunal appointed under section 9 of this Act is given to the Minister within the time and manner specified in the notice under section 13(2) of this Act, the Minister shall forthwith refer the dispute to the National Industrial Court established by this Act. Reference of dispute to National Industrial Court if tribunal's award is objected to.

(2) The award of the National Industrial Court shall be binding on employers and workers to whom it relates: 1992 No.47

(a) as from the date of the award or such date as may be specified in the order; or

(b) where, subject to subsection (3) of section 21, there is an appeal on the question of fundamental rights as contained in Chapter IV of the Constitution of the Federal Republic of Nigeria 1979, as from the date of the determination of the appeal.

(3) In so far as the terms and conditions of employment to be observed by an employer in accordance with any award made by the National Industrial Court under this section are more favourable than any statutory provisions affecting the terms and conditions of employment of workers concerned, the award shall

prevail.

In this subsection, "**statutory provisions**" means provisions contained in any written law in force in Nigeria or any part thereof, or in any instrument made in the exercise of any power conferred by such law.

(4) Any person who fails to comply with an award of a tribunal as confirmed by the Minister pursuant to this section shall be guilty of an offence and shall be liable on conviction-

(a) in the case of an individual to a fine of N200 or imprisonment for six months; and

(b) in the case of a body corporate to a fine of N2,000.

(5) Any person who after conviction in respect of an offence under subsection (4) of this section continues to fail to comply with an award as mentioned therein shall be guilty of a further offence and shall be liable on conviction to a fine of N200 or N2,000 as the case may be, for each day on which the offence continues.

(6) Where an offence under this section by a body corporate is found to have been committed with the consent or connivance of, or attributable to any act or default on the part of any person in apparent control of the body corporate, the person or persons in apparent control and the body corporate shall be deemed to have committed the offence.

Altered by Section 7(1)(c)(ii) of NICA, 2006 and Section 254C(1)(ii) of the 1999 Constitution as amended.

**15.** (1) If after an award of -

(a) an arbitration tribunal appointed under section 9 of this Act, or

(b) the National Industrial Court,

has become binding on the employers and workers to whom it relates, any question arises as to the interpretation of the award, the Minister or any party to the award may make an application to the National Industrial Court for a decision on that question.

Interpretation of award of arbitration tribunal or National Industrial Court, 1977 No. 54.

(2) On the application under this section, the National Industrial Court shall decide the matter after hearing the parties to the award or, with the prior consent of the parties, without hearing them: the decision of the Court, which, subject to subsection (3) of section

1992 No. 47

THE TRADE DISPUTES ACT, CAP T8, LFN, 2004

21 shall be final, and shall be deemed to form part of the original award and shall have effect accordingly.

Altered by  
Section 7(1) (c)  
ii) of NICA,  
2006 and  
Section 254C  
(1) (i) (ii) of the  
1999  
Constitution as  
amended.

**16.** (1) Notwithstanding anything in the foregoing provisions of this Act, the Minister or any party to a collective agreement may make an application to the National Industrial Court for a decision of that Court as to the interpretation of any term or provision of the collective agreement.

Interpretation  
of agreements.

(2) On an application under this section the Court shall decide the matter after hearing the Minister or, as the case may be, the parties to the collective agreement, or with the consent of the Minister or parties, without hearing them; and decision of the Court shall be final and conclusive with respect to the interpretation of the term or provision of the collective agreement concerned.

1977 No. 54

**17.** If in the case of any trade dispute of which he has received a report under section 5 of this Act it appears to the Minister-

Direct reference  
to National  
Industrial  
Court in certain  
special cases.

(a) that the dispute is one to which workers employed in any essential services are a party; or

(b) that in the circumstances of the case reference of the dispute to an arbitration tribunal would not be appropriate,

then, within seven days of the receipt by him of a report under section 8(5) of this Act, the Minister shall refer the dispute directly to the National Industrial Court.

**18.** (1) An employer shall not declare or take part in a lock-out and a worker shall not take part in a strike in connection with any trade dispute where-

Prohibition of  
lock-outs and  
strikes before  
issue of award  
of National  
Industrial  
Court

(a) the procedure specified in section 4 or 6 of this Act has not been complied with in relation to the dispute; or

(b) a conciliator has been appointed under section 8 of this Act for the purpose of effecting a settlement of the dispute; or

(c) the dispute has been referred for settlement to the Industrial Arbitration Panel under section 9 of



this Act; or

(d) an award by an arbitration tribunal has become binding under section 13(3) of this Act; or

(e) the dispute has subsequently been referred to the National Industrial Court under section 14(1) or 17 of this Act; or

(f) the National Industrial Court has issued an award on the reference.

(2) Any person who contravenes subsection (1) of this section shall be guilty of an offence and be liable on conviction –

(a) in the case of an individual, to a fine of N100 or to imprisonment for six months;

(b) in the case of body corporate, to a fine of N1,000.

(3) It is hereby declared that where a dispute is settled under the foregoing provisions of this Act either by agreement or by the acceptance of an award made by an arbitration tribunal under section 13 of this Act, that dispute shall be deemed for the purposes of this Act to have ended; and accordingly, any further trade dispute involving the same matter (including a trade dispute as to the interpretation of an award made as aforesaid by which the original dispute was settled) shall be treated for the purposes of this section as a different trade dispute.

**19.** (1) No employer shall grant a general or percentage wage increase to any group of employees without the approval of the Minister.

Prohibition of grant of general wage increase. 1977 No.54.

(2) Any employer who contravenes subsection (1) of this section shall be guilty of an offence and shall on conviction be liable –

(a) in the case of an individual to imprisonment for three years; and

(b) in the case of a body corporate, to a fine of N25, 000

THE TRADE DISPUTES ACT, CAP T8, LFN, 2004

Invalidated by Section 53(3) of NICA, 2006 and repealed by Section 6(6) of the 1999 Constitution.

(3) A tribunal or court under this Act shall not have power to grant any general or percentage wage increase and shall not have power to approve any such grant unless the approval of the Minister has been obtained as required under subsection (1) of this section.

**PART II-THE NATIONAL INDUSTRIAL COURT**

Establishment of National Industrial Court.

**20.** (1) There shall be a National Industrial Court for Nigeria (in this Part of this Act referred to as "the Court") which shall have such jurisdiction and powers as conferred on it by this or any other Act with respect to the settlement of trade disputes, the interpretation of collective agreements and matters connected therewith.

Part II i.e Sections 20-32 of TDA CAP T8, LFN, 2004. REPEALED BY SECTION 53(1) OF NICA, 2006

(2) The Court shall be a superior court of record.

1992 No 47

(3) The members of the Court shall be,

(a) The President; and  
(b) four other members (in this Act referred to as "ordinary members" of the Court) all of whom shall be persons of good standing being, to the knowledge of the Minister, well acquainted with employment conditions in Nigeria, and at least one of whom shall, to his satisfaction have a competent knowledge of economics, industry or trade.

Quorum

(4) For the purpose of dealing with any matter which may be referred to it, the Court shall, at the discretion of the President, be constituted of either-

- (a) all five members; or  
(b) the President and two ordinary members.

(5) For the purpose of dealing with any matter as aforesaid, the Court may, at the discretion of the President, be assisted by assessors appointed in accordance with section 27 of this Act.

(6) Any decision of the Court in the exercise of its function shall be taken, in the event of a difference between the members dealing with the case, by the votes of the majority of those members.

(7) The Court shall normally sit in the city of Lagos, but for the purpose of dealing with any particular trade

THE TRADE DISPUTES ACT, CAP T8, LFN, 2004

dispute referred to it under Part I of this Act may sit elsewhere in Nigeria.

Jurisdiction of Court

**21.** (1) The Court shall, to the exclusion of any other court, have jurisdiction-

- (a) To make awards for purpose of settling trade disputes; and
- (b) To determine questions as to the interpretation of -

- (i) any collective agreement.
- (ii) any award made by an arbitration tribunal or by the Court under Part I of this Act;
- (iii) the terms of settlement of any trade dispute as recorded in any memorandum under section 8 of this Act.

(2) The Court shall determine any trade dispute referred to it not later than thirty working days from the day it begins to consider such trade dispute.

Appeal from the decision of the Court.

(3) An appeal from the decision of the Court shall lie as of right to the Court of Appeal on questions of fundamental rights as contained in Chapter IV of the Constitution of the Federal Republic of Nigeria 1979.

Appeal from the Panel

**22.** An appeal shall lie from the decisions of the Industrial Arbitration Panel to the Court as of right, in matters of disputes conferred upon it by section 21 of this Act.

Enforcement of awards.

**23.** The Court and the Industrial Arbitration Panel are hereby empowered to enforce awards given by the Court or Panel and may commit for contempt any person or a representative of a trade union or association who does any act or commits an omission which in the opinion of the Panel or Court constitutes contempt of the Panel or of the Court.

Power of committal for contempt.

**24.** (1) If the President of the Court or the Chairman of the Industrial Arbitration Panel considers the evidence sufficient to commit for contempt a person or body of persons, he shall commit such a person or persons for trial in the High Court and shall, until the trial, either admit him to bail or send him to prison for safe keeping.

1988  
No.39,1969  
No. 12.

(2) The warrant of the Court or of the Industrial Arbitration Panel shall be sufficient authority to the person in charge of any prison appointed for the custody of prisoners committed for trial

**Right of Appeal.** **25.** A right of appeal shall lie to the Court from the awards of the Industrial Arbitration Panel which shall be exercisable in the case of intra-union disputes arising from the organization and running of a trade union as laid down in the union constitution or inter-union disputes arising from the restructuring of trade unions established under the Trade Unions Act.

**Appointment of members of the Court.** **26.(1)** The members of the Court shall be appointed by the President acting, in the case of the President of the Court after consultation with the Federal Judicial Service Commission.

(2) A person shall not be qualified to hold the office of President of the Court unless-

(a) he has been a judge of a Court of unlimited jurisdiction in civil and criminal matters in some part of the Commonwealth or a court having jurisdiction in appeals from any such court; or

(b) he is qualified for admission as an advocate in Nigeria and has been so qualified for not less than ten years:

Provided that, in computing the period during which any person has been qualified for admission as an advocate, any period during which he has been in office as judge or magistrate after becoming so qualified shall be included.

(3) If the office of the President of the Court or an ordinary member of the Court is vacant or if the person holding any such office is for any reason unable to perform the functions of his office, the President, acting, in the case of the office of the President of the Court, after consultation with the Federal Judicial Service Commission, may appoint a person qualified to hold that office to act therein; and any person so appointed shall continue to act for the period of the appointment or, if no period is specified, until his appointment is revoked by the President, acting, in the case of President of the

Court, after consultation with the Federal Judicial Service Commission.

Appointment of Assessors.

**27.** (1) The assessors to assist the Court in dealing with any matter referred to it shall be appointed by the President of the Court as follows-

(a) two shall be persons nominated by or on behalf of the employers concerned from the panel of employers' representative drawn up under section 44 of this Act: and

(b) two shall be persons nominated by or on behalf of the workers concerned from the panel of workers' representatives drawn up under the said section 44.

Provided that if after seven days of being required to do so by the Minister the employers or workers concerned or their representatives fail to make nomination for the purposes of any appointment falling to be made in accordance with this subsection, the Minister may appoint from the appropriate panel such persons as he thinks fit.

(2) The remuneration, if any, to be paid to persons for acting as assessors in relation to any proceedings before the Court shall be determined by the Court.

Provided that no remuneration, fees or allowances shall be paid to any public officer other than such allowances for expenses as may be expressly authorized for the purposes of this section by the Federal Civil Service Commission or the Civil Service Commission of the State in question, as the case may be.

Powers to continue with proceedings notwithstanding incapacity of members of the Court or assessors

**28.** (1) If, after the Court has begun to consider any matter referred to it, the President of the Court becomes incapable of continuing to take part in the proceedings on account of sickness or for any other reason, the President, acting after consultation with the Chief Justice of Nigeria, shall as soon as possible appoint a person qualified to hold the relevant office to act therein for the purposes of these proceedings, and any person so appointed shall be deemed to have been so appointed under and in accordance with section 26(3) of this Act.

(2) If, after the Court has begun to consider any

matter referred to it, an ordinary member becomes incapable as aforesaid, then –

(a) if the Court as constituted for the purpose of the proceedings includes all four ordinary members, the President of the Court shall re-constitute the Court by removing from there the ordinary member in question and one other ordinary member;

(b) if the Court as constituted for the purposes of the proceedings includes two ordinary members, the President of the Court shall re-constitute the Court by substituting for him another ordinary member.

(3) If, after the Court has begun to consider any matter referred to it, any assessor appointed to assist the Court in relation to that matter becomes incapable as aforesaid, the President of the Court shall appoint from the same panel, to act as assessor in his place for the purposes of the proceedings, another person nominated by or on behalf of the employers or workers who nominated the assessor in whose place he is to act.

(4) Where any appointment or substitution has been made under this section in the course of any proceedings before the Court, the proceedings may, with the consent of all parties thereto, be continued before the Court as reconstituted by virtue of that appointment or substitution and be determined accordingly, but in default of that consent shall be re-heard and determined by the Court as so constituted:

Provided that where the Court is reconstituted in pursuance of subsection (2)(a) of this section by the removal of two ordinary members the proceedings shall, if the President of the Court so directs, be continued before the Court as so reconstituted irrespective of whether the parties thereto or any of them has consented to the continuance.

Tenure of office of members of the Court.

**29.** (1) Subject to the provisions of this section, a person holding or appointed to act in the office of President of the Court shall vacate that office when he attains the age of sixty-five years:

Provided that the President may permit such a

THE TRADE DISPUTES ACT, CAP 18, LFN, 2004

person to continue in his office or appointment for such period after attaining that age as may be necessary to enable him to make an award, deliver a decision or do any other thing in relation to proceedings that were commenced before him before he attained that age.

(2) An ordinary member of the Court shall hold office for such term as may be fixed by the President, but shall not continue to hold office after attaining the age of sixty-five years:

Provided that the President may permit such a person to continue in office for such period after the end of his term of office or the attainment by him of the said age as may be necessary to enable him to make award, or to do any other thing in relation to proceedings which were commenced before him before the end of his term of office or his attainment of that age.

(3) Any person who has vacated the office of a member of the Court may, if qualified, again be appointed to hold that office in accordance with the provisions of section 26 of this Act.

(4) A person-

(a) holding or appointed to act in the office of President of the Court; or

(b) holding or appointed to act in the office of an ordinary member of the Court,

may be removed from his office or appointment by the President acting, in the case of a person falling within paragraph (a) of this subsection, after due consultation with the Federal Judicial Service Commission.

(5) A member of the Court may resign from his office by notice in writing addressed to the President and any such resignation shall take effect when notice is received by the President or by any person authorized by him to receive it.

Tenure of office of President and members of the Court.

**30.** The President and any other member of the Court shall, unless he previously resigns or is removed from office hold office for a period of four years in the first instance which may be renewable only for one more term of four years.

THE TRADE DISPUTES ACT, CAP T8, LFN, 2004

Salaries and allowances of members of the Court.

**31.** (1) The President and ordinary members of the Court shall be paid such salaries as may be approved by the National Council of Ministers.

(2) There shall also be paid to each member of the Court on account of expenses incurred in connection with his office or otherwise such allowances as may be approved by the National Council of Ministers.

(3) All sums payable by virtue of this section shall be charged on and paid out of the Consolidated Revenue Fund of the Federation.

Application of certain provisions of Cap S15.

**32.** (1) The provisions of the Supreme Court Act specified in subsection (2) of this section shall, with such modifications as may be necessary, apply in relation to the Court as they apply in relations to the Supreme Court.

(2) The said provisions are the following-

- (a) section 5 (offices);
- (b) section 6(seal)
- (c ) section 7 (1) (process)
- (d ) section 11 (reserved judgments).

**PART III--BOARDS OF INQUIRY**

**33.** (1) Where any trade dispute exists or is apprehended, the Minister may cause inquiry to be made into the causes and circumstances of the dispute and, if he thinks fit, may refer any matter appearing to him to be connected with or relevant to the dispute to a board of inquiry appointed for the purpose by the Minister; and the board shall inquire into the matter referred to it and report thereon to the Minister.

Power to appoint board of inquiry.

(2) The Minister may refer any other matter connected with industrial conditions in Nigeria to a board of inquiry appointed for the purpose by the Minister; and the board shall inquire into the matter referred to it and report thereon to the Minister.

(3) A board of inquiry appointed under this section shall consist of a Chairman and such other persons as



THE TRADE DISPUTES ACT, CAP T8, LFN, 2004

the Minister thinks fit to appoint or may, if the Minister thinks fit consist of one person only.

(4) A board of inquiry consisting of two or more persons may act notwithstanding any vacancy in the number of members.

(5) The Minister may, with the approval of the Minister for Finance and Economic Development, pay to any member of the board of inquiry appointed under this section such remuneration as he thinks fit:

Provided that no remuneration, fees or allowances shall be paid to any public officer other than such allowances for expenses as may be expressly authorized for the purpose of this section by the Civil Service Commission of the Federation or the State in question, as the case may be.

**34.** (1) A board of inquiry appointed under section 32 of this Act may, if it thinks fit, make interim reports.

Report of board of inquiry.

(2) Every report of such board of inquiry, including any interim report and any minority report, shall be submitted to the Minister.

(3) Subject to subsection (4) of this section, the Minister may cause to be published; at such time or times and in such manner as he thinks fit, any information obtained or conclusions reached by any such board of inquiry in the course of or as a result of its inquiry.

(4) Except with the consent required by this subsection there shall not be included in any report made by such a board of inquiry, or in any publication authorized by the Minister under this section, any information obtained by the board in the course of its inquiry-

(a) with respect to any trade union; or

(b) with respect to any particular business or undertaking, whether carried on by a particular individual, a firm or a company or other body corporate, being in either case information which is not available otherwise than through evidence given at the inquiry.

(5) The consent required by subsection (4) of this section is, in the case of information with respect to a trade union, consent given on behalf of the union by an official thereof authorized by the union to give that consent and, in the case of information with respect to any business or undertaking, consent given by or on behalf of the individual, firm, company or other body corporate carrying on the business or undertaking.

(6) If any individual member of the board of inquiry appointed under section 33 of this Act, or any other person concerned in the inquiry, discloses any such information as is mentioned in subsection (4) of this section without the consent required by that subsection, he shall be guilty of an offence and be liable on conviction to a fine of N200.

**PART IV-- SUPPLEMENTARY PROVISIONS:  
THE NATIONAL INDUSTRIAL COURT,  
ARBITRATION TRIBUNALS AND BOARDS OF INQUIRY**

**35.** This Part of this Act applies to the following bodies, that is to say -

Bodies to which Part IV applies.

- (a) the National Industrial Court;
- (b) any arbitration tribunal constituted under Part I of this Act; and
- (c) any board of inquiry appointed under Part III of this Act.

**36.** (1) For the purpose of dealing with any trade dispute or other matter referred to it under this Act, a body to which this Act applies may--

Power of such bodies.

- (a) require any person to furnish, in writing or otherwise, such particulars relating to the matter referred to it as the body may require;
- (b) require any person to attend before the body and give evidence, on oath or affirmation or otherwise, with respect to any matter relevant to the matter referred to it;
- (c) compel the production before it of books, papers, documents and other things for the purpose of enabling them to be examined or

THE TRADE DISPUTES ACT, CAP T8, LFN, 2004

referred to so far as may be necessary in order to obtain information relevant to the matter referred to the body:

(d) consider and deal with the matter referred to it in the absence of any party who has been duly summoned or served with notice to appear;

(e) admit or exclude the public or the press or both, from any of its sittings;

(f) adjourn from time to time; and

(g) generally give all such directions and do all such things as are necessary or expedient for dealing speedily and justly with the matter referred to it.

(2) For the purpose of enforcing any summons, direction or order issued, given or made by virtue of subsection (1) of this Section, a body to which this Part of this Act applies, shall have the like powers as are exercisable by the Supreme Court of Nigeria.

(3) If any person, on being required by virtue of this section to furnish any particulars, answer any question or produce any book, paper, document or other thing, objects to doing so on the ground that to do would tend to incriminate him or any other lawful ground, he shall not be bound to comply with the requirement and shall not be liable to any punishment for refusing to do so.

(4) Any person who commits an act of contempt, whether the act is or is not committed in the presence of the members of any such body as aforesaid sitting in the exercise of its functions under this Act, shall be liable on summary conviction before a High Court to fine of N200 or to imprisonment for three months.

Repealed by  
Section 96(1) of  
NICA, 2008 and  
Section 254F (1)  
and (2) of 1999  
Constitution as  
amended.

**37.** (1) Subject to the provisions of this Act, the Chief Justice of Nigeria may make rules as to the practice and procedure to be followed by the National Industrial Court.

Practice and  
procedure.

(2) The Minister may make regulations regulating the exercise of the functions of any arbitration tribunal constituted under Part I of this Act and any board of

inquiry appointed under Part III of this Act.

(3) Subject to the provisions of this Act and any of the rules or Regulations made under this section, a body to which this section applies –

(a) may regulate its procedure and proceedings as it thinks fit, and shall not be bound to act in any formal manner; and

(b) shall not be bound by any rules of evidence, but may inform itself on any matter in such manner as it thinks just.

**38.** In the proceedings before the National Industrial Court or an arbitration tribunal constituted under Part I of this Act, either party may appear by a legal practitioner; and in any proceedings before a board of inquiry appointed under Part III of this Act, the board may, at its discretion, permit an interested person to appear before it by a legal practitioner.

Appearance by legal practitioner.

**39.** (1) Where, in the case of any sitting or part of a sitting of body to which this Part of this Act applies, the press have been admitted thereto, but not otherwise, a fair and accurate report or summary of the proceedings during that sitting or part (including any evidence heard in the course thereof) may be published, but until the award of the Court or tribunal, or the result of the enquiry has been officially published, no comment shall be published in respect of the proceedings or the evidence.

Restriction on publication of report of proceedings.

(2) Any person who contravenes subsection (1) of this section shall be guilty of an offence and be liable on conviction to a fine of N200.

**PART V—SUPPLEMENTARY PROVISIONS:  
APPLICATION OF ACT TO STATE TRADE DISPUTES**

**40.** (1) In this section, “**State trade dispute**” means a trade dispute between any one of the following authorities and workers employed by it, that is to say,

Application of Act to State Trade disputes.

(a) the Governor of a State;

(b) a local authority in a State;

(c ) any corporation, council, board or committee established by or under any law (including an edict of the Governor of a State); and

(d) The proprietor of any school who receives grants in respect of the school out of the public revenue of the State.

(2) This Act applies to a State trade dispute as it applies to other trade disputes with the modifications mentioned in the following subsections of this section.

(3) The Minister may, with the consent of the Governor of a State and in respect of State trade disputes arising in that State, by order published in the Federal Gazette delegate either generally or in respect of any particular State trade dispute, his powers under this Act to the appropriate State Commissioner.

(4) While an order made under subsection (3) of this section is in force-

(a) the functions of the Minister under this Act shall in the case of a State trade dispute be discharged by the appropriate State Commissioner;

(b) the appropriate State Commissioner may with the approval of the Commissioner for Finance in the Government of that State, pay to an arbitrator or assessor appointed in any arbitration held under this Act in a State trade dispute such remuneration, if any as he thinks fit;

(c ) the remuneration, if any, to be paid to persons for acting as assessors in relation to any proceedings before the Court in a State trade dispute shall be determined by the Court and paid out of the Consolidated Revenue Fund of the State concerned;

(d )-A board of enquiry for the purpose of a State trade dispute may be appointed by the Governor of the State concerned and shall be constituted in the same manner as board of enquiry appointed under section 33 of this Act and shall enquire into the matter or matters referred to it and report thereon to the Governor of the State;

(e ) the said Governor may pay out of the Consolidated Revenue Fund of the State to any member of such board such remuneration as he thinks fit;

(f) no remuneration, fees or allowances shall be paid to any public officer under sub-paragraphs (b), (c ) or (d) of this subsection other than such allowances for expenses as are approved for the grade of the officer concerned in the public service to which he belongs;

(g) the Civil Service Commission of a State may appoint at such remuneration on such terms and conditions as it may determine such officers and servants as may be necessary for carrying this Act into effect in so far as it relates to State trade disputes;

(h) any expenses in addition to those mentioned in the preceding sub-paragraphs of this section in carrying this Act into effect in relation to State trade dispute shall, in so far as they are approved by the Commissioner for Finance in the government of that State be paid out of the Consolidated Revenue Fund of the State;

(i) in the case of State trade disputes the panel of employers' and the panel of workers' representatives to be drawn up from time to time and revised under section 44 of this Act for the purposes of sections 9(3), 27 and 28 of this Act shall be drawn up and revised by the appropriate State Commissioner.

(5) While an order under subsection (3) of this section is in force, the appropriate State Commissioner shall, in respect of every State trade dispute, send to the Minister not later than fourteen days after the dispute is settled or finally disposed of in accordance with this Act, a report settling out the circumstances of the dispute and manner in which it was finally settled or disposed of.

(6) Nothing in this section shall be construed as preventing the Minister from exercising any power

delegated under subsection (3) of this section, but before exercising any such power the Minister shall consult the appropriate State Commissioner.

(7) In this section-  
"the appropriate State Commissioner", in respect of any State, means the Commissioner in the Government of that State charged with responsibility for matters relating to welfare of labour.

**PART VI—MISCELLANEOUS AND GENERAL**

**41.** (1) Without prejudice to section 18 of this Act, if any worker employed in any essential service ceases, whether alone or in combination with others, to perform the work which he is employed to perform without giving his employer at least fifteen days' notice of his intention to do so, he shall, unless he proves that at the time when he ceased to perform that work he did not know, or had no cause to believe, that the probable consequences of his or their doing so would be to deprive the community or any part of the community either wholly or to a substantial extent of that or any other essential service, be guilty of an offence and be liable on conviction to a fine of N100 or to imprisonment for six months.

Fifteen days' notice to be given by workers in essential services before ceasing work.

(2) If a worker to whom subsection (1) of this section applies is entitled to terminate his contract of employment by giving to his employer less than fifteen days' notice, and does in fact give to his employer less than fifteen days notice for that purpose, then-

(a) he shall be deemed to have given to his employer at the same time in pursuance of subsection(1) of this section notice that he intends to cease work at the end of the period of fifteen days beginning with the day following that on which he gave the notice; and

(b) for any period for which he is by virtue of that subsection required to go on working after the termination of his contract of employment he shall be entitled to be paid as if his contract of employment had remained in force until the end of that period.

(3) No proceedings for an offence under this section

THE TRADE DISPUTES ACT, CAP 78, LFN, 2004

shall be instituted except by or with the consent of the Attorney-General of the Federation or the Attorney-General of the State in which the offence is alleged to have been committed.

42. (1) Without prejudice to section 18 of this Act, if –

(a) any worker ceases, whether alone or in combination with others, to perform the work which he is employed to perform without giving to his employer at least fifteen days' notice of his intention to do so; and

(b) at the time when he ceases to perform that work he knows or has reasonable cause to believe that the probable consequence of his or their so doing will be –

- (i) to endanger human life, or
- (ii) seriously to endanger public health or the health of the inmates of any hospital or similar institution, or
- (iv) to cause serious bodily injury to any person or persons, or
- (v) to expose any valuable property, whether real or personal, to destruction or serious injury, he shall be guilty of an offence and be liable on conviction to a fine of N100 or imprisonment for six months, or both.

Fifteen days' notice to be given by workers before ceasing working in circumstances involving danger to person or property.

(2) If a worker is entitled to terminate his contract of employment by giving to his employer less than fifteen days' notice; and does in fact give to his employer less than fifteen days' notice for that purpose, then–

(a) he shall be deemed to have given his employer at the same time, in pursuance of subsection (1) of this section, notice that he intends to cease work at the end of the period of fifteen days beginning with the day following that on which he gave the notice; and

(b) for any period for which he is by virtue of that



THE TRADE DISPUTES ACT, CAP T8, LFN, 2004

subsection required to go on working after the termination of his contract of employment he shall be entitled to be paid as if his contract of employment had remained in force until the end of that period.

(3) A worker who ceases to perform his work in circumstances such that in doing so he does not contravene subsection (1) above shall not by reason only of his so ceasing be guilty of an offence under section 196 of the Penal Code of Northern Nigeria.

Cap 89 Laws of Northern Nigeria.

(4) No proceedings for an offence under this section shall be instituted except by or with the consent of the Attorney-General of the Federation or the Attorney-General of the State in which the offence is alleged to have been committed.

**43.** (1) Notwithstanding anything contained in this Act or in any other law-

Special provision with respect to payment of wages during strikes and lockouts 1977 No. 54

(a) where any worker takes part in a strike he shall not be entitled to any wages or other remuneration for the period of the strike and any such period shall not count for the purpose of reckoning the period of continuous employment and all rights dependent on continuity of employment shall be prejudicially affected accordingly; and

(b) where any employer locks out his workers the workers shall be entitled to wages and any other applicable remuneration for the period of the lock-out and the period of the lock-out shall not prejudicially affect any rights of the workers being dependent on the continuity of period of employment.

(2) If any question should arise as to whether there has been a lock-out for the purposes of this section, the question shall on application to the Minister by the workers or their representatives be determined by the Minister whose decision shall be final.

**44.** For the purpose of sections 9(3), 27 and 28 of this Act, the Minister shall draw up and from time to time revise-

Panel of employers and workers' representatives

(a) a panel of employers' representatives consisting

THE TRADE DISPUTES ACT, CAP T8, LFN, 2004

of persons recommended for the purpose by employers or organizations representing the interest of employers; and

(b) a panel of workers' representatives consisting of persons recommended for the purpose by organizations representing the interest of workers.

45. Without prejudice to section 40 of this Act, the Federal Civil Service Commission may appoint at such remuneration and such terms and conditions as it may determine such officers and servants as may be necessary for carrying this Act into effect.

Appointment of officers and servants for purpose of Act.

46. Without prejudice to section 31 of this Act, any expenses incurred in carrying this Act into effect shall, so far as they are approved by the Minister for Finance and Economic Development, be paid out of the Consolidated Revenue Fund of the Federation.

Expenses.

47. Where an offence under this Act which has been committed by a body corporate is proved to have been committed with the consent or connivance of, or to be attributable to any neglect on the part of, any director, manager, secretary or other similar officer of the body corporate, or any person purporting to act in any such capacity, he, as well as the body corporate, shall be deemed to be guilty of that offence and shall be liable to be proceeded against and punished accordingly.

Offences by bodies corporate.

48. (1) In this Act, unless the context otherwise requires, the following expressions have the meanings hereby assigned to them respectively, that is to say-

Interpretation, 1977 No. 54.

**"Collective agreement"** means any agreement in writing for the settlement of disputes and relating to terms of employment and physical conditions of work concluded between-

(a) an employer, a group of employers or one or more organizations representative of employers, on the one hand; and

(b) one or more trade unions or organizations representing workers, or the duly appointed

THE TRADE DISPUTES ACT, CAP T8, LFN, 2004  
representative of any body of workers; on the  
other hand;

**"Minister"** means the Minister charged with responsibility for matters relating to the welfare of labour;

**"essential service"** means any service mentioned in the First Schedule to this Act;

**"Lock-out"** means the closing of a place of employment, or the suspension of work, or the refusal by an employer to continue to employ any number of persons employed by him in consequence of a dispute, done with the view to compelling those persons, or to aid another employer in compelling persons employed by him, to accept terms of employment and physical conditions of work;

**"President"** means the President of the Federal Republic of Nigeria;

**"Public Officer"** means a member of the civil service of the Federation or of a State.

**"State"** means state created under the State (Creation and Transitional Provisions) Act;

**"Strike"** means the cessation of work by a body of persons employed acting in combination, or a concerted refusal or a refusal under a common understanding of any number of persons employed to continue to work for an employer in consequence of a dispute, done as means of compelling their employer or any person or body or persons employed, or to aid other workers in compelling their employer or any persons or body or persons employed, to accept or not to accept terms of employment and physical conditions of work; and in this definition-

(a) **"cessation of work"** includes deliberately working at less than usual speed or with less than usual efficiency; and

(b) **"refusal to continue to work"** includes a refusal to work at usual speed or with usual efficiency;

**"trade dispute"** means any dispute between employers

THE TRADE DISPUTES ACT, CAP T8, LFN, 2004

and workers or between workers and workers, which is connected with employment or non-employment, or the terms of employment and physical conditions of work of any person;

**"trade union"** has the same meaning as the Trade Unions Act;

**"Worker"** means any employee, that is to say any public officer or any individual (other than a public officer) who has entered into or works under a contract with an employer; whether the contract is for manual labour, clerical work or otherwise, express or implied, oral or in writing, and whether it is contract of service or apprenticeship.

(2) Where it is provided by this Act that an award or the terms of a settlement shall be binding on the employers and workers to whom the award or terms relate, then, as from the date of the award or settlement (or such earlier or later date, if any, as is specified therein), the contract between the employers and workers in question shall be deemed to include a provision that the rate of wages to be paid and the conditions of employment to be observed under the contract shall be in accordance with the award or terms of settlement until varied by a subsequent agreement, settlement or award; and accordingly the provisions of that contract shall be read subject to the award or terms of settlement, and any failure to give effect to the award or terms of settlement shall constitute a breach of contract.

Application of Act to workers employed by or under the State other than armed forces, police, etc.  
Cap 84,  
Cap 171  
Cap 396

**49.** (1) Subject to subsection (2) of this section, this Act shall apply to workers employed by or under the Government of the Federation or a State as it applies to persons employed by a private person.

(2) This Act shall not apply to-

(a) any member of the Nigerian Army, Navy or Air Force;

(b) any member of the Nigerian Police Force;

(c) any officer of whatever rank appointed to carry

THE TRADE DISPUTES ACT, CAP T8, LFN, 2004

out duties within the meaning of the Customs and Excise Management Act, the Immigration Act and the Prison Act;

(d ) any member of the Customs Preventive Service;

(e) any member of any other service of the Federal or State Government authorized to bear arms.

Saving.

**50.** (1) Notwithstanding anything in section 8(2) of the Trade Disputes (Emergency Provisions) (Amendment) (No. 2) Act 1969 but subject to subsection (2) of this section, the Trade Disputes (Emergency Provisions) Act 1968 and the Trade Disputes (Emergency Provisions) (Amendment) (No. 2) Act 1969 shall be deemed to have remained in force up to the date of commencement of this Act and, accordingly anything done by the Minister or by any other person or authority under or pursuant to the aforementioned Acts before the commencement of this Act shall be deemed to have been validly done and, where uncompleted, may be proceeded with and finally disposed of after the commencement of this Act.

(2) Any award made, whether before or after the commencement of this Act, by an arbitration tribunal established under the Trade Dispute (Emergency Provision) (Amendment) (No.2) Act 1969 shall be treated as having been made by arbitration tribunal constituted under section 9 of this Act and sections 15 and 21 (1) of this Act shall apply in relation thereto accordingly.

Power to make order for the appointment of public trustee. 1968 No. 57

**50.** The Industrial Arbitration Panel and the National Industrial Court are hereby empowered to make orders when necessary for the appointment of public trustee for the management of the affairs and finances of a trade union involved in intra-union disputes.

Short title and repeal

**51.** (1) This Act may be cited as the Trade Disputes Act

(2) The enactments mentioned in the Second Schedule to this Act are hereby repealed to the extent specified in the third column of that Schedule with effect from the date of commencement of this Act.

**FIRST SCHEDULE.**

THE TRADE DISPUTES ACT, CAP T8, LFN, 2004  
**ESSENTIAL SERVICES**

Section 47

Essential  
Services

1 The Public Service of the Federation or of a State which shall for the purpose of this Act include services, in civil capacity, or persons employed in the armed forces of the Federation or any part thereof, and also, of persons employed in an industry or undertaking (corporate or incorporate) which deals or is connected with the manufacture or production of materials for use in the armed forces of the Federation or any part thereof.

2. Any service established, provided or maintained by the Government of the Federation or a State, by a local government council, or any municipal or statutory authority, or by private enterprise-

(a) for, or in connection with, the supply of electricity, power or water, or of fuel of any kind;

(b) for, or in connection with, sound broadcasting or postal, telegraphic cable, wireless or telephonic communications;

(c) for maintaining ports, harbours, docks or aerodromes, or for, or in connection with, transportation of persons, goods or livestock by road, rail, sea, river or air;

(d) for, or in connection with, the burial of the dead, hospitals, the treatment of the sick, the prevention of disease, or any of the following public health matter, namely sanitation, road-cleansing and the disposal of night-soil and rubbish;

3. Service in any capacity in any of the following organizations-

(a) the Central Bank of Nigeria;

(b) the Nigeria Security and Minting Company Limited;

(c) any body corporate licensed to carry on banking business under the Banking and Other Financial Institutions Act.

THE TRADE DISPUTES ACT, CAP T8, LFN, 2004

SECOND SCHEDULE

Enactments Repealed

Chapter or Number	Short Title or other description	Extent of repeal
Cap. 201	The Trade Disputes (Arbitration and Inquiry) Act.	The whole Act.
Cap. 202	The Trade Disputes (Arbitration and Inquiry) (Federal Application) Act.	The whole Act.
No. 31 of 1958	The Civil Aviation (Fire and Security Measures) Act 1958.	Section 24(2)
No. 21 of 1968	Trade Disputes (Emergency Provisions) Act 1968.	The whole Act.
No.53 of 1969	Trade Disputes (Emergency Provisions) (Amendment)(No.2) Act 1969.	The whole Act.
L.N. 50 of 1961	The Transfer of Functions (Labour) Order 1961.	So much of the First Schedule as it relates to Trade Disputes (Arbitration and Inquiry) Act (Cap.201)  So much of the Second Schedule as it relates to the Trade Disputes (Arbitration and Inquiry) (Federal Application) Act (Cap.202)
L.N. 112 of 1964	The Adaptation of Laws (Miscellaneous Provisions) Order 1964	So much of the First Schedule as it relates to Trade Disputes (Arbitration and Inquiry) (Federal Application) Act (Cap. 202)  So much of the Second Schedule as it relates to the Trade Disputes (Arbitration and Inquiry) Act (Cap. 201).
Cap. 42	The Criminal Code	Section 305A
E.N Cap. 30	The Criminal Code of Eastern Nigeria.	Section 305A.
W.N. Cap 28	The Criminal Code of Western Nigeria, as it applies in any part of Nigeria	Section 243.
N.N> Cap.89	The Penal Code of Northern Nigeria.	Section 195.







**TRADE DISPUTES (ESSENTIAL SERVICES)  
ACT, CAP T9,  
LFN, 2004.**

**ARRANGEMENT OF SECTIONS**

**PART I-  
PROCEDURE FOR SETTLEMENT OF TRADE DISPUTES**

**SECTION**

1. Power to proscribe trade unions or associations in certain cases, etc.
2. Penalties for acts calculated to disrupt economy.
3. Restrictions on formation of new trade unions or associations.
4. Restrictions on officials of proscribed organization, etc.
5. Special power to refer disputes to Industrial Arbitration Panel for settlement.
6. Registration of property and indemnity.
7. Interpretation.
8. Short title, suspension of certain provisions of Cap T8.

## CHAPTER T9

### TRADE DISPUTES (ESSENTIAL SERVICES) ACT

**An Act to empower the President to proscribe any trade union or association the members of which are employed in any essential service if such union or association has been engaged in industrial unrest or acts calculated to disrupt the smooth running of any essential service..**

No.23 1975

21<sup>st</sup> May , 1976 Commencement

#### **PART 1-POWER TO PROSCRIBE TRADE UNIONS OR ASSOCIATIONS IN CERTAIN CASES, ETC.**

1. (1)If the President is satisfied that any trade union or association, any of the members of which are employed in any essential service-

(a) is or has been engaged in acts calculated to disrupt the economy or acts calculated to obstruct or disrupt the smooth running of any essential service; or

(b) has, where applicable, willfully failed to comply with the procedure specified in the Trade Dispute Act in relation to the reporting and settlement of trade disputes,

he may by order published in the Federal Gazette proscribe the trade union or association ( in this Act referred to as "the proscribed") and the proscribed organization shall, as from the date of the order, cease to exist.

Cap. 78

(2)Where a proscribed organization is trade union, the union shall, not later than fourteen days from the date of the order under subsection (1) of this section, surrender its certificate of registration to the Registrar of Trade Union who shall forthwith cancel such registration.

(3) As from the commencement of an order under

subsection (1) of this section, all properties (whether movable or immovable) of the proscribed organization, whether held in the name of the organization, or held by any person for or in trust for the organization shall be forfeited to the Federal Government and shall vest in that Government free of encumbrances without any further assurance apart from this subsection.

(4) Any person who holds any property referred to in subsection (3) of this section shall, within fourteen days of the making of an order under subsection (1) of this section, or where the property comes into his possession after the making of the order, within fourteen days after the property comes into his possession, deliver such property to the Secretary to the Federal Government or notify him in writing of the place where the property may be recovered and, in the latter case, shall take all the other steps as Secretary to the Federal Government may require in the recovery of such property.

(5) Any person who contravenes or fails to comply with any of the provisions of subsection (4) of this section shall be guilty of an offence and shall on conviction be liable to imprisonment for a term not exceeding five years.

2. (1) Any employer or any official of an association of employers or any official of a trade union or any person, not being an official of a trade union, who in any way performs or assumes a leadership role in any such trade union or faction thereof and-

Penalties for acts calculated to disrupt the economy.

(a) who is or has been engaged in acts calculated to disrupt the economy or acts calculated to obstruct or disrupt the smooth running of any essential service; or

(b) has, where applicable, willfully failed to comply with the procedure specified in the

Cap. T9

Trade Disputes Act in relation to the reporting and settlement of trade disputes.

Shall be guilty of an offence under this Act.

(2) Any person found guilty of an offence under subsection (1) of this section shall on conviction-

(a) where such person is an employer or official thereof or an official of any association of employers, be liable to a fine of N10,000.00;

(b) where such person is an official of a trade union or being an official of a trade union, is a person who in any way performs or assumes a leadership role in any union or faction thereof, be liable to a fine of N200 or to imprisonment for a term of six months or to both such fine and imprisonment,

and in addition to the foregoing penalties, any such person shall not, at any time after conviction for an offence under this section, continue to be or become a member, or as the case may be, continue to be or become an official of any trade union (including any faction thereof) any of the members of which such association or trade union are employed in essential services.

(3) For the purpose of this Act, a person shall be taken as performing or assuming a leadership role in a trade union or faction thereof if it is proved that, at the material time or during the material period, he had performed functions or assumed duties which are normally within the competence of an official of a trade union of purported so to do.

(4) In this section, unless the context otherwise requires, references-

(a) to employer, include references to any director, manager, secretary or other similar official thereof or any person purporting to act in any such capacity; and

(b) to a trade union or faction thereof, include references to any group of workers associated for a common purpose.

**3.** Where a trade union or association has been proscribed under section 1 of this Act-

(a) no other trade union consisting of the same or substantially the same members as those of the proscribed union shall be registered under the Trade Unions Act until a period of not less than six months has elapsed since the date of the proscription order;

(b) no other association having the same or similar objectives, and consisting of the same or substantially the same members, as those of the proscribed association shall be formed until a period of less than six months has elapsed since the date of the proscription order.

**4. (1)** No person who immediately before the date of an order under section 1 of this Act was an official of a proscribed organization shall at any time after that date be an official of any trade union or association, any of the members of which are employed in any essential services.

(2) Any person who contravenes subsection (1) of this section shall be guilty of an offence and shall on conviction be liable to imprisonment for a term not exceeding five years.

**5.** Where any trade dispute exists or is apprehended and it appears to the Minister that the dispute is one to which persons employed in any essential service are a party or might become a party, the Minister may, whether or not a

report in respect of the dispute has been received by him under section 6 of the Trade Disputes Act, refer the dispute for settlement to the Industrial Arbitration Panel established under section 9 of the Trade Dispute Act, and the provisions of that section (as well as any other relevant provision of the Trade Disputes Act) shall apply in respect of the dispute to the same extent as they apply to any trade dispute referred to the Industrial Arbitration Panel under the Trade Disputes Act.

settlement.

Cap. 18.

6.(1) Where any property to which section 1 of this Act relates is immovable property or is a registrable negotiable security, any appropriate registration authority shall on the production of this Act and the order made under section 1 of this Act by the Secretary to the Federal Government or any person acting on his behalf, remove from the relevant register the name of the person registered therein as owner and without further or other authority or the payment of any fee, register the property in the name of the Federal Government.

Registration of property and indemnity.

(2) For the purpose of this section, the appropriate registration authority includes a registrar of titles or of land and the person by whatever title known charged with the duty of registration of particular negotiable securities.

(3) Any person who in intended compliance with this Act, deals with any property affected by this Act or who rectifies any register or other records relating to any such property shall stand indemnified in respect thereof and no suit shall lie at the instance of any person aggrieved for anything done in respect of such compliance or rectification.

7. (1) In this Act, unless the context otherwise requires-

“**association**” means anybody of persons, by whatever name called, associated for common purpose, but does not include a trade union;

**"essential service"** means –

- (a) the public service of the Federation or a State which shall for the purposes of this Act include service, in a civil capacity, of persons employed in armed forces of the Federation or any part thereof and also persons employed in an industry or undertaking (corporate or unincorporate) which deals or is connected with the manufacture or production of materials for use in the armed forces of the Federation or any part thereof;
- (b) any service established, provided or maintained by the Government of the Federation or of a State, by a local government council or any municipal or statutory authority, or by private enterprise-
  - (i) for, or in connection with, the supply of electricity, power or water, or of fuel of any kind;
  - (ii) for, or in connection with, the sound broadcasting or postal, telegraphic, cable, wireless or telephonic communications;
  - (iii) for maintaining ports, harbours, docks or aerodromes, or for, or in connection with, transportation of person, goods or livestock by road, rail, sea, river, or air;
  - (iv) for, or in connection with, the burial of the dead, hospitals, the treatment of the sick, the prevention of disease, or any of the following public health matters, namely, sanitation, road cleansing and the disposal of night soil



and rubbish;

- (v) for dealing with outbreaks of fire;
- (vi) for or in connection with teaching or the provision of educational services at primary, secondary or tertiary institutions;

(c) service in any capacity in any of the following organizations-

- (i) the Central Bank of Nigeria;
- (ii) the Nigeria Security Printing and Minting Company Limited;
- (iii) any body corporate licensed to carry out banking business under the Banks and Other Financial Institutions Act;

No. 30 of 1993,  
Cap B3

**"official"** in relation to a trade union or an association means any person holding an official position in that trade union or association and accordingly includes in particular any president, secretary, or treasurer thereof and every member of its committee of management however described;

**"proscribed organization"** means any trade union or association in respect of which an order has been made under section 1 of this Act.

(2) Subject to subsection (1) of this section, expressions used in this Act have the same meaning as in the Trade Disputes Act.

**8.** (1) This Act may be cited as the Trade Disputes (Essential Services) Act.

Short Title,  
suspension of  
certain  
provisions of  
Cap T8

(2) While this Act is in force sections 41 and 42 of the Trade Dispute Act shall stand suspended.

*[The text in this section is extremely faint and illegible. It appears to be a list of items or a table with multiple columns and rows.]*



**FEDERAL REPUBLIC OF NIGERIA**



**NATIONAL INDUSTRIAL COURT ACT, 2006.**  
With Alterations of the 1999 Constitution (Third Alteration) Act, 2010



# Federal Republic Of Nigeria

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The following is published as supplement to this Gazette:

Act No.	Short Title	Page
1	National Industrial Court Act, 2006 ..	A1-34

3



## NATIONAL INDUSTRIAL COURT

### ARRANGEMENT OF SECTIONS

#### SECTION

#### PART 1-CONSTITUTION OF THE NATIONAL INDUSTRIAL COURT

1. Establishment of the National Industrial Court.
2. Appointment of the President and Judges of the Court.
3. Tenure of office of the President and Judges of the Court.
4. Precedence.
5. Salaries and allowances of the President and Judges of the Court.
6. Seal of the Court.

#### PART II - JURISDICTION AND LAW

7. Jurisdiction, etc.
8. Power of the Court in civil appeals.
9. Appeals to the Court of Appeal.
10. Enforcement of judgment.
11. Cessation of jurisdiction, etc.
12. Practice and procedure.
13. Administration of law and equity.
14. Determination of matter completely and finally.
15. Rules of equity to prevail.
16. Injunctions.
17. Orders of mandamus, prohibition and certiorari.
18. Injunction of in lieu of *quo warranto*.
19. Power of the Court to make certain orders.
20. Reconciliation in civil cases.

**PART III-SITTING AND DISTRIBUTION OF BUSINESS**

21. Divisions of the Court.
22. Sittings.
23. Lack of quorum.
24. Power of Transfer.
25. Proceedings to be disposed of by a panel of Judges.
26. Powers of a panel of Judges in court and in chambers.
27. Discharge of orders made in chambers.

**PART IV-GENERAL PROVISIONS AS TO TRIAL AND PROCEDURE**

28. Decision of the Court.
29. Use of assessors.
30. Reference for report.
31. Reference for trial.
32. Powers and remuneration of referees and arbitrators.
33. Statement of case pending arbitration.
34. Power of the Court to impose terms as to costs.
35. Meaning of "reference".

**PART V-RULES OF COURT**

36. Power to make Rules of Court.

**PART VI-MISCELLANEOUS**

37. Chief Registrar and other officers of the Court.
38. Negligence or misconduct of officers.
39. Restriction on officers of the Court buying property sold at execution.
40. Costs.
41. Allowances to witness.
42. How allowances are to be defrayed.
43. Person in Court may be required to give evidence though not summoned.
44. Witness summons in civil causes and matters.
45. Representation of Government.
46. Right to practice Cap. 207 LFN.
47. Appeal not to operate as a stay of execution.
48. Notes of evidence and minutes of proceedings to be kept by presiding Judge.
49. Inspection.

5

50. President of the Court may appoint commissioners for affidavits or for taking evidence.
51. Protection of commissioners from action.
52. Judicial officers not liable to be sued if they acted in good faith.
53. Repeal of part II of Cap.432, LFN, 1990, etc.
54. Interpretation.
55. Short title.



**NATIONAL INDUSTRIAL COURT ACT, 2006**

**2006 ACT No. 1**

**AN ACT TO PROVIDE FOR THE ESTABLISHMENT OF THE NATIONAL INDUSTRIAL COURT AS A SUPERIOR COURT OF RECORD; AND RELATED MATTERS**

[14<sup>th</sup> June, 2006] Commencement

ENACTED by the National Assembly of the Federal Republic of Nigeria-

**PART 1- THE CONSTITUTION OF THE NATIONAL INDUSTRIAL COURT**

<p>Repealed by Section 254A (1) of 1999 Constitution (Third Alteration) Act, 2010.</p>	<p>1-(1) There is established a court to be known as the National Industrial Court (in this Act referred to as "the Court").</p>	<p>Establishment of the National Industrial Court.</p>
	<p>(2) The Court shall consist of-- (a) the President of the Court who shall have overall control and supervision of the administration of the Court; and (b) not less than twelve Judges.</p>	
<p>Repealed by Section 254B (3)- (4) of 1999 Constitution (Third Alteration) Act, 2010.</p>	<p>Provided that in appointing Judges for the court, one-third of the Judges so appointed shall satisfy the requirements of the provisions of subsection (4)(b) of section 2 of this Act.</p>	
	<p>(3) The Court shall - (a) be a superior court of record; (b) except as may be otherwise provided by any enactment or law, have all the powers of a High Court.</p>	
	<p>2-(1) The President of the Court shall be appointed by the President, on the recommendation of the National Judicial Council, subject to confirmation by the Senate. (2) The appointment of a person to the office of a Judge of the Court shall be made by the President on the recommendation of the National Judicial Council.</p>	<p>Appointment of the President and Judges of the Court</p>

(3) A person shall not be eligible to hold office of the President of the Court unless the person is qualified to practice as a legal practitioner in Nigeria and has been so qualified for a period of not less than ten years and has considerable knowledge and experience in the law and practice of industrial relations and employment conditions in Nigeria

(4) A person shall not be eligible to hold the office of a Judge of the Court unless-

(a) the person is a legal practitioner in Nigeria and has been so qualified for a period of not less than ten years and has considerable knowledge and experience in the law and practice of industrial relations and employment conditions in Nigeria; or

Repealed by  
Section 254B (4) of  
the 1999  
Constitution (Third  
Alteration) Act,  
2010.

(b) the person is a graduate of a recognized university of not less than ten years standing and has considerable knowledge and experience in the law and practice of industrial relations and employment conditions in Nigeria.

(5) if the office of the President of the Court is vacant, or if the person holding the office is for any reason unable to perform the functions of the office, then until a person has been appointed to and assumed the functions of that office or until the person holding the office has resumed those functions, the President shall appoint the most senior judge of the Court having the qualification to be appointed as President of the Court as provided under subsection (3) of this section to perform those functions

(6) Except on the recommendation of the National Judicial Council, an appointment pursuant to the provisions of subsection (5) of this section shall cease to have effect after the expiration of three months from the date of such appointment and the President shall not re-appoint a person whose appointment has lapsed

(7) Notwithstanding the provision of subsection (1), (2), (3) and (4) of this section, any person holding the office of the President or ordinary member of the Court

immediately before the commencement of this Act shall be deemed to have been appointed under this Act

3- The provision in the Constitution of the Federal Republic of Nigeria 1999 relating to the tenure, removal, gratuity and pension of any person holding or appointed to act in the office of the Chief Judge or Judge of the Federal High Court, shall respectively apply to any person holding or appointed to act in the office of the President of the Court or as a Judge of the Court.

Tenure of office of the President and Judges of the Court.

4- (1) The President of the Court shall take precedence over the other judges of the Court and other judges shall take precedence after the President of the Court in order of seniority.

Precedence

(2) The President of the Court shall rank equal with the Chief Judge of the Federal High Court or the Chief Judge of the High Court of the Federal Capital Territory Abuja in precedence and the Judges of the Court shall, in like manner, rank with the Judges of the Federal High Court or High Court of the Federal Capital Territory, Abuja.

5-(1) There shall be paid to-

(a) the President of the Court, such salaries, emoluments and allowances as are payable to the Chief Judge of the Federal High Court or Chief Judge of the High Court of the Federal Capital Territory, Abuja; and

Salaries and Allowances of the President and the Judges of the Court.

(b) a Judge of the Court, such salaries, emoluments and allowances as are payable to a Judge of the Federal High Court or of the High Court of the Federal Capital Territory, Abuja.

(2) Any amounts payable under this section shall be charged and paid out of the Consolidated Revenue Fund of the Federation in accordance with section 81 (3) of the Constitution of the Federal Republic of Nigeria 1999

6-(1) The Court shall have and may use a seal bearing a device or impression approved by the President of the Court with the inscription, "The National Industrial Court".

Seal of the Court

(2) The seal of the Court shall be kept by the President of the Court and a duplicate thereof shall be kept by each of the other Judges and the President of the Court and other Judges may entrust the seal or the duplicate to such officers of the Court as they may think fit.

(3) The seal shall be a seal of the Court for all purposes for which it may be required under the provisions of any enactment or Rule of Court.

#### **PART II-JURISDICTION AND LAW**

Repealed by  
Section 254C of  
the 1999  
Constitution  
(Third Alteration)  
Act, 2010.

7-(1) The Court shall have and exercise exclusive jurisdiction in civil causes and matters-

Jurisdiction e

(a) relating to--

(i) labour, including trade unions and industrial relations; and

(ii) environment and conditions of work, health, safety and welfare of labour, and matters incidental thereof; and

(b) relating to the grant of any order to restrain any person or body from taking part in any strike, lock-out or any industrial action, or any conduct in contemplation or in furtherance of strike, lock-out or any industrial action;

(c) relating to the determination of any question as to the interpretation of--

(i) any collective agreement

(ii) any award made by an arbitral tribunal in respect of a labour dispute or an organizational dispute;

(iii) the terms of settlement of any labour dispute, organizational dispute as may be recorded in any memorandum of settlement,

(iv) any trade union constitution, and

(v) any award or judgment of the Court.

(2) The National Assembly may by an Act confer such additional jurisdiction on the Court in respect of such other causes or matters incidental, supplementary or related to those set out in subsection (1) of this section.

(3) Notwithstanding anything to the contrary in this Act or any other enactment or law, the National Assembly may by an Act prescribe that *any matter under subsection (1) (a) of this section* may go through the process of conciliation or arbitration before such matter is heard by the Court

(4) An appeal shall lie from the decisions of an arbitral tribunal to the Court as of right in matters of disputes specified in subsection (1) (a) of this section.

(5) For the purposes of subsection (4) of this section, a party to an arbitral award shall be entitled to obtain a copy of the records of the arbitral proceedings and the award from the arbitral tribunal.

(6) The Court shall, in exercising its jurisdiction or any of the powers conferred upon it by this Act or any other enactment or law, have due regard to good or international best practice in labour or industrial relations and what amounts to good or international best practice in labour or industrial relations shall be a question of fact.

8. The Court may, upon hearing an appeal under subsection (4) of section 7 of this Act, draw any inference of fact and –

Power of the Court  
in Civil Appeals

(a) confirm, vary or set aside the judgment, award or order of the Court, tribunal or body mentioned therein; or

(b) order a rehearing and determination on such terms as the Court may think just; or

(c) order judgment to be entered for any party; or

(d) make a final or other order on such terms as the Court may think fit to ensure the determination on the

merits of the matter in dispute between the parties.

Altered by Section 243(2)-(4) of the 1999 Constitution (Third Alteration) Act, 2010.

9-(1) Subject to the provisions of the Constitution of the Federal Republic of Nigeria 1999 and subsection (2) of this section, no appeal shall lie from the decisions of the Court to the Court of Appeal or any other court except as may be prescribed by this Act or any other Act of the National Assembly.

Appeals to the Court of Appeal

Altered by Section 243(2)-(4) of the 1999 Constitution (Third Alteration) Act, 2010.

(2) An appeal from the decision of the Court shall lie only as of right to the Court of Appeal only on question of fundamental rights as contained in Chapter IV of the Constitution of the Federal Republic of Nigeria 1999.

10. The Court shall have the power to enforce its judgment and accordingly, may commit for contempt any person or a representative of a trade union or employers' organization who commits any act or an omission, which in the opinion of the Court constitutes contempt of the Court.

Enforcement of judgment

Invalidated by Supreme Court in *NUJEE & 1or v BFE* (2010) 7NWLR (Pt 1194) and repealed by Section 254C of the 1999 Constitution (Third Alteration) Act, 2010.

11-(1) In so far as jurisdiction is conferred upon the Court in respect of the causes or matters mentioned in the foregoing provisions of this part of this Act, the Federal High Court, the High Court of a State, the High Court of the Federal Capital Territory, Abuja or any other court shall, to the extent that exclusive jurisdiction is so conferred upon the Court, cease to have jurisdiction in relation to such causes and matters.

Cessation of jurisdiction etc

Repealed by Section 254C of the 1999 Constitution (Third Alteration) Act, 2010.

(2) Nothing in subsection (1) of this section shall affect the jurisdiction and powers of the Federal High Court, the High Court of a State or of the Federal Capital Territory, Abuja to continue to hear and determine causes and matters which are part-heard before the commencement of this Act and proceedings in any such causes or matters, not determined or concluded at the expiration of one year after the commencement of this Act, shall abate.

Repealed by

12-(1) The jurisdiction vested in the Court shall, so far

Practice and

Section 254F of the 1999 Constitution (Third Alteration) Act, 2010.

as practice and procedure are concerned, be exercised in the manner provided by this Act or any other enactment or by such rules and orders of court as may be made pursuant to this Act or, in the absence of any such provisions, in substantial conformity with the practice and procedure of the Court existing immediately before the commencement of this Act. procedure

Altered by Section 254F (1)-(2) of the 1999 Constitution (Third Alteration) Act, 2010.

(2) Subject to this Act and any rules made thereunder, the Court

(a) may regulate its procedure and proceedings as it thinks fit; and

(b) shall be bound by the Evidence Act but may depart from it in the interest of justice.

13. Subject to this Act, in every civil cause or matter commenced in the Court, law and equity shall be administered by the Court concurrently. Administration of law and equity

14. The Court shall in the exercise of the jurisdiction vested in it by or under this Act in every cause or matter, have power to grant, either absolutely or on such terms and conditions as the Court thinks just, all such remedies whatsoever as any of the parties thereto may appear to be entitled to in respect of any legal or equitable claim properly brought forward by the Court so that, as far as possible, all matters in dispute between the parties may be completely and finally determined and all multiplicity of legal proceedings concerning any of those matters avoided. Determination of matter completely and finally

15. Subject to the express provisions of any other enactment, and in all matters not particularly mentioned in this Act in which there was formerly or there is any conflict or variance between the rules of equity and the rules of common law with reference to the same matter, the rules of equity shall prevail in the court so far as the matters to which those rules relate are cognizable by the Court. Rules of equity to prevail

16. (1) The Court may grant an injunction in all cases in which it appears to the Court to be just or Injunctions

convenient so to do.

(2) Any such order may be made either unconditionally or on such terms and conditions as the Court thinks just

17. -(1) The Court shall have the power to make an order of mandamus requiring any act to be done or an order of prohibition prohibiting any proceedings, cause or matter, or an order of certiorari removing any proceedings, cause or matter into the Court for any purpose.

Orders of mandamus, prohibition and certiorari.

(2) The power conferred on the Court by this section to make an order of mandamus, prohibition or certiorari may be exercised notwithstanding that the order is made against an officer or authority of the Federal, State or Local government as such.

18. In any case where any person acts in an office in which he is not entitled to act, the Court may grant an injunction restraining him from so acting and may (if the case so requires) declare the office to be vacant.

Injunction *in the quo warranto*

19. The Court may in all other cases and where necessary make any appropriate order, including-

Power of Court make certain or

(a) the grant of urgent interim reliefs;

(b) a declaratory order;

(c) the appointment of a public trustee for the management of the affairs and finances of a trade union or employer's organization involved in any organizational dispute;

(d) an award of compensation or damages in any circumstances contemplated by this Act or any Act of the National Assembly dealing with any matter that the Court has jurisdiction to hear; and

(e) 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.

20. In any proceedings in the Court, the Court may promote reconciliation among the parties thereto and

Reconciliation in Civil cases.



encourage and facilitate the amicable settlement thereof.

### **PART III –SITING AND DISTRIBUTION OF BUSINESS**

21-(1) The Court shall have and exercise jurisdiction throughout the Federation, and for that purpose the whole area of the Federation shall be divided by the President of the Court into such number of Judicial Divisions, as the President may, from time to time, by instrument published in the Federal Gazette decide, and may, designate any such Judicial Division or part thereof by such name as he thinks fit. Divisions of Court

(2) The Court may sit in any Judicial Division as the President of the Court may direct, and he may also direct a number of Judges to sit in any Judicial Division.

(3) The President of the Court shall determine the distribution of the business before the Court amongst the Judges thereof and may assign any judicial function to any judges or judges or in respect of a particular cause or matter in a Judicial Division.

Repealed by Section 254E (1)-(2) of the 1999 Constitution (Third Alteration) Act, 2010.

(4) Subject to this Act, the Rules of Court made pursuant to Section 36 of this Act and the directions of the President of the Court, the Court shall be constituted of not less than three judges. Constitution of the Court

Repealed by Section 254B (3) & (4) of 1999 Constitution (Third Alteration) Act, 2010.

Provided that the Presiding Judge shall be a Judge appointed under subsection (3) or (4) (a) of section 2 of this Act.

Altered by Section 254E (1)-(2) of 1999 Constitution (Third Alteration) Act, 2010.

(5) Notwithstanding subsection (4) of this section, the President of the Court may assign a single Judge of the Court to sit and hear interlocutory applications or a preliminary matter in any proceedings brought or pending in the Court.

Repealed by Section 254B (4) of

Provided that such Judge shall be a Judge appointed

1999 Constitution  
(Third Alteration)  
Act, 2010.

under Subsection (3) or (4) (a) of Section 2 of this Act.

22-(1) Subject to the Rules of Court and to any provisions pertaining to vacations as may be prescribed by the President of the Court, the Court shall open throughout the year for the transaction of any pending general legal business. Sittings.

(2) Provisions shall be made in the Rules of Court for the hearing of all such applications as may be required to be expeditiously or urgently heard.

Altered by Section  
254E (1) & (2) of  
the 1999  
Constitution (Third  
Alteration) Act,  
2010.

23. Where the Court is unable to form a quorum and no arrangement can be made to ensure that a quorum is formed, the Court shall stand adjourned from day-to-day until a quorum is formed for the purpose of hearing the case, or until the court shall be adjourned or closed by order under the hand of the Presiding Judge.

Lack of quoru

Altered by Section  
254E (1) & (2) of  
the 1999  
Constitution (Third  
Alteration) Act,  
2010.

24. (1) A panel of Judges constituted to hear a case may, at any time or at any stage of the proceedings in any cause or matter before final judgment, either with or without application from any of the parties thereto, transfer such cause or matter before the court to any other panel of Judges.

Power of tran

(2) No cause or matter shall be struck out by the Court merely on the ground that such cause or matter was taken in the Court instead of the Federal High Court or the High Court of a State or of the Federal Capital Territory, Abuja in which it ought to have been brought, and the court before whom such causes or matter is brought may cause such cause or matter to be transferred to the appropriate Federal High Court or the High Court of a State or of the Federal Capital Territory, Abuja in accordance with Rules of Court to be made under section 36 of this Act.

(3) Notwithstanding anything to the contrary in any enactment or law, no cause or matter shall be struck out by the Federal High Court or the High Court of a State or of the Federal Capital Territory, Abuja on the

ground that such cause or matter was not brought in the appropriate Court in which it ought to have been brought, and the Court before whom such cause or matter is brought may cause such cause or matter to be transferred to the appropriate Judicial Division of the Court in accordance with such rules of court as may be in force in that High Court or made under any enactment or law empowering the making of rules of court generally which enactment or law shall by virtue of this subsection be deemed also to include the power to make rules of court for the purposes of this subsection.

(4) Every order of transfer made pursuant to subsection (2) and (3) of this section shall operate as a stay of proceedings before the court before which such proceedings are brought or instituted and shall not be subject to appeal

(5) Where the court to which any cause or matter has been transferred, pursuant to subsection (2) or (3) of this section, is of the opinion that the cause or matter ought in law to be dealt with by the court which transferred the cause or matter, the first mentioned court shall, after hearing counsel on behalf of the parties, state a case on a point of law for the opinion of the Court of Appeal.

(6) Where any case on a point of law is stated for opinion of the Court of Appeal, the Court of Appeal shall, in accordance with rules applicable in that court, give its decision upon the case and the court which stated the case shall dispose of the cause or matter accordingly.

Repealed by  
Section 254E (1) &  
(2) of the 1999  
Constitution (Third  
Alteration) Act,  
2010.

25. Every proceeding in the Court and all business arising there from shall, so far as practicable and convenient and subject to the provisions of any enactment or law and the rules of Court made pursuant to section 36 of this Act, be heard and disposed of by a panel consisting of not less than three Judges as the President of the court may direct, all proceedings in an action subsequent to the hearing or

Proceedings to be  
disposed of by a  
panel of judges.

trial, down to and including the final judgment or order, shall, so far as is practicable and convenient, be taken before the panel of Judges before whom the trial or hearing took place.

26. A panel of Judges to whom a case is assigned may, subject to Rules of Court, exercise in court or in chambers all or any part of the jurisdiction vested in the Court in all such causes and matters and in all such proceedings in any cause or matter as may be heard conveniently in court or in chambers respectively.

Power of a panel of judges in court and in chambers.

27. Subject to the provisions of this Act and the Rules of Court made pursuant thereto, every order made by a panel of Judges in chambers, except orders as to costs only, may upon notice be set aside or discharged by the panel of Judges sitting in Court.

Discharge of orders made in chambers.

#### **PART IV- GENERAL PROVISIONS AS TO TRIAL AND PROCEDURE**

28. -(1) Every decision of the Court shall be in writing.

Decision of the Court.

(2) Every decision of the Court shall be taken, in the event of a difference between the Judges dealing with the case, by the votes of a majority of the Judges.

(3) For the purpose of delivering its decision, judgment or ruling, the Court shall be deemed to have been duly constituted if at least one Judge of the panel sits for that purpose.

Altered by Section 254E (3)-(4) of the 1999 Constitution (Third Alteration) Act, 2010.

29. -(1) In any civil cause or matter, the Court may, if it thinks it expedient so to do or in a manner prescribed under any enactment, law or Rules of Court, call in the aid of one or more assessors specially qualified and try and hear cause or matter wholly or partially with the assistance of such assessors.

Use of assessors.

(2) The remuneration, if any, to be paid to an assessor shall be determined by the court on the direction of the President of the Court or as may be otherwise

prescribed pursuant to this Act or any other enactment or law or any Regulations made pursuant thereto.

30-(1) Subject to the Rules of Court, the Court may refer to an official or special referee for inquiry or report any question arising in any cause or matter. Reference for report.

(2) The Report of an official or special referee may be adopted wholly or partially by the Court and if so adopted, may be endorsed as a judgment or order to the same effect.

31 In any cause or matter - Reference for trial.

(a) if all the parties interested, who are not under disability, consent; or

(b) if the cause or matter requires any prolonged examination of documents or any scientific or local investigation which cannot, in the opinion of the Court, conveniently be conducted by the Court through its ordinary officers; or

(c) if the matter in dispute consists wholly or in part of accounts, the Court may at any time order the whole cause or matter or any question or issues of fact arising therein, to be tried before a special referee, an official referee, officer of the Court or Arbitrator respectively agreed on by the parties.

32-(1) In all cases of reference to an official or special referee or arbitrator, the official or special referee or arbitrator shall be deemed to be an officer of the Court and, subject to Rules of Court, shall have such authority, and conduct the reference in such manner as the Court may direct. Power and remuneration of referees and arbitrators.

(2) The report of an official or special referee on any reference shall, if adopted and not set aside by the Court, be equivalent to a finding of the Court.

(3) An award of an arbitrator on any referee on any reference shall, unless set aside, be binding on the Court and equivalent to its finding.

(4) The remuneration to be paid to a special referee or arbitrator to whom any matter is referred under an

order of the Court shall be determined by the Court on the direction of the President of the Court.

33. A referee or arbitrator may at any stage of the proceedings under a reference, and shall, if so directed by the Court, state in the form of a special case for the opinion of the Court any question of law arising in the course of the reference.

Statement of case pending arbitration

34. An order made under the provisions of this Act relating to inquiries and trials by referees may be made on such terms as to costs or otherwise as the Court thinks fit

Power of the Court to impose terms as to costs.

35. In the provisions of this Act relating to inquiries and trials by referees, unless the context otherwise requires, the expression "reference" relates to a reference under an order made by the Court under the said provisions

Meaning of "reference"

#### **PART V- RULES OF COURT**

36. -(1) The President of the Court may make Rules of Court for carrying into effect the provisions of this Act, and in particular-

Power to make Rules of Court

(a) regulating the practice and procedure of the Court, including all matters connected with the forms to be used and the fees to be paid.

(b) prescribing the practice and procedure upon an appeal or an application to the Court where provisions is made in any enactment or law for such an appeal or such an application.

(c) regulating the practice and procedure in cases where an order of mandamus, prohibition or certiorari is sought or proceedings are taken for an injunction or declaratory order;

(d) regulating, subject to the provisions of this Act, trials by the Court with assessors;

(e) regulating-

- (i) the fees to be paid; and
  - (ii) the taxation and recovery of fees and disbursements;
- (f) defining, so far as may be conveniently defined by general rules, the duties of the several officers of Court.
- (g) regulating, subject to the provisions of this Act, the sittings of the Court and of the Judges thereof whether sitting in Court or chambers, the business and hours of the Court and of the offices connected therewith, and the conduct of the business of the Court during vacation;
- (h) prescribing what part of the business which may be transacted and of the jurisdiction which may be exercised by Judges of the Court in chambers or may be transacted or exercised by registrars or other officers of the Court.
- (i) regulating any matters relating to the costs of proceedings in the Court;
- (j) regulating the means by which any judgment or decree of any court outside Nigeria or of the Supreme Court of Nigeria (or the former Federal Supreme Court), Court of Appeal, High Court or other superior court established or to be established elsewhere in Nigeria which it is necessary to prove or lawful to enforce shall be proved or enforced;
- (k) regulating the procedure for the detention and trial of any person charged for contempt before the Court;
- (l) regulating the payment of allowances and traveling expenses of witness;
- (m) imposing penalties on any person who fails to take any action required by a Rule of Court or who disobeys any Rule of Court.
- (n) for requiring and regulating the filing of accounts.
- (o) for regulating the procedure in respect of any matter in which the Court has and may exercise original or

appellate jurisdiction under this Act and for fixing the fees payable or providing that no fees be paid or that certain fees need not to be paid.

(p) for ascertaining the value of anything that requires to be ascertained;

(q) for regulating and prescribing the duties and procedure for assessors, referees and arbitrators;

(r) for regulating the means by which particular facts may be proved, and the mode in which evidence thereof may be given in any proceedings or on any application in connection with or at any stage of any proceedings;

(s) for providing for the service or execution of any writ, warrant, order or other process issuing out of the Court, the payment of mileage allowance before or after service or execution, the conditions precedent before any such process or process of certain classes will be served or executed and the procedure to be followed after the service or execution of such process.

(t) for providing for the taking of notes whether manually or by electronic device of evidence and proceedings in the Court and for the payment of fees for the taking of notes out of public funds, and for fixing the charges for the making and supply of transcripts of the notes, and for the payment of such charges either by the parties to the proceedings or out of public funds;

(u) prescribing the procedure for the transfer of proceedings from the Court to the Federal High Court, the High Court of a State or of the Federal Capital Territory; and

(v) for prescribing vacations.

(2) Rules of Court made under this section shall apply to all proceedings by or against the Government of the Federation or of a State or a local government.

#### **PART VI-MISCELLANEOUS**



37.-(1) The Federal Judicial Service Commission may, from time to time, appoint a fit and proper person to be the Chief Registrar of the Court who shall perform such duties in execution of the powers and authorities of the court as may, from time to time, be assigned to him by Rules of Court and, subject thereto, by any special order of the President of the Court.

Chief Registrar and other officers of the Court.

(2) The Federal Judicial Service Commission may, from time to time, appoint registrars, deputy registrars and such other officers as may be deemed necessary who shall perform such duties with respect to business before the Court as may be directed by Rules of Court and any order of the President of Court.

(3) The Chief Registrar, registrars and deputy registrars shall have power to administer oaths and perform such other duties with respect to any proceedings in the Court as may be prescribed by the Rules of Court or by any special order of the President of the Court.

(4) Any person holding the office of Chief Registrar, registrar and deputy registrars or any other office in the Court immediately before the commencement of this Act shall be deemed to have been appointed under this Act and shall continue to hold such office under such terms and conditions not less favourable than those obtaining immediately before the commencement of this Act.

38. If an officer of the Court, employed to execute an order, willfully or by neglect loses the opportunity of executing it, then on complaint of the person aggrieved, and proof of the act alleged, the Court may, if it thinks fit, order the officer to pay the damages sustained by the person complaining, or part thereof, and the order shall be enforced as an order directing payment of money

Negligence or misconduct of officers

39. No person in permanent employment as an officer of the Court shall or may directly or indirectly or by the intervention of a trustee or otherwise purchase any property sold at execution, and in the event of any such person purchasing or being interested in the

Restriction on officers of the Court buying property sold at execution.

purchase of any property at an execution sale, such purchase shall be entirely void.

Provided that nothing in this section shall prevent any such person from purchasing by leave of the Court at an execution sale any property which it may be necessary for him to purchase in order to protect the interest of himself, his wife or child.

40. Subject to the provisions of this Act or any other enactment, Rules of Court or law, the costs of and incidental to all proceedings in the Court shall be in the discretion of the Court and the Court shall have full power to determine by whom and to what extent the costs are to be paid. Costs.

41-(1) The Court may, in any matter, order and allow to all persons required to attend, or to be examined as witnesses, such sum or sums of money as may be specified by Rules of Court for defraying the reasonable expenses of such witnesses and for allowing them a reasonable compensation for their trouble and loss of time. Allowances witnesses.

(2) No person may refuse to attend as a witness, or give evidence when so required by process of the Court, on the ground that his expenses have not been first paid or provided for.

42. All sums of money so allowed shall be paid in civil proceedings by the party on whose behalf the witness is called and shall be recoverable as ordinary costs of suit if the Court shall so order. How allowan to be defraye

43. Any person present in Court, whether a party or not in a cause or matter, may be compelled by the Court to give evidence or produce any document in his possession or in his power in the same manner and subject to the same rules as if he had been summoned to attend and give evidence or produce such document and may be punished for any refusal to obey the order of the court. Person in Co be required t evidence tho summoned.

44. The Court may issue a summons for bringing up Witness sum civil causes t

3

any person under civil process to be examined as a witness in any cause or matter pending or to be inquired into by the Court.

matters.

45. In any civil cause or matter in which the Government of the Federation or any public officer in his official capacity is a party or in any civil cause or matter affecting the activities of the Government of the Federation, that Government or that officer may be represented by a law officer, State Counsel, or any legal practitioner or other person duly authorized in that behalf by or on behalf of the Attorney-General of the Federation.

Representation of Government.

46. All persons admitted as legal practitioners to practice in Nigeria shall, subject to the provisions of the Constitution of the Federal Republic of Nigeria 1999 and the Legal Practitioner Act, have right to practice in the Court.

Right to Practice.  
Cap 207 LPN.

Provided that a party to a dispute before the Court may represent himself or herself or be represented by the organization to which he or she belongs.

47. Where permitted by this Act or any other Act of the National Assembly, an appeal to the Court of Appeal from the decision of the Court shall not operate as a stay of execution but the Court may order a stay of execution either unconditionally or upon the performance of such conditions as may be imposed in accordance with Rules of Court.

Appeal not to operate as a stay of execution.

48. -(1) In every cause or matter the Court shall take down in writing the substances of all oral evidence given before the Court and minutes of the proceedings and shall sign the same at any adjournment of the case and at the conclusion thereof:

Notes of evidence and minutes of proceedings to be kept by presiding judge.

Provided that the Court may cause the whole or any part of the proceedings to be recorded either manually or by electronic devices by an official employed for that purpose except that the transcript of such recording shall be transcribed and duly authenticated by the signature of the presiding Judge in a manner

prescribed by Rules of Court.

(2) No person shall be entitled, as of right, to the inspection of or to a copy of the records so kept pursuant to subsection (1) of this section, except as may be imposed by Rules of Court.

(3) The record so kept pursuant to subsection (1) of this section, or a copy thereof signed and certified by the registrar as a true copy shall at all times without further proof, be admitted as evidence of such proceedings and of statements made by the witness

49. In any case the Court may on the application of either party, or of its own motion, make such order for the inspection by the Court, the parties or witness of any movable or immovable property, the inspection of which may be material to the proper determination of the question in dispute, and give such direction respecting such inspection as to the Court may seem fit.

50. The President of the Court may appoint under his hand and seal of the Court from time to time, such and so many persons as may be requisite to be commissioner for taking affidavits and declarations and receiving production of documents, or for taking the examination of witness on interrogatories or otherwise which may be necessary to be taken in respect of any proceedings in the Court, and any order of the Court for the attendance and examination of witness or production of documents before any such commissioner shall be enforced in the same manner as an order to attend and be examined or produce documents before the Court.

51. No action shall be brought against any commissioner in respect of any act or order performed or made bona fide by him in the execution, or supposed execution of the powers or jurisdiction vested in him, but every such act or order if in excess of such powers and jurisdiction shall be liable to be revised, altered, amended or set aside upon summary

Inspection.

President of the Court may appoint commissioners for affidavits or for taking evidence.

Protection of commissioners from action.

application to the Court.

52.-(1) No judge or other person acting judicially shall be liable to be sued in any court for any act done or ordered to be done by him in the discharge of his judicial duty, whether or not within the limits of his jurisdiction.

Judicial officers not liable to be sued if they acted in good faith

(2) No officer of the Court or other person bound to execute the lawful orders of any such judge or other person acting judicially shall be liable to be sued in any court, for the execution of any warrant or order which he would be bound to execute.

53-(1) Part II of the Trade Disputes Act is hereby repealed.

Repeal of Part II of Cap. 432 LPN, etc

(2) Without prejudice to the provisions of subsection (1) of this section, the other provisions of the Trade Disputes Act shall be construed with such modifications as may be necessary to bring it into conformity with the provisions of this Act.

(3) If any provision of the Trade Disputes Act is inconsistent with the provision of this Act the provisions of this Act shall prevail.

54-(1) In this Act, unless the context otherwise requires

Interpretation.

Altered by Section 254C (5) of the 1999 Constitution (Third Alteration) Act, 2010.

"action" means a civil proceeding commenced by writ or in such other manner as may be prescribed by Rules of Court but does not include a criminal proceeding.

"cause" includes any action, suit or other original proceeding between a claimant and a defendant and any contempt proceeding;

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

"collective agreement" means any agreement in writing regarding working conditions and terms of employment

concluded between-

(a) an organization of employers or an organization representing employers (or an association of such organization), of the one part, and

(b) an organization of employees or an organization representing employees (or an association of such organizations) of the other part.

"constitution" means the Constitution of the Federal Republic of Nigeria, 1999.

"court" means the National Industrial Court and includes the Judges of the National Industrial Court sitting together or separately;

"court of appeal" means the Court of Appeal as established by the Constitution of the Federal Republic of Nigeria 1999;

"employee" 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.

"employer" means any individual or body corporate or unincorporated who has entered into a contract of employment to employ any other person as an employee or apprentice;

"enactment" means any Act of the National Assembly (including this Act) or law having effect with respect to the Federation or applicable or having effect as Federal Law;

"inter-union dispute" means dispute between trade unions or employers' association;

"intra-union dispute" means dispute within a trade union or an employer's association;

"judge" except where the reference is to the judge of the Federal High Court or of a High Court of a State or the Capital Territory, Abuja, means the President or

other Judge of the National Industrial Court;

"judgment" includes a decision, decree or order of a court of record;

"matter" includes every proceeding in court or order in a cause;

Altered by Section 254A of the 1999 Constitution (Third Alteration) Act, 2010.

"National Industrial Court" means the National Industrial Court reconstituted under section 1 of this Act;

"organization" includes a trade union or an employers' association;

"party" includes every person served with notice of, or attending, any proceeding, who, although not named on the record of the proceeding, has the like interest in the subject matter of the proceeding as a person named on the record of the proceedings;

"President" means the President of the Federal Republic of Nigeria;

"President of the Court" means the President of the National Industrial Court appointed under section 2 of this Act;

"registrar" includes the Chief Registrar and all other registrars of the Court;

"suit" includes action.

"trade dispute" means any dispute between employers and employees, including disputes between their respective organizations 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) for enabling full effect to be given to the provisions of this Act-

(a) any reference (whether express or by necessary implication) in any enactment (other than the Constitution of the Federal Republic of Nigeria 1999) to "the Federal High Court" "High Court of the Federal Capital Territory, Abuja" "High Court", "court of law" or a "court of record"-

(i) in so far as the reference relates to or is connected with the jurisdiction, powers practice and procedure of a High Court, and

(ii) except in so far as it is inconsistent with the provisions of this Act, shall include a reference to the Court established by this Act; and

(b) all references (whether express or by necessary implication) in any enactment (other than the Constitution of the Federal Republic of Nigeria) to the High Court of a State in so far as the enactment-

(i) is of general application throughout the Federation, and

(ii) relates to a matter as respects which jurisdiction is conferred upon the Court by or under this Act, shall be construed as references to the Court, notwithstanding that in an appropriate case, the enactment is, or has become, by operation of law, a law of a State.

(3) The Powers conferred upon the Attorney -General of the Federation and exercised by him or the Attorney-General of a State under the Constitution or anything made thereunder shall, to the extent that jurisdiction is conferred upon the Court, the Federal High Court, or the High Court of a State, or of the Federal Capital Territory, Abuja by or pursuant to this Act, be exercisable subject as in this Act otherwise provided, and that section and any other enactment in law pertaining thereto shall be so construed.

(4) For the avoidance of doubt, the following

Repealed by  
Section 254A of  
the 1999  
Constitution as  
amended.



enactments-

- (a) the regional Courts (Federal Jurisdiction) Act;
- (b) section 31 of the Interpretation Act; Cap 192 LFN
- (c) Trade Disputes Act and Cap 432 LFN
- (d) Such other Federal enactment as the President may by order specify, shall be construed with such modifications as may be necessary to bring them into conformity with the provisions of this Act.

55. This Act may be cited as the National Industrial Court Act, 2006.

**CITATION.**

I certify, in accordance with section 2 (1) of the Acts Authentication Act, Cap. 4, Laws of the Federation of Nigeria 1990, that this is a true copy of the Bill passed by both Houses of the National Assembly.

NASIRU IBRAHIM ARAB,

Clerk to the National Assembly

14<sup>th</sup> June, 2006

**EXPLANATORY NOTES**

This Act established the National Industrial Court as a superior court of record and confers jurisdiction on the court with respect to labour and industrial relations matters.

I certify that this Bill has been carefully compared by me with the decision reached by the National Assembly and found by me to be true and correct decision of the Houses and is in accordance with the provisions of the Acts Authentication Act Cap. 4, Laws of the Federation of Nigeria, 1990.

NASIRU IBRAHIM ARAB

Clerk to the National Assembly

14<sup>th</sup> Day of June, 2006.

I ASSENT.

CHIEF OLUSEGUN OBASANJO, GCFR

President of the Federal Republic of Nigeria

14<sup>th</sup> Day of June, 2006.



**FEDERAL REPUBLIC OF NIGERIA**

NATIONAL INDUSTRIAL COURT OF NIGERIA

ESTABLISHED 2007



FEDERAL REPUBLIC OF NIGERIA

**NATIONAL INDUSTRIAL COURT OF NIGERIA**

**RULES, 2007**

2

**Arrangement of Rules**

**ORDER 1**

**Application, etc.**

1. Construction of reference to law, rules, etc.
2. The National Industrial Court Rules 2007.
3. Interpretation.

**ORDER 2**

**Institution and Trial of Suits**

1. Filing of Originating Process.
2. Where several Defendants or Respondents reside in different Judicial Divisions.
3. Suits commenced in the wrong Judicial Division.
4. Matters to be referred to the President of the Court for assignment.
5. President of the Court may delegate duty to assign.
6. President of the Court to Preside over Certain Matters.

**ORDER 3**

**Forms and Commencement of Action**

1. Proceedings by Complaint.
2. Content of Complaint.
3. Amendment of Complaint.
4. Documents to accompany Complaint.
5. Proceedings by way of Appeal.
6. Number of Documents for Service.
7. Effect of failure to comply with the requirements of the Rules.
8. Registrar to indicate time of filing of process and arrange service.
9. Matters transferred from other High Courts to the Court.

**ORDER 4**

**Endorsement of Claim and of Address**

1. Endorsement of Forms.
2. Endorsement to reflect Representative Capacity.
3. Endorsement where Claim is liquidated.
4. Originating Process to indicate Claimant's or Legal Practitioner's Address for Service.
5. Effect of lack of or misleading Address.

**ORDER 5**

**Effect of Non-Compliance**

1. Effect of Non-Compliance.

2. Application to set aside for Irregularity.
3. Departure from Rules in the Interest of Justice.

**ORDER 6**

**Filing and Issue of Originating Process**

1. Sufficient copies of Originating Process to be left with the Registrar.
2. Registrar's action on the Originating Process duly filed.
3. Registrar to arrange prompt service of Originating Process.
4. Lifespan of an Originating Process.
5. Renewal of Originating Process.
6. Loss of Originating Process.
7. Concurrent Originating Processes.
8. Issuance and Marking of Concurrent Originating Process for service.

**ORDER 7**

**Service of Originating Process**

1. Manner of service of Originating Process.
2. Service by Sheriff, Deputy Sheriff, Bailiff or Process server.
3. Service on Person Under Legal Disability.
4. Service on Prisoner or Detainee.
5. Service on Partners.
6. Service on Corporation or Company.
7. Service on Foreign Company doing business in Nigeria.
8. Service on Public Functionaries sued *ex officio*.
9. Service on Local Agent of Principal who is out of Jurisdiction.
10. Service on Person out of Jurisdiction as a Necessary Party.
11. Where violence threatened.
12. Proof of Service.
13. Party to pay for Service.
14. Time and days within which to effect Service.
15. Recording of Service.

**ORDER 8**

**Appearance**

1. Need to file Memorandum of Appearance.
2. Effect of failure to enter appearance.
3. Right of Party to change Address.
4. Declaration by Party who does not intend to Appear.

5. Effect of failure to file Appearance, Defence or Declaration.
6. Time within which Application to set aside may be made.

**ORDER 9**

**Defences**

1. Duty of Party served with a Complaint.
2. Duty of Party served with Notice of Appeal and accompanying Documents.

**ORDER 10**

**Summary Judgment**

1. Application for Summary Judgment.
2. Number of Copies of Processes to be delivered to the Registrar.
3. Mode of Service of Processes and Documents.
4. What a Party who intends to defend should do upon being served.
5. Duty of Court upon hearing application for Summary Judgment.
6. Duty of Court where there are many Defendants.
7. Party at liberty to expatiate on Written Addresses.

**ORDER 11**

**Motions and other Interlocutory Applications**

1. Application by Notice of Motion.
2. When Notice of Motion should be given.
3. Motion of Arbitral Award.
4. Length of notice between service and Hearing of Motion.
5. Effect of failure to give notice of Motion to Necessary Party.
6. Adjournment of Hearing.
7. Filing and Service of Motions with Originating Process.
8. Power of Court to make an Interlocutory Order.

**ORDER 12**

**Arrest of Absconding Party**

1. Party leaving Jurisdiction or removing property.
2. Warrant of Arrest by the Court.
3. Bail in lieu of Appearance or Satisfaction.
4. Deposit in lieu of Bail.
5. Party may be committed to Custody.
6. Payment of expenses for the subsistence of Party in Custody.

**ORDER 13**

**Interim Attachment of Property**

1. Circumstances warranting application for Interim attachment of Property.
2. Contents of application for Interim Attachment of Property
3. Order by Court.
4. Where defendant or Respondent fails to show cause or give security.
5. Rights of Third Parties not to be affected.
6. Removal of attachment where Defendant or Respondent furnishes security.
7. Appropriate Court to take Proceedings.

**ORDER 14**

**Interlocutory Injunction and Interim Preservation of Property**

1. Application for Injunction.
2. Detention, preservation, etc. of Subject Matter of Action.
3. Power of Court to order assessment or valuation.
4. Order for early trial.
5. Recovery of personal property subject to lien, etc.
6. Allowance of income of property *pendente lite*.

**ORDER 15**

**Applicable Rules to General Procedural Matters**

**ORDER 16**

**Application for Account**

1. Order for Account.
2. How an Application for Account is to be made.
3. Account may be taken by the Court or a Referee.

**ORDER 17**

**Assessor**

1. Responsibility of Assessor sitting in Court.
2. Assessor to take Oath of Secrecy.
3. Assessor not to write Judgment.
4. Assessor to advice on issue for which he or she is an expert.
5. Court not bound to accept Assessor's Opinion or Advice.

**ORDER 18**

**Issues, Inquiries, Accounts and References to Referees or Arbitrator**

1. Issues referable to a Referee or Arbitrator.
2. Details to be furnished to Referee or Arbitrator.



3. Limit of Referee or Arbitrator's duty to be specified.
4. General power of the Referee or Arbitrator.
5. Evidence.
6. Report pursuant to reference to be submitted to Court.
7. Court's directions to Referee to take Account.
8. Mode of taking Account.
9. Court may direct further vouching of Account.
10. Surcharge.
11. Numbering of Account and Inquiries.
12. Just Allowances to be made while taking Account.
13. Court's duty where there is undue delay in proceedings at references and arbitration.

**ORDER 19**  
**Proceeding at Trial**

1. Non-appearance of both Parties.
2. Non-appearance of the Defendant or Respondent at the Trial.
3. Non-appearance of the Claimant at the Trial.
4. Power of Court to bar disobedient Party.
5. Individual or group of individuals not to appear both as Claimant and Respondent.
6. Application to re-list.
7. Adjournment of Trial.
8. Time taken by Trial to be noted by Registrar.
9. Order of proceedings at Trial.
10. Closure of Case by Parties.
11. Power of Court to call for Evidence.
12. Marking and preservation of Exhibits admitted at Trial.
13. Filing of Written Addresses.
14. Custody of Exhibits after Trial.
15. Party may obtain Office Copy of List of Exhibits.
16. Case may be struck out for lack of diligent prosecution.
17. Discontinuance.
18. Court's power to review earlier order.
19. Court's power to correct clerical errors or slips

**ORDER 20**  
**Filing of Written Addresses**

1. Application of Order.
2. Content of Written Addresses.

3. Summary and Conclusion of Written Addresses.
4. Copies of Written Addresses to be filed.
5. Oral Argument.

**ORDER 21**  
**Judgment and Orders**

1. Judgment to be delivered in open Court and duly entered.
2. Judgment to take effect from date of delivery unless Court otherwise orders.
3. Judgment made pursuant to an Application.
4. Court may direct time for performance and may order payment with interest.
5. Judgment stating when an act to be done to contain a Memorandum to be indorsed thereon by the Registrar.
6. Terms of Settlement to be signed by both Parties and Counsel.
7. Party to give consent to Judgment in open Court if not represented by Counsel.
8. When Orders need not be drawn up.
9. Order to be sealed and signed by the President of the Court or Presiding Judge etc.

**ORDER 22**  
**Application for Judicial Review**

1. Cases for application for Judicial Review.
2. Joinder of Claim for relief.
3. Time within which to bring Application.
4. Interlocutory Application during proceedings for Judicial Review.
5. Hearing of Application for Judicial Review.
6. Action taken in obedience to Order of Mandamus not to be questioned.
7. Consolidation of Applications on same Subject Matter.

**ORDER 23**  
**I. Jurisdiction of the Chief Registrar**

1. Chief Registrar includes Deputy Chief Registrar.
2. Business to be transmitted by the Chief Registrar.
3. Chief Registrar may refer Matter back to the President.
4. Appeal from the Order of the Chief Registrar.
5. Chief Registrar's Cause List.
6. Party may be represented by Legal Practitioner.
7. Power of Chief Registrar to delegate to Registrars.

**II. Chief Registrar's Certificate**

8. Chief Registrar's Certificate.

9. Chief Registrar's Certificate to refer to relevant Judgment or Order.
10. Form of Chief Registrar's Certificate in Cases of Account and Transcripts.
11. When Chief Registrar's Certificate becomes binding.
12. Taxing of Bills of Cost.
13. Certificate may be discharged or varied by the Court.

**ORDER 24**

**Costs**

**I. Costs between Party and Party**

1. Cost fixed at the Court's discretion.
2. Costs follow events.
3. Court may order payment of Costs to be paid from the fund of Subject Matter of Suit.
4. Court to fix amount of cost at time of Judgment.
5. Principle to be followed in fixing Cost.
6. Court may stay proceedings pending payment of Costs by any Party.
7. Court/Taxing Officer to determine Costs of Taxation.
8. Taxing Costs Matters.
9. Fees to be taken into account in Taxation of Costs.
10. Principle of Taxation of Bill of Costs.

**II Security for Costs**

11. When a Claimant or Defendant may be ordered to give Security for Costs.
12. Mode of Security to be determined by Court.

**ORDER 25**

**Computation of Time**

1. Computation of Time.
2. Definition of Holiday.
3. Time for Service of Processes.
4. Power of Court to extend time.
5. Party reviving a Matter after a year to give 30 days Notice to the other Party.
6. Application to set aside or remit an Award.

**ORDER 26**

**Miscellaneous Provisions**

1. Court Sittings and Vacation
2. Court to sit in Public, except for special reasons.
3. Office Hours.

4. Sitting and Vacation Periods.
5. Court may sit during Vacation with consent of all the Parties to take Urgent Matters.
6. Time for Filing and Service of Pleadings to exclude Annual Vacation Period.

## **II GENERAL**

7. Recovery of Penalties and Costs.
8. Notices.
9. Document for filing to be duly endorsed by Registrar.
10. How Warrants, etc. for execution are to be addressed.
11. Government Department excluded from paying Fees.
12. Regulations.
13. Savings.

### **ORDER 27**

#### **Business in Chambers**

1. Representation in Chambers.
2. Interlocutory Proceedings may be conducted in Chambers.
3. Proceedings in Chambers to be properly recorded.
4. Orders made in Chambers to be drawn up.
5. Costs of Proceedings in Chambers to be fixed at Court's discretion.
6. Application to set aside or vary Order made in Chambers may be made.

### **ORDER 28**

#### **Transfer of Cases**

1. Transfer of Cases to other High Courts.
2. Duty of Registrar.
3. Transfer of Cases from other High Courts.

### **ORDER 29**

#### **Committal for Contempt of Court**

1. Exercise of the Power of Committal.
2. Application for Committal to be made by Motion.
3. Court may make Order of Committal *suo motu*.
4. Provisions as to Hearing of Committal Application.
5. Saving Provisions for Contempt in the Face of Court.
6. Power to suspend execution of Committal Order.
7. Discharge of the Person Committed.
8. Payment of Fine or giving of Security.
9. Every Writ of Attachment shall be returnable before Court.

**ORDER 30**

**Stay Of Execution And Stay Of Order Of Proceedings Pending Appeal**

1. Stay of execution or Stay of Proceeding Pending Appeals.
2. Compilation of Record.
3. Application for Stay once struck out cannot be refilled.
4. Formal Order to be drawn up.

**ORDER 31**

**FEES AND ALLOWANCES**

1. Fees and Allowances.
2. Regulations.

## NATIONAL INDUSTRIAL COURT RULES 2007

In exercise of the powers conferred by Section 36 of the National Industrial Court Act, 2006, and all other powers enabling in that behalf, I, BABATUNDE ADENIRAN ADEJUMO, President, National Industrial Court, hereby make the following Rules:

(1<sup>st</sup> Day of August, 2007) Commencement

### ORDER 1 APPLICATION, ETC.

1. (1) Any reference herein includes a reference to the thing done before the commencement of these Rules under any corresponding Statute or Rules of Court ceasing to have effect on the commencement of these Rules. Construction of reference to law, rules, etc.
- (2) Except where the context otherwise requires, any reference herein to any enactment shall be construed as a reference to that enactment as subsisting.
- (3) These Rules shall apply to all proceedings including part-heard causes and matters in respect of steps to be further taken in such causes and matters for the attainment of a just, efficient and speedy dispensation of justice.
2. The National Industrial Court Rules 1979 is hereby superseded from the date of the Commencement of these Rules. Cap 1.23, LFN,2004
- (1) These Rules shall be interpreted in accordance with the Interpretation Act. Interpretation (Cap 192 LFN 1990)
- (2) In these Rules unless the context otherwise requires-  
"The Act" means the National Industrial Court Act. No. 1 of 2006.
- "Appeal" includes an application for leave to appeal
- "Appellant" means any person who appeals against a decision or an award of a tribunal or any statutory authority and an applicant for leave to appeal;
- "Cause" includes any action, suit or other proceedings between a claimant and a defendant, an appellant and a respondent or any applicant and a respondent in any proceedings;
- "Claimant" is any person seeking any relief (otherwise than by way of counter-claim as a defendant) against any other person in any proceeding.
- "Court" means the National Industrial Court and includes the Judges of the National Industrial Court sitting together or separately;

"Court Process or Processes" include complaint or any other originating process, notice of appeal or other notices, pleadings, orders, motions, summons, warrants and all documents filed or written communication of which service is required;

"Decision" means any determination of the Court and includes judgment, decree, order, conviction, sentence or recommendation.

"Defendant" includes a defendant to a counter claim;

"Tribunal" means an arbitral tribunal, board of inquiry, Registrar of Trade Unions and such other body or authority dealing with any cause or matter over which the Court has jurisdiction;

"Originating Process" means a complaint or any other court processes by which a suit is initiated;

"President of the Court" means the President of the National Industrial Court.

"Registrar" includes the Chief Registrar and all other registrars of the Court;

"Registry" means the Registry of the National Industrial Court in any Judicial Division of the Court;

"Respondent" includes a person against whom a claim, an application or an appeal before the Court is pending.

"Suit" includes an action.

"Taxing Officer" means the Chief Registrar or such other officer of the Court as the President of the Court may appoint to tax costs.

## **ORDER 2 INSTITUTION AND TRIAL OF SUITS**

1. Subject to the provisions of the Act on transfer of suits, an originating process in respect of a matter in which the Court has jurisdiction shall be filed in any registry of the Court nearest to where the defendant or respondent resides or has presence or in which the defendant or respondent carries on business.

Filing of  
Originating  
Process

2. Where there are several defendants or respondents who reside or carry on business in different Judicial Divisions, the suit may be commenced in any one of those Judicial Divisions subject to any order or direction of the Court as the most convenient arrangement for trial of the suit.

Where several  
Defendants or  
Respondents  
reside in  
different  
Judicial  
Divisions

- |  |  |
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| <p>3. Where any suit is commenced in the wrong Judicial Division, it may be tried in that Division unless the President of the Court otherwise directs.</p>  | <p>Suits commenced in the wrong Judicial Division</p>                      |
| <p>4 Whenever any matter under section 7(1) (b); section 17(1) and (2); section 18 or section 19 (a) and (c) of the Act is filed in any Division of the Court, the Registrar shall refer the matter to the President of the Court for assignment to a Judge of the Court or a panel of Judges as he or she may deem fit.</p> | <p>Matters to be referred to the President of the Court for assignment</p> |
| <p>5. Notwithstanding rule 4 of this Order, the President of the Court may direct a Judge of the Court to assign any case under section 7 (1) (b); section 17 (1) and (2); section 18 or section 19 (a) and (c) of the Act.</p>  | <p>President of the Court may delegate duty to assign</p>                  |
| <p>6. In constituting the panel in accordance with rule 4 of this Order: the President of the Court may preside or assign a Judge appointed under section 2(4) (a) of the Act to preside.</p>  | <p>President of the Court to preside over Certain Matters</p>              |

**ORDER 3  
FORM AND COMMENCEMENT OF ACTION**

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| <p>1. Any action for determination by the Court shall be commenced by way of Complaint which shall be filed and sealed. The Complaint shall be in Form 1 with such modifications or variations as circumstances may require.</p>  | <p>Proceedings by Complaint</p>        |
| <p>2. (1) The Complaint shall state specifically the relief or reliefs claimed either singly or in the alternative and it shall not be necessary to ask for general or other relief which may be given as the Court may think just.</p>   | <p>Content of Complaint</p>            |
| <p>3. A claimant may alter, modify or extend the claim without any amendment of the endorsement on the Complaint: provided that the claimant may not completely change the cause of action endorsed on the Complaint without amending it.</p>                                       | <p>Amendment of Complaint</p>          |
| <p>4. The Complaint shall be accompanied by:<br/>(i) a statement of facts establishing the cause of action;<br/>(ii) copies of every document to be relied on at the trial<br/>(iii) list of witnesses to be called.</p>  | <p>Document to accompany Complaint</p> |
| <p>5. Where the claimant complains against an award or decision by an arbitral tribunal, board of inquiry, decision of the Registrar of Trade Unions or any other authority in respect of matters within the jurisdiction of the Court, the complaint shall be accompanied by a</p> | <p>Proceedings by way of Appeal.</p>   |



Record of Appeal, which shall comprise:

- (a) Certified true copies of all the processes exchanged by the parties at, or the representations made to the lower tribunal;
- (b) Certified true copies of the record of proceedings before the lower tribunal (where applicable);
- (c) Certified true copy of the Award or decision of the lower tribunal; and
- (d) Appellant's Brief of Argument.

6. In each of the above cases, the party filing the Originating Process shall leave at the Registry sufficient number of copies thereof together with all the accompanying documents for service on the Defendant(s) or Respondent(s).

Number of Documents for Service

7. Where a claimant fails to comply with rule 2,3,4 or 5 of this Order, as the case may be, his or her originating process shall not be accepted for filing by the Registry.

Effect of failure to comply with the requirements of the Rules

8. (1) The Registrar shall indicate the date and time of presentation for filing on every originating process presented and shall arrange for service thereof to be effected on the other parties.

Registrar to indicate time of filing of process and arrange service

(2) An originating process shall not be altered after it is sealed except upon application to the Court.

9. (1) Where any matter is transferred to the Court by the Federal High Court, or the High Court of a State or of the Federal Capital Territory pursuant to the provision of sub-section 24(3) of the Act or similar provision in the statute establishing the said High Court, the case file shall be accepted in the appropriate Registry of the Court and referred to the President of the Court for assignment.

Matter transferred from other High Courts

(2) Upon the assignment of such a transferred case, the Registrar shall issue Hearing Notices to all the parties to participate in the proceedings.

**ORDER 4  
ENDORSEMENT OF CLAIM AND OF ADDRESS**

1. Every originating process shall be printed on Opaque A4 paper of good quality and shall contain the claim, the relief or remedy sought with the full names and address of the claimant or Appellant.

Endorsement of Forms

2. Where a claimant sues, or a defendant or any of several defendants is sued in a representative capacity, the originating process shall state that capacity.

Endorsement to reflect Representative Capacity

3. Where the claim is for debt or liquidated demand only, the originating process shall state the amount claimed and shall further state that the defendant may pay the amount with costs to the

Endorsement where Claim is liquidated

claimant or the claimant's Legal Practitioner within the time allowed for appearance and that upon such payment the proceedings shall terminate.

4. (1) A claimant suing in person shall state on the originating process his or her residential or business address as his or her address for service.

Originating Process to Indicate Claimant's or Legal Practitioner's Address for Service

(2) Where a claimant sues through a Legal Practitioner the Legal Practitioner shall state on the originating process the chamber's address as the address for service.

(3) An originating process shall be signed by the claimant or his or her Legal Practitioner where the claimant sues through a Legal Practitioner.

5. Where the originating process does not state an address for service, it shall not be accepted and where such address is illusory, fictitious or misleading the Court on the application of the defendant may set the process aside.

Effect of lack of or misleading Address

#### **ORDER 5 EFFECT OF NON-COMPLIANCE**

1. Failure to comply with any of these Rules may be treated as an irregularity and the Court may give any direction as it thinks fit.

Effect of Non-Compliance

2. (1) An application to set aside for irregularity any step taken in the course of any proceedings, may be allowed where it is made within a reasonable time and before the party applying has taken any fresh step after becoming aware of the irregularity.

Application to set aside for irregularity

(2) An application under this rule may be made by summons or motion and the grounds of objection shall be stated in the summons or notice of motion.

3. The Court may direct a departure from these Rules where the interest of justice so requires.

Departure from Rules in the Interest of Justice.

#### **ORDER 6 FILING AND ISSUE OF ORIGINATING PROCESS**

1. (1) A claimant or the Legal Practitioner shall, on presenting any originating process for filing and sealing, leave with the Registrar as many copies of the process as there are defendants or respondents to be served and one copy for endorsement of service on each defendant or respondent.

Sufficient copies of Originating Process to be left with the Registrar.

(2) Each copy shall be signed by the claimant where he or she is suing in person or the Legal Practitioner and shall be certified after verification by the Registrar as being a true copy of the original process filed.

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|---|---|
| <p>2. The Registrar shall after sealing an originating process, file it and note on it the date of filing and the number of copies supplied by a claimant or his or her Legal Practitioner for service on the defendants. The Registrar shall then make an entry of the filing in the cause book and identify the action with a suit number that comprise abbreviation of the Judicial Division, a chronological number and the year of filing.</p> | <p>Registrar's action on the Originating Process duly filed.</p>          |
| <p>3. The Registrar shall promptly arrange for service of a copy of the originating process and accompanying documents on each defendant or respondent.</p>   | <p>Registrar to arrange prompt service of Originating Process</p>         |
| <p>4. (1) The lifespan of every originating process shall ordinarily be 6 months.</p> <p>(2) Where the Court is satisfied that it has proved impossible to serve an originating process on any defendant within its lifespan and a claimant applied before its expiration for renewal of the process, the Court may renew the original or concurrent process for three months from the date of such renewal.</p>                                    | <p>Lifespan of an Originating Process</p>                                 |
| <p>5. The Court may order two renewals in each case strictly for good cause and upon prompt application, provided that no originating process shall be in force altogether for longer than a period of 12 months. The Registrar shall state the fact, date and duration of renewal on every renewed originating process.</p>  | <p>Renewal of Originating Process</p>                                     |
| <p>6. Where an originating process is lost after issue, the Court, upon being satisfied of the loss and of the correctness of the process, may order the copy to be filed and sealed in place of the lost originating process.</p>  | <p>Loss of Originating Process</p>  |
| <p>7. A claimant may at the issuance of an originating process or at any time during its lifespan, cause to be issued one or more concurrent originating processes each to bear the same date as the initial process marked 'CONCURRENT' with the date of issue stated on it.</p>   | <p>Concurrent Originating Processes</p>                                   |
| <p>8. An originating process for service within jurisdiction may be issued and marked as a concurrent originating process with one for service out of jurisdiction or vice versa.</p>   | <p>Issuance and Marking of Concurrent Originating Process for service</p> |

**ORDER 7  
SERVICE OF ORIGINATING PROCESS**

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|--|-----------------------------|
| <p>1. (1) Any notice or other document required or authorized by</p> | <p>Manner of service of</p> |
|--|-----------------------------|

these Rules to be served on, or delivered to any person may be served on that person personally or sent by registered post or courier or left at that person's address for service or, where no address for service has been given, the registered office, principal place of business or last known address, and any notice or other document required or authorized to be served on, or delivered to the court may be sent by registered post or courier or delivered to the Chief Registrar.

Originating  
Process

(2) A document served by post shall be presumed, in the absence of evidence to the contrary, to have been delivered in the normal course of post.

(3) The Court may direct that service of any document be dispensed with or be effected otherwise than in the manner prescribed by these Rules.

2. (1) Service of originating process shall be made by a Sheriff, Deputy Sheriff, Bailiff or other officer of the Court. The President of the Court may also appoint any registered Courier Company or any other person to serve court processes and such person shall be called process server.

Service by  
Sheriff, Deputy  
Sheriff, Bailiff  
or Process  
Server

(2) Where a party is represented by a Legal Practitioner, service of court process may be made on such Legal Practitioner or on a person under his or her control.

3. (1) Where a person under legal disability is a defendant or respondent, service on his or her guardian shall be deemed good and sufficient service, unless the Court otherwise orders. Provided that service on a minor who is over 16 years of age living independently or doing business is good and sufficient.

Service on  
person Under  
Legal Disability

(2) The Court may order that service on a person under legal disability shall be deemed good and sufficient.

4. Where a defendant or respondent is a detainee or prisoner, service on the head or other person in charge of the place of detention or incarceration shall be deemed good and sufficient service on the defendant or respondent.

Service on  
Prisoner  
Detainee

5. Where persons are sued as partners in the name of their firm the originating process shall be served upon any one or more of the partners at the principal place of business within the jurisdiction or upon any at the principal place of business within the jurisdiction or upon any person having control or management of the partnership business there; and such service shall be deemed good service upon the firm. No leave to issue an originating process against them shall be necessary. Provided that in the case of a partnership that has been dissolved to the knowledge of the claimant before the commencement

Service on  
Partners

of the action, the originating process shall be served upon every person sought to be made liable within the jurisdiction.

6. Subject to any statutory provision regulating service on a registered company, corporation or body corporate, every originating process or other process requiring personal service may be served on the organization by delivery to a director, secretary, trustee or other senior, principal or responsible officer of the organization, or by leaving it at the registered, principal or advertised office or place of business of the organization within the jurisdiction.

Service on  
Corporation or  
Company

7. When the suit is against a foreign corporation or company within the meaning of section 54 of the Companies and Allied Matters Act having an office and carrying on business within the jurisdiction and such suit is limited to a cause of action which arose within the jurisdiction, the originating process or other documents requiring personal service may be served on the principal officer or representative of such foreign corporation or company within the jurisdiction. Provided that where a foreign company has complied with the provision of Chapter 3 of the Companies and Allied Matters Act, personal service shall be effected on one of the persons authorized to accept service on behalf of the said company.

Service on  
Foreign  
Company doing  
business in  
Nigeria

8. Where a Minister or Commissioner, or the Attorney- General or the Director of Public Prosecutions, or any other public officer of the Federal Republic of Nigeria or of a State thereof is a party *ex-officio* or as representing the Federal or State Government, as the case may be, in any proceedings in the Court, any notice or other document may be served on him or her by leaving it at or sending it by registered post or courier service to his or her chambers or office and service in this manner shall be as effective as if it were personal service.

Service on  
Public  
functionaries  
sued *ex-officio*

9. Where a contract has been entered into within jurisdiction by or through an agent residing or carrying on business within jurisdiction on behalf of a principal residing or carrying on business out of jurisdiction, an originating process in an action relating to or arising out of such contract may, before the determination of such agent's authority or of his or her business relations with the principal be served on such agent. A copy of the originating process shall be sent promptly, by the claimant by courier to the defendant at his or her address out of jurisdiction.

Service on local  
Agent of  
Principal who is  
out of  
Jurisdiction

10. Where any person out of jurisdiction of the Court is a necessary or proper party in a matter before the Court and it is necessary to serve that person with the originating process or other document relating to the matter, the Court may allow service of the process or such other document out of jurisdiction.

Service on  
Person out of  
Jurisdiction as  
a Necessary  
Party

11. Where a person to be served, whether alone or with others, resists service or applies or threatens violence to the process server, the process server may leave the process within the reach of the person to be served and this shall be deemed good and sufficient service for all purposes. Where violence threatened
12. (1) After serving any process, the process server shall promptly depose to and file an affidavit setting out the fact, date, time, place and mode of service, describing the process served and shall exhibit the acknowledgement of service, if any. Proof of Service  
 (2) Upon service the affidavit shall be *prima facie* proof of service.
13. (1) The party requiring service of any process shall pay in advance all costs and expenses of and incidental thereto. Party to pay for Service  
 (2) The rate for service shall be as directed by the President of the Court in Practice Directions from time to time.
14. (1) Service of originating and other processes, orders and documents whatsoever shall be effected between the hours of 6 (six) o' clock in the morning and 6 (six) o' clock in the evening. Time and days within which to effect Service  
 (2) Save in exceptional circumstances and as may be authorized by the Court, service shall not be effected on a Sunday or on a public holiday.
15. (1) A register shall be kept at the Registry in such form as the President of the Court may direct for recording service of processes by any process server. A registrar shall record therein the names of the claimant and defendant or respondent, the method of service, whether personal or otherwise and the manner used to ascertain that the right person was served. Recording of Service  
 (2) Where any process was not served the cause of failure shall be recorded in the register.  
 (3) Every entry in such register or certified copy thereof shall be *prima facie* evidence of the matters stated therein.

**ORDER 6  
APPEARANCE**

1. (1) Every person served with an originating process shall, within the days stipulated therein or if no day is stipulated within 14 days of the service of the originating process, file a Memorandum of Appearance in the Registry of the Court. Need to file Memorandum of Appearance  
 (2) The Memorandum of Appearance shall be signed by the party served or the Legal Practitioner representing the party which shall contain a full and sufficient address for service.

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|--|---|
| <p>2. Where any defendant or respondent fails or omits to file a Memorandum of Appearance, then delivery of any document or subsequent processes in relation to the matter at the address shown in the originating process shall be deemed to be good and proper service.</p>  | <p>Effect of failure to enter appearance</p>                        |
| <p>3. Any party to a proceeding may change the address for service at any time by filing and serving on all other parties to the proceeding notice of such change.</p>   | <p>Right of Party to change Address</p>                             |
| <p>4. At any time before hearing of a matter any party to the proceeding may file a declaration in writing that such party does not wish to be present in person or represented by a Legal Practitioner on the hearing of the matter. A copy of such declaration shall be served on every other party who has filed a Memorandum of Appearance and thereupon the matter shall be dealt with as if the party had appeared.</p>  | <p>Declaration by Party who does not intend to Appear</p>           |
| <p>5. (1) Where a defendant or respondent fails to file a Memorandum of Appearance within the stipulated time, or fails to file appropriate processes in defence of the action within the prescribed time, and also fails to file a declaration of intention not to defend the action, the Court may proceed to hear the matter and give judgment.</p> <p>(2) Where the defendant or respondent during the hearing, or within a reasonable time after conclusion of hearing and judgment applies to the Court giving satisfactory reasons for the failure to appear and defend the action, and demonstrates readiness to defend the action, the Court may in its absolute discretion set aside any judgment given in default of appearance and defence, and allow the defendant or respondent to appear and defend the matter on its merit, on such terms as to costs or otherwise</p> | <p>Effect of failure to file Appearance, Defence or Declaration</p> |
| <p>6. No application to set a judgment aside and rehear the matter under this rule shall be made or entertained after the expiration of 30 days from the date of the judgment sought to be set aside.</p>  | <p>Time within which Application to set aside may be made</p>       |

**ORDER 9**

**DEFENCES**

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| <p>1. (1) Where a party served with a Complaint and the accompanying documents as stipulated in Order 3 of these Rules intends to defend and/or counter-claim in the action, the party shall not later than 14 days or any other time prescribed for defence in the Complaint, file:</p> <p>(a) a statement of defence and counter claim (if any)</p> <p>(b) list of witnesses</p> <p>(c) Copies of documents to be relied upon at the trial</p> | <p>Duty of Party served with a Complaint</p> |
|--|--|

2. Where a party served with a Notice of Appeal or a Notice of Cross Appeal together with the Record of Appeal and other accompanying documents as stipulated in Order 3 of these Rules intends to contest the Appeal or Cross-Appeal, such party shall not later than 14 days or any other time prescribed for response, file a Respondent's Brief of Argument or Cross-Respondent's Brief of Argument as the case may be.

Duty of Party served with Notice of Appeal and accompanying Documents

**ORDER 10**

**SUMMARY JUDGMENT**

1. Where a claimant believes that there is no defence to the claim, an application for summary judgment supported with an affidavit stating the grounds for the belief shall be filed along with the originating process. The application shall be accompanied with the statement of facts, any exhibits and a written brief.

Application for Summary Judgment

2. A claimant shall deliver to the Registrar as many copies of all the processes and documents referred to in rule 1 of this Order as there are defendants or respondents.

Number of Copies of Processes to be delivered to the Registrar

3. Service of all the processes and documents referred to in rule 1 of this Order shall be effected in the manner provided for under these Rules.

Mode of Service of Processes and Document

4. Where a party served with the processes and documents referred to in rule 1 of this Order intends to defend the action such a party shall, not later than the time prescribed for defence, file:

What a Party who intends to defend should do upon being served

- (a) a statement of defence,
- (b) documents to be used in defence; and
- (c) a written brief in reply to the application for summary judgment.

5. (1) Where it appears to the Court that a party has a good defence and ought to be permitted to defend the claim such party may be granted leave to defend.

Duty of Court upon hearing application for Summary Judgment

(2) Where it appears to the Court that a party has no good defence the Court may thereupon enter judgment for the claimant.

(3) Where it appears to the Court that the defendant or respondent has a good defence to part of the claim, the Court may thereupon enter judgment for that part of the claim to which there is no defence and grant leave to defend that part to which there is a defence.



6. Where there are several defendants or respondents and it appears to the Court that any of the defendants or respondents has a good defence and ought to be permitted to defend the claim, and other defendants or respondents have no good defence and ought not to be permitted to defend, the former may be permitted to defend. The Court shall then enter judgment against the later.

Duty of Court where there are many Defendants

7. Where provision is made for written briefs under these Rules, each party shall be at liberty to advance before the Court oral submission to expatiate the party's written brief for not more than 20 minutes.

Party at liberty to expatiate on Written Address

**ORDER 11  
MOTIONS AND OTHER INTERLOCUTORY APPLICATIONS**

1. (1) Where by these Rules any application is authorized to be made to the Court, such application may be by motion supported by affidavit or by notice, and shall state under what rule of Court or Law the application is brought. Every motion or notice shall be served within 5 days of filing.

Application by Notice of Motion

(2) Where the other party intends to oppose the application, such party shall within 7 days of service, file a counter affidavit.

(3) Where a counter affidavit is served on the applicant, the applicant may file further affidavit within 7 days of service.

(4) For the purpose of hearing and determining interlocutory applications, the Court shall be duly constituted, if it consists of a single Judge appointed under section 2 subsection (3) or (4)(a) of the Act. Provided that a panel of three Judges may also hear and determine interlocutory applications, where the President of the Court or the Presiding Judge of the Division so directs.

2. (1) Except where an application *ex-parte* is required or permitted under any Statute or these Rules, every motion shall be on notice to the other party.

When notice of Motion should be given

(2) No application for an injunction shall be made *ex-parte* unless the applicant files with it a motion on notice in respect of the application.

(3) An order of injunction made upon an application *ex-parte* shall abate after 7 days except the court subsequently otherwise directs in the interest of justice or to prevent an irreparable or serious mischief.

3. (1) Every notice to enforce an arbitral award shall state the grounds of the application and where any such motion is founded on evidence by affidavit, a copy of it shall be served with the notice of motion.

Motion on Arbitral Award

(2) The party relying on an award on applying for its enforcement shall supply a duly certified copy of the award.

(3) An award made by an arbitrator may by leave of the Court be enforced in the same manner as a judgment or order of Court.

4. Unless the Court grants leave to the contrary, there must be at least three clear days between the service of all processes in respect of a motion and the day named in the notice for hearing the motion.

Length of notice between service and Hearing of Motion

5. Where on the hearing of a motion or other application the Court is of the opinion that any person to whom notice has not been given ought to have had such notice, the Court may either strike out the motion or application or adjourn the hearing in order that such notice may be given upon such terms, if any, as the Court may deem fit.

Effect of failure to give notice of Motion to Necessary Party

6. The hearing of any motion or application may from time to time be adjourned upon such terms as the Court shall deem fit: Provided that application for adjournment at the request of a party shall not be made more than twice.

Adjournment of Hearing

7. A claimant may file any application together with an originating process and may serve both on any defendant or respondent simultaneously.

Filing and Service of with Originating Process

8. (1) Subject to sub-rule (2) of this rule, the Court may, on the application of any party, make any order under the Act it considers necessary.

Power of Court to make an Interlocutory Order

(2) Before making an interlocutory order under these Rules, the Court shall take all reasonable steps to ensure that notice of the application for the interim order has been served on the respondents.

#### ORDER 12 ARREST OF ABSCONDING PARTY

1. Where in any suit a party is about to leave the jurisdiction of the Court, or has disposed of or removed from the jurisdiction, his or her property, or any part thereof, or is about to do so, the other party may, either at the institution of the suit, or at any time thereafter until final judgment, make an application to the Court that security be given for the appearance of the absconding party to answer and satisfy any judgment that may be passed against him or her in the suit.

Party leaving Jurisdiction or removing property

2. Where the Court, after investigation, is of the opinion that there is probable cause for believing that a party is about to leave the jurisdiction of the Court, or has disposed of or removed from jurisdiction, the party's property, or any part thereof, or is about to do so, it shall be lawful for the Court to issue a warrant to bring the

Warrant of Arrest by the Court

party before the Court to show cause why he or she should not give good and sufficient bail for his or her appearance.

3. Where an absconding party fails to show any such cause, the Court shall order the party to give bail for his or her appearance at any time when called upon while the suit is pending and until execution or satisfaction of any judgment that may be passed against the party in the suit, or to give bail for the satisfaction of such judgment. The surety or sureties shall undertake in default of such appearance or satisfaction to pay any sum of money that may be adjudged against the party in the suit, with costs.

Bail in lieu of Appearance or Satisfaction

4. Where a party offers, in lieu of bail for the party's appearance, to deposit a sum of money, or other valuable property, sufficient to answer the claim against the party with costs of the suit, the Court may accept the deposit.

Deposit in lieu of bail

5. (1) Where a party fails to furnish security or offer sufficient deposit, the party may be committed to custody until the decision in the suit, or if judgment be given against the party, until the execution of the decree, if the Court so orders but the Court may at any time, upon reasonable cause being shown and upon such terms as to security or otherwise as may seem just, release the party.

Party may be committed to Custody

(2) The application may be made to the Court in any Judicial Division in which the party may be, and the Court may issue a warrant for detaining and bringing the party before the Court where the suit is pending, and may make such further order as shall seem just.

(3) Where the warrant is issued by a Court in a different Judicial Division from that in which the suit is pending, that Court shall, at the request of either party, transmit the application and the evidence therein to the Court in which the suit is pending, on the sufficient security of the appearance of the party in that Court, or send the party there in custody of an officer of Court. The Court in which the suit is pending shall thereupon inquire into and proceed with the hearing of the application in accordance with the foregoing provisions, in such manner as shall seem just.

6. (1) The expenses incurred for the subsistence in prison of the person so arrested shall be paid by the applicant in advance, and the amount so disbursed may be recovered by the applicant, unless the Court otherwise orders.

Payment of expenses for the subsistence of Party in Custody

(2) The Court may release the person so imprisoned on failure by the applicant to pay the subsistence money, or in case of serious illness, order his or removal to hospital.

#### **ORDER 13 INTERIM ATTACHMENT OF PROPERTY**

1. Where in any suit-

Circumstances warranting application for

(a) the defendant or respondent, with intent to obstruct or delay the execution of any decree that may be made against him or her, is about to dispose of his or her property, or any party thereof, or remove any such property from the jurisdiction; or

Interim Attachment of Property

(b) founded on contract or tort or in which the cause of action arose within jurisdiction-

i) the defendant or respondent is absent from jurisdiction, or there is probable cause to believe that he or she is evading service; and

(ii) the defendant or respondent is beneficially entitled to any property in Nigeria in the custody or under the control of another person in Nigeria, or such person is indebted to the defendant or respondent, then, in either case, the claimant may apply to the Court either at the time of the institution of the suit or at any time thereafter before final judgment, to call upon the defendant or respondent to furnish sufficient security to fulfill any decree that may be made against him or her in the suit, and on failing to give the security, or pending the giving of such security, to direct that any property (movable or immovable) belonging to the defendant or respondent shall be attached until the further order of the Court.

2. The application for attachment shall contain details of the property required to be attached, and the estimated value thereof so far as the claimant can reasonably ascertain, and the claimant shall, at the time of making the application declare that to the best of his or her information and belief the defendant or respondent is about to dispose of or remove the property with such intent as aforesaid.

Contents of application for Interim Attachment of Property

3. (1) Where the Court after making such investigation as it may consider necessary, is satisfied that the defendant or respondent is about to dispose of or remove his or her property with intent to obstruct or delay the execution of the decree, the Court may order the defendant or respondent, within a time to be fixed by the Court, either to furnish security in such sum as may be specified in the order or to produce and place at the disposal of the Court when required, the said property, or the value of same or such portion thereof as may be sufficient to satisfy the decree, or to appear and show cause why the defendant or respondent should not furnish security.

Order by Court

(2) Pending compliance by the defendant or respondent with the order, the Court may by warrant direct the attachment until further order, of the whole, or any portion, of the property specified in the application.

4. (1) Where the defendant or respondent fails to show such cause, or to furnish the required security within the time fixed by the Court, the Court may direct that the property specified in the application if not already attached, or such portion thereof as shall be sufficient to satisfy the decree, be attached until further order.

Where Defendant or Respondent fails to show cause or give security

(2) Where the defendant or respondent shows such cause, or furnishes the required security and the property specified in the application or any portion of it, shall have been attached, the Court may order the attachment to be withdrawn.

5. The attachment shall not affect the rights of persons not parties to the suit, and in the event of any claim being preferred to the property attached before judgment, such claim shall be investigated in the manner prescribed for the investigation of claims to property attached in execution of a decree.

Rights of Third Parties not to be affected

6. In all cases of attachment before judgment, the Court may at any time remove the attachment, on the defendant or respondent furnishing security as above required, together with security for the costs of the attachment, or upon order for a non-suit or striking out the cause or matter.

Removal of attachment where Defendant or Respondent furnishes security

7. (1) The application may be made to the Court in the Judicial Division where the defendant or respondent resides or in case of urgency, where the property proposed to be attached is situate and the Court may make such order as shall seem just.

Appropriate Court to take Proceedings.

(2) Where an order for the attachment of property is issued by a different Court from that in which the suit is pending, that Court shall, at the request of either party, transmit the application and proceedings to the Court in which the suit is so pending, retaining the property in the meantime under attachment or taking sufficient security for its value and the Court in which the suit is pending shall thereupon enquire into and proceed with hearing the application in accordance with the foregoing provisions, in such manner as may seem just.

**ORDER 14  
INTERLOCUTORY INJUNCTION AND  
INTERIM PRESERVATION OF PROPERTY**

1. (1) Any application for the grant of an injunction may be made by a party to an action before, at or after the trial of the action, whether or not a claim for injunction was included in that party's action.

Application for injunction

(2) Where applicant is the claimant and the case is one of urgency, the application may be *ex-parte* with affidavit attached. Except as aforesaid, the application shall ordinarily be by motion on notice or summons.

(3) The claimant may not make such an application before the issue of the process by which the action is to be begun, except where the case is one of urgency. In that case the injunction applied for may be granted on terms providing for the issue of the process and service of the process together with the *ex-parte* order obtained on the defendant or respondent and such other terms as the Court thinks fit.

2. (1) On the application of any party to an action, the Court may make an order for the detention, custody or preservation of any property which is the subject matter of the action or as to which any question may arise, or for the inspection of any such property in the possession of a party to the action.

Detention, preservation, etc of Subject Matter of Action

(2) For the purpose of enabling any order under sub-rule (1) of this rule to be carried out, the Court may by order authorize any person to enter upon any land or building in the possession of any party to the action.

(3) Where the right of any party to a specific fund is in dispute in an action, the Court may on the application of the party, order the fund to be paid into Court or otherwise secured.

(4) An order under this rule may be made on such terms as the Court deems just.

(5) An application for an order under this rule shall be made by motion on notice.

(6) Unless the Court otherwise directs, an application by the defendant or respondent for such an order may not be made before entering appearance.

3. (1) Where the Court considers it necessary or expedient for the purpose of obtaining full information or evidence in any action, it may, on the application of a party and on such terms as it deems just by order authorize or require any assessment or valuation to be taken or any enquiries to be made of the property which is the subject matter of the action.

Power of Court to order assessment or valuation

(2) The Court may, on the application of any party, make an order for the sale by such person, in such manner and on such terms as may be specified in the order, of any property (other than land) which is the subject matter of the action or as to which any dispute or question arises therein and which is of a perishable nature or likely to deteriorate if kept or which for any other reason it is desirable to sell forthwith.

(3) For the purpose of enabling any order under sub-rule (1) to be carried out, the Court may by order authorize any person to enter any land or building in the possession of any party.

(4) Sub-rules (5) and (6) of rule 2 of this Order shall apply in relation to an application for an order under this rule.

4. (1) Where on the hearing of an application made before trial in a cause or matter for an injunction, appointment of a public trustee or an order under rule 2 or 3 of this Order, or it appears to the Court that the matter in dispute can be better dealt with expeditiously by an early trial than by considering the application on its merit, the Court may make such order accordingly.

Order for early trial

(2) Where the Court makes an order for accelerated trial, it shall by the said order determine the place and mode of trial.

5. Where the Claimant or the defendant by way of counter-claim, claims the recovery of specific property (other than land) and the party from whom recovery is sought does not dispute the title of the party making the claim but claims to be entitled to retain the property by virtue of a lien or otherwise as security for any sum of money, the Court may order that the party seeking to recover the property may be at liberty to pay into Court, to abide the event of the action, the amount of money in respect of which the security is claimed, or such further sum if any (of interests and costs) as the Court may direct: and that, upon such payment being made, the property claimed be given up to the party claiming it

Recovery of personal property subject to lien, etc

6. Where any real or personal property forms the subject matter of any proceedings, and the Court is satisfied, it will be more than sufficient to answer all the claims thereon for which provision ought to be made in the proceedings, the Court may thereafter order the whole or part of the income of the property to be paid, during such period as it may direct, to any or all of the parties who have an interest therein or may direct that any part of the personal property be transferred or delivered to any or all such parties.

Allowance of income of property *pendente lite*

#### **ORDER 15 APPLICABLE RULES TO GENERAL PROCEDURAL MATTERS**

Where no provision is made in these Rules as to practice and procedure or where the provisions are inadequate, the Court may adopt such procedure as will in its view do substantial justice to the parties.

Application of the Rules to general procedure

#### **ORDER 16 APPLICATION FOR ACCOUNT**

1. Where in an originating process a claimant seeks an account under Order 4 or where the claim involves the taking of an account, if the defendant either fails to appear, or after appearance fails to satisfy the Court that there is a preliminary question to be tried, the Court may, on application make an order of the taking of proper accounts, with all necessary inquires and directions.

Order for Account

2. An application for account shall be supported by an affidavit stating concisely the grounds of the claim. The application may be made at any time after the time prescribed for defence.

How an Application for Account is to be made

3. Where an order is made for account under this Order, the account may be taken by the Court or a Referee appointed by the Court.

Account may be taken by the Court or a Referee

**ORDER 17  
ASSESSOR**

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| 1. Where an Assessor sits with the Court during a trial such Assessor shall only give opinion to or advise the Court on the issue for which the Assessor is appointed. | Responsibility of Assessor sitting in Court                  |
| 2. The Assessor shall subscribe to judicial oath of secrecy before the President or a Judge of the Court before assuming duty.   | Assessor to take Oath of Secrecy                             |
| 3. The Assessor shall not deliver any opinion in form of judgment or order and shall not dissent or concur with the judgment or order which the Court has given.       | Assessor not to write Judgment                               |
| 4. An Assessor shall in advising the Court limit himself or herself to the issue in which he or she is an expert.  | Assessor to advise on issue for which he or she is an expert |
| 5. The Court is not bound to accept or act on the opinion or advice of the Assessor.   | Court not bound to accept Assessor's Opinion or Advice       |

**ORDER 18  
ISSUES, INQUIRIES, ACCOUNTS AND  
REFERENCES TO REFEREES OR  
ARBITRATORS**

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| 1. In any action before the Court, the Court may at any time order the whole cause or matter or any question or issue of facts arising therein, to be tried before a special referee, officer of the Court, or arbitrator as agreed by the parties.  | Issues referable to a Referee or Arbitrator           |
| 2. Where a matter is referred to a referee or arbitrator by Court order the Court shall furnish the referee or arbitrator with such part of the proceedings, such information and detailed instructions as may appear necessary and shall direct the parties if necessary to appear before the referee or arbitrator during the inquiry. | Details to be furnished to Referee or Arbitrator      |
| 3. The instructions shall specify whether the referee or arbitrator is only to transmit to the Court the proceedings of the inquiry, or may also report his or her own opinion on the point referred for investigation.  | Limit of Referee or Arbitrator's duty to be specified |
| 4. The referee or arbitrator may, subject to the order of the Court, hold any inquiry at any place or adjourn it as may be convenient and conduct any inspection which may be desirable for the disposal of the matter.  | General power of the Referee or Arbitrator            |
| 5. (1) Subject to any order made by the Court ordering the inquiry, evidence shall be taken at the inquiry before a referee or an arbitrator, and the attendance of witnesses to give evidence may be enforced by  | Evidence  |



the Court in the same manner as such attendance may be enforced before the Court.

(2) The referee or arbitrator shall have the same authority in the conduct of any inquiry as a Court during the course of any trial.

(3) Nothing in these Rules shall authorize any referee or arbitrator to commit any person to prison or to enforce any order by attachment or otherwise; but the Court may, in respect of matters before a referee or arbitrator, make such order of attachment or committal as it may consider necessary.

6. (1) The report made by a referee or an award made by an arbitrator in pursuance of a reference or arbitration under this Order shall be made to the Court and notice thereof served on the parties.

Report pursuant to reference to be submitted to Court

(2) A referee or an arbitrator may submit a report on any question arising therein for the decision of the Court or make a special statement of facts from which the Court may draw such inferences as it deems fit.

(3) An award of an arbitrator on any reference shall, unless set aside, be binding on the Court as its findings.

(4) On the receipt of a referee's report, the Court may-

- (a) adopt the report in whole or in part;
- (b) vary the report;
- (c) require an explanation from the referee;
- (d) remit the whole or any part of the question or issue originally referred to the referee for further consideration by him or her or any other referee;
- (e) decide the question or issue originally referred either on the evidence already taken or with additional evidence.

(5) An application to vary the report of the referee or remit the whole or any part of the question or issue originally referred may be made on the hearing by the Court for the further consideration of the cause or matter by giving not less than four days notice thereof and any other application with respect to the report may be made on that hearing without notice.

(6) Where on a reference under this Order the Court orders that the further consideration of the cause or matter in question shall not stand adjourned until the receipt of the referee's report, the order may contain directions pending the receipt of the report. The foregoing provision of this rule shall have effect subject to any such directions.

7. The Court may order or direct an account to be taken or by any

Court's directions to

- subsequent order give special directions with regard to the mode in which the account is to be taken or vouched and in particular may direct that in taking the account, the books of accounts in which the accounts in question have been kept shall be taken as *prima facie* evidence of the truth of their contents, with liberty to the interested parties to object. Reference to take Account
8. Where any account is directed to be taken, the accounting party shall make out the party's account and verify same by affidavit. The items on each side of the account shall be numbered consecutively, and the account shall be referred to by the affidavit as an exhibit and left in the registry. Mode of taking Account
9. Upon the taking of any account the Court may direct that any voucher be produced at the chambers of the accounting party's Legal Practitioner or at any other convenient place and that only such items as may be contested or surcharged shall be brought before the Court. Court may direct further vouching of Account
10. Any party seeking to charge any accounting party beyond what the account has admitted to have been received shall give notice to the accounting party, stating so far as the party is able, the amount sought to be charged with particulars. Surcharge
11. Where by any judgment or order any accounts are directed to be taken or inquiries to be made, each such direction shall be numbered so that as far as may be, each distinct account and inquiry may be designated by a number. Numbering of Accounts and inquiries
12. In taking any account directed by any judgment or order, all just allowances shall be made without any direction for that purpose. Just Allowances to be made while taking Account
13. (1) Where it appears to the Court that there is any undue delay in the prosecution of any proceedings, the Court may require the party having the conduct of the proceedings or any other party, to explain the delay and may thereupon make such order as to costs of the proceeding as circumstances of the case may require with regard to expediting the proceedings, conduct, or the stay thereof. For the purpose aforesaid any party may be directed to summon the persons whose attendance is required, and to conduct any proceedings and carry out any directions which may be given. Court's duty where there is undue delay in proceedings at references and arbitration
- (2) The Court may direct any party or Legal Practitioner to take over the conduct of proceedings in question and to carry out any directions made by an order under this rule and make such order as it thinks fit for the payment of the Legal Practitioner's costs.

**ORDER 19  
PROCEEDING AT TRIAL**

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| <p>1. Where a cause on the Weekly Cause List has been called for hearing and neither party appears, the Court may, unless it sees good reason to the contrary strike the cause out.</p>  | <p>Non-appearance of both Parties</p>   |
| <p>2. Where a cause is called for hearing and the claimant appears but the defendant or respondent and/or counsel do not and no good cause is shown for the absence, the claimant may prove the claim in so far as the burden of proof lies upon him or her.</p>   | <p>Non-appearance of the Defendant or Respondent at the Trial</p>                       |
| <p>3. (1) Where a cause is called for hearing and the defendant or respondent appears but the claimant or counsel does not and no good cause is shown for the absence, the defendant or respondent, shall be entitled to judgment striking out the action, but if the defendant or respondent has a counterclaim, then he or she may prove such counterclaim in so far as the burden of proof lies upon him or her.</p> <p>(2) Where any party to the proceedings has been duly served with notice to appear or the party is to the satisfaction of Court aware of the adjourned date and without reasonable excuse fails to appear, the Court may consider and deal with the matter before it in the absence of such party.</p> | <p>Non-appearance of the Claimant at the Trial</p>                                      |
| <p>4. Where Any party to the proceedings fails to comply with an order or direction of the Court, the Court may order that the party be barred from taking any further part in those proceedings until he or she has complied with such direction or order or may make such other order as the Court thinks just.</p>  | <p>Power of Court to bar disobedient Party</p>  |
| <p>5. When a matter is called in Court, no individual or group of individuals may appear as both claimant or claimants and respondent or respondents in the same matter, notwithstanding that they all belong to the same disputing organization.</p>  | <p>Individual or group of individuals not to appear both as Claimant and Respondent</p> |
| <p>6. (1) Where a cause is struck out under rule 1 of this Order either party may apply that the cause be re-listed on such terms as the Court may deem fit.</p> <p>(2) Any judgment obtained where any party does not appear at the trial may be set aside by the Court upon such terms as it may deem fit.</p> <p>(3) An application to re-list a cause struck out or to set aside a judgment under this rule shall be made within 14 days after the order or judgment or such other extended period as the Judge may allow.</p>   | <p>Application to re-list</p>   |
| <p>7. The Court may, where it thinks fit in the interest of justice, adjourn a trial for such time and upon such terms as it shall deem fit.</p>   | <p>Adjournment of Trial</p>   |

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| <p>8. The registrar of Court shall endorse the Court's files stating the time any matter commences or terminates to enable the Taxing Officer to assess cost.</p>   | <p>Time taken by Trial to be noted by Registrar</p>           |
| <p>9. The order of proceeding at the trial of a cause shall be as prescribed hereunder:</p> <p>(i) The party on whom the burden of proof lies by the nature of the issues or questions between the parties shall begin.</p> <p>(ii) Documentary evidence shall be put in and may be read or taken as read by consent.</p>   | <p>Order of proceedings at Trial</p>                          |
| <p>10. (1) A party shall close its case on completion of evidence.</p> <p>(2) Either party may make oral application to have the case closed.</p> <p>(3) Notwithstanding the provision of sub-rule (1) and (2) of this rule, the Court may <i>suo-motu</i> where it considers that either party fails to conclude his or her case within a reasonable time, close the case for the party.</p>   | <p>Closure of Case by Parties</p>                             |
| <p>11. The Court may of its own motion or on the application of any party order any person to appear before the Court as a witness or to produce any document.</p>  | <p>Power of Court to call for Evidence</p>                    |
| <p>12. (1) The Registrar shall take charge of every document or object put in as an exhibit during the trial of an action and shall mark every exhibit with a letter or letters indicating the party by whom the exhibit is tendered (or where more convenient the witness by whom the exhibit is proved) and with a number, so that all the exhibits put in by a party (or proved by a witness) are numbered in one consecutive series.</p> <p>(2) The Registrar shall cause a list of all the exhibits in the action to be made.</p> <p>(3) The list of exhibits when completed shall form part of the record in the action.</p> <p>(4) For the purpose of this rule a bundle of documents may be treated and counted as one exhibit.</p> | <p>Marking and preservation of Exhibits admitted at Trial</p> |
| <p>13. (1) When the party beginning has concluded his or her evidence, the Court shall ask the other party if the party intends to call evidence. If the other party does not intend to call evidence, the party beginning shall within 21 days after close of evidence file a written address. Upon being served with the written address, the other party shall within 21 days file his or her own written address.</p> <p>(2) Where the other party calls evidence he or she</p>   | <p>Filing of Written Addresses</p>                            |

shall within 21 days after the close of evidence file a written address.

(3) Upon being served with other party's written address the party beginning shall with 21 days file a written address.

(4) The party who files the first address shall have a right of reply on points of law only. The reply shall be filed within seven days after service of the other party's address.

14. (1) An exhibit shall not be released after the trial to the party who put in the exhibit unless the period during which Notice of Appeal may be given has elapsed without such notice having been given, and then only where the Presiding Judge in the case (or in his or her absence, another Judge) grants leave to release such exhibit on being satisfied:

Custody of Exhibits after Trial

(a) that the exhibit will be kept duly marked and labeled and will be produced, if required, at the hearing of an appeal (if any such appeal is lodged), or

(b) that the release of the exhibit will not in any way prejudice any other party.

(2) After a notice of appeal has been filed, an exhibit produced at the trial shall not be released by the court unless leave to release such exhibit is granted by the Court of Appeal.

15. (1) Any party may apply for and on payment of the prescribed fee obtain an office copy of the list of exhibit or of the exhibits.

Party may obtain Office Copy of List of Exhibits

(2) Where there is an appeal an office copy of the list of exhibits shall be included amongst the documents supplied for the purpose of the appeal.

16. The Court may, *suo motu* or on application strike out any proceedings not being prosecuted diligently

Case may be struck out for lack of diligent prosecution

17. (1) Where before the date fixed for hearing or judgment, any party to the proceedings desires to discontinue a claim or to withdraw any part of it, such party shall give notice of discontinuance or withdrawal in writing to the Court and to the other party. The Court shall upon the discontinuance or withdrawal make such order or orders as may seem just.

Discontinuance

18. (1) The Court may, either in its own motion or on application by any of the parties to the proceedings, review any order made by it and may, on such a review, revoke or vary that order on the grounds that:

Court's power to review earlier order

(a) the order was wrongly made as a result of an

error on the part of the court staff;

(b) a party did not receive proper notice of the proceedings leading to the order;

(c) the order was made in the absence of a party entitled to be heard;

(d) new evidence has become available since the making of the order; or

(e) the interest of justice requires such review.

(2) An application under sub-rule (1) of this rule shall be made within 14 days of the date of the order.

19. A clerical mistake or error in any order arising from an accidental slip or omission may at any time be corrected by or on the authority of the Court.

Court's power to correct clerical errors or slips

**ORDER 20  
FILLING OF WRITTEN ADDRESS**

1. This Order shall apply to all final address.

Application of Order

2. A written address shall be printed on white opaque A4 size paper of good quality and set out in paragraphs numbered serially and shall contain:

Content of Written Address

(i) the claim on which the address is based;

(ii) a brief statement of the facts with reference to the exhibit tendered at the trial;

(iii) the issues arising from the evidence;

(iv) a succinct statement of argument on each issue incorporating the authorities referred to together with full citation of the authorities.

3. All written addresses shall be concluded with a numbered summary of the points raised and the party's prayer. A list of all authorities referred to shall be submitted with the address. Where any unreported judgment is relied upon the Certified True Copy shall be submitted along with the written address.

Summary and Conclusion of Written Addresses

4. Each party shall file five copies of the written address in court and serve a copy thereof on every other party.

Copies of written addresses to be filed

5. Oral argument of not more than twenty minutes shall be allowed each party

Oral argument.

**ORDER 21  
JUDGMENT AND ORDERS**

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| <p>1. The Court shall, after trial, deliver judgment in open court and shall direct the judgment to be entered. Provided that where the Court reserves judgment at the hearing, parties to the suit shall be served with notice to attend the Court on the day of judgment.</p>  | <p>Judgment to be delivered in open Court duly entered</p>                           |
| <p>2. Where any judgment is pronounced by the Court it shall be dated as of the day on which such judgment is pronounced and shall take effect from that date unless the Court otherwise orders.</p>   | <p>Judgment to take effect from date of delivery unless Court otherwise orders</p>   |
| <p>3. When any judgment is directed to be entered by an order made on application for judgment, the judgment shall, unless the Court otherwise orders be dated as of the day on which the order is made and take effect from that date: Provided that the order may direct that the judgment shall not be entered until a given date, in which case it shall take effect from that date.</p>   | <p>Judgment made pursuant to an Application</p>                                      |
| <p>4. The Court at the time of delivering the judgment or making the order may direct the time within which payment is to be made or other act is to be done and may order interest at a rate not less than 10% per annum to be paid upon any judgment.</p>  | <p>Court may direct time for performance and may order payment with interest</p>     |
| <p>5. Every judgment or order made in any cause or matter requiring any person to do any act shall state the time within which the act is to be done. There shall be endorsed on the judgment or order a memorandum by the Registrar in the following words:<br/><br/>"If you, the within-named A.B, neglect to obey this judgment (or order) by the time therein limited, you will be liable to process of execution for the purpose of compelling you to obey the said judgment (or order)" and same shall be served upon the person required to obey the judgment or order.</p> | <p>Memorandum to be endorsed thereon by the Registrar</p>                            |
| <p>6. In any cause or matter where the parties are represented by Legal Practitioners, no order for entering judgment shall be made by consent unless the terms of settlement are signed by both parties and their counsel.</p>  | <p>Terms of Settlement to be signed by both Parties and Counsel</p>                  |
| <p>7. Where a party has no counsel such order shall not be made unless the party gives his or her consent in person in open court</p>  | <p>Party to give consent to Judgment in open Court if not represented by Counsel</p> |
| <p>8. Where an order has been made not embodying any special terms nor including any special directions, but simply enlarging time for taking any proceeding or doing any act or giving leave-</p> <p style="margin-left: 40px;">(a) for the issue of any court process other than a</p>   | <p>When orders need not be drawn</p>   |

writ of attachment;

(b) for the amendment of any court process;

(c) for the filing of any process or document; or

(d) for any act to be done by any officer of the Court, including Legal Practitioners, it shall not be necessary to draw up such order unless the Court otherwise directs; but the production of a note or memorandum of such order signed by the President of the Court or the Presiding Judge shall be sufficient authority for the enlargement of time, amendment, filing or other act.

9. An order shall be sealed and signed by the President of the Court or the Presiding Judge, or where the Court is constituted by a single Judge, by the Judge by whom it is made.

Order to be sealed and signed by the President of the Court or Presiding Judge etc

**ORDER 22  
APPLICATION FOR JUDICIAL REVIEW**

Cases for application for Judicial Review

(1) An application for:

(a) an order of mandamus, prohibition or certiorari; or

(b) an injunction restraining a person from acting in any office in which such person is not entitled to act, shall be made by way of an application for judicial review in accordance with the provisions of this Order.

(2) An application for a declaration or an injunction (not being an injunction under rule (1)(b) of this Rule) may be made by way of an application for judicial review and the Court may grant the declaration or injunction if it deems it just and convenient to grant it by way of judicial review, having regard to:

(a) the nature of the matters in respect of which relief may be granted by way of an order of mandamus, prohibition or certiorari;

(b) the nature of the persons and bodies against whom relief may be granted by way of such an order;

(c) all the circumstances of the case

2. On an application for judicial review any relief mentioned in rule 1 may be claimed as an alternative or in addition to any other relief so mentioned if it arises out of, relates to or is connected with the same matter.

Joinder of Claim for relief

3. (1) An application for judicial review shall be brought within three months of the date of occurrence of the subject of the application and no leave shall be required for that purpose.

Time within which to bring Application



(2) The application shall be made by originating process.

(3) The originating process shall be served on all persons directly affected and where it relates to any proceedings before a judge or tribunal and the object of the application is either to compel the Judge or tribunal or an officer of the Court or tribunal to do any act in relation to the proceedings, or to quash them or any order made therein, the process shall also be served on the Clerk or Registrar of the Court or tribunal and where any objection to the conduct of the judge or tribunal is made, on the Judge or tribunal.

(4) Unless the Court otherwise directs, there shall be at least seven clear days between the service of the originating process and the day named therein for the hearing.

(5) An affidavit giving the names and address of and the place and dates of service on all persons who have been served with the originating process shall be filed before the process is entered for hearing and where any person who ought to be served under this rule has not been served, the affidavit shall state the fact and the reason for it. The affidavit shall be before the Court on the hearing of the process.

(6) Where on the hearing of the originating process the Court is of the opinion that any person who ought to have been served has not been served, the Court may adjourn the hearing on such terms, if any, as it may direct in order that the process may be served on that person.

4. An interlocutory application in proceedings on any for judicial review may be made to the Court.

Interlocutory Application, during proceedings for Judicial Review

5. (1) On the hearing of any originating process under rule 3 of this Order, any person who desires to be heard on the process, and appears to the Court to be a proper person to be heard, shall be heard notwithstanding that the person has not been served.

Hearing of Application for Judicial Review

(2) Where the relief sought is or includes an order of certiorari to remove any proceedings for the purpose of quashing them, the applicant may not question the validity of any order, warrant, committal, conviction, inquisition or record unless before the hearing of the process the applicant has filed a copy thereof verified by affidavit or accounts for the failure to do so to the satisfaction of the Court.

(3) Where an order of certiorari is made in any such case as is referred to in sub-rule 2 of this rule, the order shall, subject to sub-rule 4 of this rule, direct that the proceedings be quashed forthwith on their removal into Court.

(4) Where the relief sought is an order of certiorari

and the Court is satisfied that there are grounds for quashing the decision to which the application relates, the Court may, in addition to quashing it, remit the matter to the Court, tribunal or authority concerned with a direction to reconsider it and reach a decision in accordance with the findings of the Court.

(5) Where the relief sought is a declaration, an injunction or damages and the Court considers that it should not be granted on an application for judicial review, the Court may, instead of refusing the application, order the proceedings to continue as if it had been commenced otherwise than by an application for judicial review.

6. No action or proceedings shall be brought or prosecuted against any person in respect of anything done in obedience to an order of mandamus.

Action taken in obedience to Order of Mandamus not to be questioned

7. Where there are more than one application pending against several persons in respect of the same matter and on the same grounds, the Court may order the application to be consolidated.

Consolidation of Applications on same Subject Matter

#### ORDER 23

##### I.-JURISDICTION OF CHIEF REGISTRAR

1. In this Order, any reference to the Chief Registrar means the Chief Registrar of the National Industrial Court and includes the Deputy Chief Registrar.

Chief Registrar includes Deputy Chief Registrar

2. The Chief Registrar may transact all such business and exercise all such authority and jurisdiction as may be transacted or exercised by a Judge in respect of the following matters:

Business to be transacted by the Chief Registrar

(a) applications for the taxation and delivery of bills of costs and applications for the delivery by any Legal Practitioner of deeds, documents and papers;

(b) the taking of an account in any case where the Court or a Judge has ordered that the account be taken by the Chief Registrar;

(c) the taxation of bills of costs.

3. Where any matter under rule 2 of this Order appears to the Chief Registrar proper for the decision of the Court or a Judge, the Chief Registrar may refer the same to the President of the Court or the Presiding Judge or Judge who referred the matter to the Chief Registrar. The President of the Court or the Presiding Judge or the Judge may either dispose of the matter or refer the same back to the Chief Registrar with such directions as he or she may deem fit.

Chief Registrar may refer matter back to the President

4. Any person affected by an order or decision of the Chief Registrar in the exercise of the jurisdiction conferred upon him or her

Appeal from the Order of the

by this Order may appeal to the Court. Such appeal shall be by notice in writing to attend the Court without a fresh process within 5 days after the decision complained of or such further time as may be allowed by the Court. Unless otherwise ordered, there shall be at least 2 clear days between service of the notice of appeal and the day of hearing. An appeal from the decision of the Chief Registrar shall not operate as a stay of proceedings unless so ordered by the Court.

Chief Registrar

5. List of matters to be heard by the Chief Registrar shall be published on the Court's Notice Boards.

Chief Registrar's Cause List

6. A Legal Practitioner may represent any party in any proceedings before the Chief Registrar under the jurisdiction vested in him or her by this Order.

Party may be represented by Legal Practitioner

7. The Chief Registrar may with the approval of the President of the Court delegate to any Registrar of the Court any functions required by these Rules to be exercised by the Chief Registrar

Power of Chief Registrar to delegate to Registrars

## II- CHIEF REGISTRAR'S CERTIFICATE

8. Except as otherwise provided for in these Rules, the directions to be given for or concerning any proceedings before the Chief Registrar shall require no particular form, but the result of such proceedings shall be stated in a concise certificate.

Chief Registrar's Certificate

9. The certificate of the Chief Registrar regarding account and inquiries shall not, unless the circumstances of the case render it necessary, set out the judgment or order or any documents or evidence or reasons but shall refer to the judgment or order, documents and evidence or particular paragraphs thereof, so that it may appear upon what the result stated in the certificate is founded.

Chief Registrar Certificate to refer to relevant Judgment or Order

10. (1) In case of account and/or inquires the certificate of the Chief Registrar shall be in Form 2 with such variations or modifications as the circumstances may require.

Form of Chief Registrar's Certificate in Cases of Accounts and Transcripts

(2) The certificate shall state the result of the account and not set the same out by way of schedule, but shall refer to the account verified by the affidavit filed and shall specify by the numbers attached to the items in the account which (if any) of such items that have been disallowed or varied and shall state what additions (if any) that have been made by way of surcharge or otherwise.

(3) Where the account verified by the affidavit has been so altered that it is necessary to have a fair transcript of the account so altered, such transcript may be required to be made by the party prosecuting the judgment or order and shall then be referred to by the certificate. The account and transcripts (if any) referred to by certificates shall be filed therewith.

11. Every certificate with the accounts (if any) to be filed therewith shall be transmitted by the Chief Registrar to the Registry for filing

When Chief Registrar's Certificate

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| and shall henceforth be binding on all the parties to the proceeding unless discharged or varied upon an application made to the Court before the expiration of 8 clear days after the filing of the certificate.  | becomes binding                                      |
| 12. When taxing a bill of costs, the Chief Registrar shall indicate in red against every item disallowed, reduced or altered. The substance of the modification made by the Chief Registrar at the bottom of the bill of costs shall certify the net result of the taxation. The bill of costs shall then be transmitted by the Chief Registrar to the Registry for filing and the provisions of rule 10 of this Order shall apply in respect of such certificate. | Taxing of Bills of Cost                              |
| 13. The Court may, where the special circumstances of the case require, upon an application direct a certificate to be discharged or varied at any time after the same has become binding on the parties.  | Certificate may be discharged or varied by the Court |

**ORDER 24  
COSTS**

**A. COSTS BETWEEN PARTY AND PARTY**

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| 1. In every suit the costs of the whole suit, and of each particular proceeding therein, and the costs of every proceeding in the Court, shall be at the discretion of the Court as regards the person by whom they are to be paid.  | Cost fixed at the Court's discretion   |
| 2. The Court may order the successful party, notwithstanding the party's success in the suit, to pay the costs of any particular proceeding therein.   | Cost follow events   |
| 3. The Court may order any costs to be paid out of any fund or property to which a suit or proceedings relates.  | Court may order payment of Costs to be paid from the fund of Subject Matters of Suit |
| 4. Where costs are ordered to be paid the amount of such costs shall if practicable be summarily determined by the Judge at the time of delivering the judgment or of making the order.  | Court to fix amount of cost at time of Judgment                                      |
| 5. In fixing the amount of costs, the principle to be observed is that the successful party is to be indemnified for the expenses to which the party has been necessarily put in the proceedings.  | Principle to be followed in fixing Cost  |
| 6. Where the Court orders costs to be paid or security to be given for costs by any party, the Court may order all proceedings by or on behalf of that party in the same suit or proceedings to be stayed until the costs are paid or security given accordingly, but the order shall not supersede the use of any other lawful method of enforcing payment. | Court may stay proceedings pending payment of Costs by any Party                     |
| 7. Where the Court deems it impracticable to determine summarily the amount of any cost which it has adjudged or ordered to be paid, all questions relating thereto may either be determined upon  | Court/Taxing Officer to determine  |

taxation by the Court itself or may be referred by the Court to a taxing officer for taxation to be ascertained for approval by the Court.

Costs of  
Taxation

8. Upon any taxation of costs, the taxing master may, in determining the remuneration to be allowed, have regard, subject to any rule of Court, to the skill, labour and the degree of responsibility involved.

Taxing Costs  
Matters

9. In taxation of costs between party and party, nothing shall be allowed in respect of fees paid to the Court beyond what was necessary having regard to the amount recovered on judgment.

Fees to be  
taken into  
account in  
Taxation of  
Costs

10. Where upon the taxation of any bill of costs more than one-sixth is deducted from the amount claimed, the Court may either make no order as to the costs of the taxation or may order the party who filed the bill of costs to pay to the other party or parties the costs of taxation.

Principle of  
Taxation of Bill  
of Costs

#### B. SECURITY FOR COSTS

11. (1) Where on the application to the Court of the claimant or defendant, as the case may be, it appears to the Court either at the commencement or at any stage of the proceedings-

When a  
Claimant or  
Defendant may  
be ordered to  
give Security  
for Costs

(a) that the claimant or defendant is ordinarily resident out of jurisdiction; or

(b) that the claimant (not being a claimant who is suing in a representative capacity) is a nominal claimant who is suing for the benefit of some other person and that there is reason to believe that the claimant will be unable to pay the costs of the defendant if ordered to do so; or

(c) subject to sub-rule (2) of this rule, that the claimant's address is not stated in the originating process or is incorrectly stated therein; or

(d) that either the claimant or the defendant has changed his or her address during the course of the proceedings with a view to evading the consequences of the litigation, then where, having regard to all the circumstances of the case, the Court thinks it just to do so, it may order either the claimant or the defendant to give such security for the claimant's or defendant's costs of the action or other proceedings.

(2) The Court shall not require a claimant to give security by reason only of sub-rule (1)(c) of this rule if the Claimant satisfies the Court that the failure to state claimant's address or the mis-statement thereof was made innocently and without intention to deceive.

(3) The references in this rule to a claimant and a defendant shall be construed as references to the person (howsoever described on the record) who is in the position of claimant or defendant, as the

case may be, in the proceeding in question, including a proceeding on a counter-claim.

12. Where an order is made requiring any party to give security for costs, the security shall be given in such manner, at such time, and on such terms (if any) as the Court may direct.

Mode of Security to be determined by Court

**ORDER 25  
COMPUTATION OF TIME**

1. Where by any law or any order made by the Court a time is appointed or limited for the doing of any act, the period, if not limited by the hours, shall be reckoned:

Computation of Time

(a) as excluding the day on which the order is made or on which the event occurs;

(b) where the last day of the period is a public holiday the time shall continue until the end of the next day following which is not a public holiday;

(c) where the act is required to be done within a period which does not exceed 6 days, a holiday shall be left out of account in computing the period.

2. In this Order holiday means a day which is a Sunday or a public holiday.

Court to sit in Public, except for special reasons.

3. No court process shall be served before 6.00 am or after 6.00pm. Service effected after 6.00pm shall be deemed to have been effected the following day, provided that service effected after 6.00pm on a Saturday shall be deemed to have been effected on the following Monday.

Office Hours

4. The Court may, as often as it deems fit, and either before or after the expiration of the time appointed by these Rules or by any judgment or order of the Court extend or adjourn the time for doing any act or taking any proceeding:

Provided that any party who defaults in performing an act within the time authorized by the Court or under these Rules, shall pay to the Court an additional fee of N50.00 (Fifty Naira) for each day of such default at the time of compliance.

5. (1) Where a year or more has elapsed since the last proceeding in a cause or matter, the party who desires to proceed shall give to every other party not less than 30 days notice of intention to proceed.

Party reviving a Matter after a year to give 30 days Notice to the other Party

(2) A process on which no order was made shall not be regarded as a proceeding for the purpose of this rule.

6. An application to set aside or remit an award may be made at

Application to

any time within six weeks after the award has been made and published to the parties but the Court may by order extend the time either before or after it has elapsed

set aside or remit an Award

**ORDER 26  
MISCELLANEOUS PROVISIONS**

**1. COURT SITTINGS AND VACATION**

1. Subject to the Court for the hearing of causes and matters shall ordinarily be in public but subject to the provisions of the Constitution of the Federal Republic of Nigeria, 1999, the Court may for special reasons, hear any particular cause or matter in the presence only of the parties, their Legal Practitioners, if any, and the officers of Court.

Court Sittings

2. The sittings of the court for the hearing of causes and matters shall ordinarily be in public but subject to the provisions of the Constitution of the Federal Republic of Nigeria, 1999, the Court may for special reasons, hear any particular cause or matter in the presence only of the parties, their Legal Practitioners, if any, and the officers of Court.

Court to sit in Public, except for special reasons

3. The several offices of the Court shall be open at such times as the President of the Court shall direct.

Office Hours

4 (1) Subject to the directions of the President of the Court, sitting of the Court for the dispatch of civil causes and matter will be held on every week day except:

- (a) any public holiday;
- (b) during the week beginning with Easter Monday;
- (c) during the period beginning on Christmas eve and ending on the 2<sup>nd</sup> January next following.

(2) There shall be an annual vacation of the Court to commence on such date in August and of such duration, not exceeding six weeks as the President of the Court may by notice appoint.

5. (1) Notwithstanding the provisions of rule 4 of this Order, any cause or matter may be heard by a Judge or the Court during any of the periods mentioned in sub-rule 4(1)(c) or 4(2) of this rule (except on a Sunday or public holiday) where such cause or matter is urgent or the Court, at the request of all the parties concerned, agrees to hear such cause or matter.

Court may sit during Vacation with consent of all the Parties to take Urgent Matters

(2) An application for an urgent hearing shall be made to the President of the Court or the Presiding Judge of the Division by motion *ex-parte* and his or her decision on such an application shall be final.

(3) The President of the Court may assign one or more Judges to be vacation Judges to attend to any urgent matters during the period of vacation.

6. The time for filing and service of pleadings shall not run during the annual vacation unless otherwise ordered by the Court.

Time for Filing and Service of Pleadings to exclude Annual Vacation Period

**II.-GENERAL**

7. All fines, forfeitures, pecuniary penalties and costs ordered to be paid may be levied by distress, seizure and/or sale of the movable and immovable property of the person in default of payment.

Recovery of Penalties and Costs

8. Where the publication of any notice is required the same may be made by advertisement in the Federal Gazette, unless otherwise provided in any particular case by any rule of Court or otherwise by the Court.

Notices.

9. Any document filed must have endorsed on it the name and number of the cause, the date of filing, whether filed by claimant or defendant and which endorsement shall be initialed by the Registrar and recorded in the Process Register.

Document for filing to be duly endorsed by Registrar.

10 All warrants and orders of whatever description shall be addressed for execution by being directed to the Sheriff; but this provision shall not prevent any order or warrant from being addressed to a person by name or to officers of Court generally or to a Local Government Authority.

How Warrants etc for execution are to be addressed.

11. No fees are to be taken in respect of any proceedings where such fees are payable by any Government:

Government department excluded from paying fees.

Provided that when any person is ordered to pay the costs of the State or of any Government Department in any case, whether in criminal or civil proceedings as the case may be, all such fees shall be recoverable from such person.

12. The Regulations regarding fees shall govern the payment and disposal of fees and the duties of Court officers in regard thereto.

Regulations.

13. Where no provision is made by these Rules or by any other written law, the Court shall adopt such procedure as will in its view do substantial justice between the parties.

Saving.

**ORDER 27  
BUSINESS IN CHAMBERS**

1. In any proceedings in Chambers, any party may be represented by a Legal Practitioner.

Representation in Chambers



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| <p>2. Unless any party or counsel objects, any interlocutory proceedings may be conducted in Chambers and any such proceedings may be adjourned from Court to Chambers or vice versa.</p>  | <p>Interlocutory proceedings may be conducted in Chambers.</p>              |
| <p>3. Records shall be kept of all proceedings in Chambers with proper dates, so that all such proceedings in such cause or matter may appear consecutively and in chronological order, with a short statement of the question or points decided or ruled on at every hearing.</p>     | <p>Proceedings in Chambers to be properly recorded.</p>                     |
| <p>4. Orders made in Chambers shall, unless the Court otherwise directs, be drawn up by the Registrar and signed by the Presiding Judge. Such orders shall be entered in the same manner as orders made in Court</p>   | <p>Orders made in Chambers to be drawn up.</p>                              |
| <p>5. Subject to the provisions of the Act and of these Rules, the costs of and incidental to all proceedings in Chambers shall be at the discretion of the Court.</p>   | <p>Costs of proceeding in Chambers to be fixed at Courts discretion.</p>    |
| <p>6. Subject to the provisions of the Act and of these Rules, an Application to set aside or vary an order made in chambers may be made by a party when such an order is made in his absence and it shall be the discretion of the court or judge in chambers to vary such order.</p> | <p>Application to set aside or vary Order made in Chambers may be made.</p> |

#### ORDER 28

##### TRANSFER OF CASES

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|---|---|
| <p>1. Where the Court has in the exercise of the powers conferred by Section 24(2) of the Act directed that any cause or matter be transferred to the Federal High Court, the High Court of a State or of the Federal Capital Territory, Abuja, the Court shall make an order under the hand of the President of the Court, Presiding Judge or, in their absence, another Judge appointed under Section 2(4)(a) of the Act, to that effect and shall specify in the order the High Court to which the cause or matter is transferred.</p> | <p>Transfer of Cases to other High Courts</p>   |
| <p>2. The Registrar shall forthwith send a certified copy of the order made under rule 1 of this Order to the Chief Registrar of the High Court named in the order together with certified copies of all processes and record of proceedings of the Court relating to the cause or matter in question</p>   | <p>Duty of Registrar</p>                        |
| <p>3. Where in exercise of the powers conferred by section 24(3) of the Act any cause or matter has been transferred to the Court from the Federal High Court, the High Court of a State or of the Federal Capital Territory, Abuja, the Registrar shall on receipt of the order making the transfer enter such cause or matter in the Cause Book and notify the parties concerned and shall henceforth, subject to any</p>   | <p>Transfer of Cases from other High Courts</p> |

directions that may be given in any particular case by the President of the Court, or, as the case may be, the Presiding Judge, or, in his or her absence, another Judge appointed under section 2(4)(a) of the Act, treat the cause or matter as if it had been originally filed in the Court in accordance with any of these Rules, as may be appropriate.

**ORDER 29  
COMMITTAL FOR CONTEMPT OF COURT**

1. (1) The power of the Court to punish for contempt of court may be exercised by an order of committal.
  - (2) An order of committal may be made by the Court where contempt of court-
    - (a) is committed in connection with any proceedings before the Court; or
    - (b) is committed in the face of the Court, or consists of disobedience to an order of the Court or a breach of an undertaking to the Court.
2. (1) An application for an order of committal shall be made to the Court by motion on notice supported by an affidavit, stating the grounds of the application.
  - (2) The notice of motion, affidavit and grounds shall be served personally on the person or any principal officer of the body sought to be committed but the Court may dispense with personal service where the justice of the case so demands.
3. Nothing in the foregoing provisions of this Order shall be taken as affecting the power of the Court to make an order of committal of its own motion against a person guilty of contempt of court.
4. (1) Subject to sub-rule (2) of this rule, the Court hearing an application for an order of committal may sit in private where it appears to the Court that in the interest of justice or for reasons of national security the application should be heard in private; but except as aforesaid, the application shall be heard in open court.
  - (2) Where the Court hearing an application in private by virtue of sub-rule (1) of this rule decides to make an order of committal against the contemnor, it shall in open court state-
    - (a) the name of the contemnor and his or her position;
    - (b) in general terms the nature of the contempt committed; and

(c) the length of sentence imposed.

(3) Except with the leave of the Court on the hearing of an application for an order of committal, no grounds shall be relied upon at the hearing except the grounds set out in the statement under rule 2 of this Order.

(4) On the hearing of the application the contemnor may give oral evidence.

5. The foregoing provisions are without prejudice to the powers of the Court to commit for contempt in the face of the Court.

Saving Provisions for Contempt in the Face of Court

6. (1) The Court by which an order of committal is made may by order direct that the execution of the order of committal shall be suspended for such period or on such terms or conditions as it may specify.

Power to suspend execution of Committal Order

(2) Where execution of an order of committal is suspended by an order under sub-rule (1) of this rule, the sheriff shall, unless the Court otherwise directs, serve on the contemnor a notice informing him or her of the making and terms of the order under that sub-rule.

7. (1) The Court may on the application of any person committed to prison for any contempt of court discharge him or her.

Discharge of the Person Committed

(2) Where a person has been committed for failing to comply with a judgment or order requiring him or her to deliver up any thing to some other person or to deposit it in Court or elsewhere, and a writ of sequestration has also been issued to enforce that judgment or order, then if the thing is in the custody or power of the person committed, the Sheriff may take possession of it as if it were the property of the person and without prejudice to the generality of sub-rule (1) of this rule, the Court may discharge the person committed and may give such directions for dealing with the thing taken by the Sheriff as it thinks fit.

8. Nothing in the foregoing provision of this Order shall be taken as affecting the power of the Court to make an order requiring a person guilty of contempt of court, or a person punishable by virtue of any enactment in like manner as if he or she had been guilty of contempt of Court to pay a fine or to give security for his or her good behaviour, and those provisions, so far as applicable, and with necessary modifications, shall apply in relation to an application for such an order as they apply in relation to an application for an order of committal.

Payment of Fine or giving of Security

9. (1) Every writ of attachment issued in a case to which this Order applies shall be made returnable before the Court.

Every Writ of Attachment shall be returnable before Court

(2) Where a return of *non est investus* is made, one or more writ may be issued on the return of the previous writ.

**ORDER 30  
STAY OF EXECUTION AND STAY OF PROCEEDINGS PENDING APPEAL**

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| <p>1. An application made to the Court for a stay of execution or proceedings under any judgment or decision appealed from shall be made by notice of motion supported by affidavit setting forth the grounds upon which a stay of execution or of proceedings is sought.</p>  | <p>Stay of Execution or Stay of Proceedings pending Appeal</p> |
| <p>2. An application for stay of execution of a judgment or for stay of proceedings under this Order shall compile the records of appeal within 21 days from the date of filing a notice of appeal and where the record is not so compiled, the respondent may apply to strike out the application or discharge the order where already granted.</p> | <p>Compilation of Record</p>                                   |
| <p>3. (1) An application for stay shall be regarded as an urgent matter.</p> <p style="padding-left: 40px;">(2) Where the Court has struck out an application for stay, no further application for stay shall be made in the same matter.</p>  | <p>Application for Stay once struck out cannot be re-filed</p> |
| <p>4. In any application made to the Court under this Order a formal order shall be drawn up embodying the terms of the decision of the Judge and bearing the date upon which the order is made.</p>   | <p>Formal Order to be drawn up</p>                             |

**ORDER 31  
FEES AND ALLOWANCES**

- |  |                            |
|--|----------------------------|
| <p>1. (1) Subject to the provisions of any written law and of the foregoing Orders, the fees set out in Appendix 1 to these Rules shall be payable by any person commencing the respective proceedings or desiring the respective services for which they are specified in the Appendix.</p> <p style="padding-left: 40px;">(2) The allowances set out in Appendix 2 to these Rules shall be payable to the various categories of witnesses mentioned therein by any person at whose instance they testify.</p> <p style="padding-left: 40px;">(3) A witness who testifies at the instance of the Court acting on its own motion shall be paid out of public revenue.</p> <p style="padding-left: 40px;">(4) The President of the Court may from time to time issue Practice Directions modifying the fees and allowances stipulated in the foregoing Appendices to reflect current economic realities and other prevailing circumstances.</p> | <p>Fees and Allowances</p> |
| <p>2. The regulation set out in Appendix 3 to these Rules shall be observed by all officers of Court concerned with the rendering of services and or collection of fees payable under the provisions of these Rules.</p>   | <p>Regulations</p>         |

**NATIONAL INDUSTRIAL COURT RULES**

FORM 1

**GENERAL FORM OF COMPLAINT**

(0.3, r.1)

**IN THE NATIONAL INDUSTRIAL COURT** in the.....**Judicial Division**

Between:

A.B.....Claimant/Appellant

And

C.D.....Defendant/Respondent

To C.D. of .....in the..... of.....

You are hereby commanded that within Fourteen days after the service of this Complaint on you, inclusive of the day of such service you do cause an appearance to be entered for you in an action at the suit of A.B. and take notice that in default or your so doing the Claimant/Applicant may proceed therein, and judgment may be given in your absence.

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

Registrar

Memorandum to be subscribed on the Complaint

**N.B:**

This Complaint is to be served within six calendar months from the date thereof, or, if renewed, within three calendar months from the date of the last renewal, including the day of such date, and not afterwards.

The defendant/respondent may enter appearance personally or by Legal Practitioner either by handing in the appropriate Forms, duly completed, at the Registry of the National Industrial Court of the Judicial Division in which the action is brought or by sending them to the Registry by registered post.

Endorsements to be made on the Complaint before issue thereof-

The claimant's claim is for,  
etc.....

This Complaint was issued by G.H.,  
of.....

is.....  
.....

of.....Legal Practitioner for the said  
claimant who resides at  
(d).....

.....(mention the city, town  
or district and also the name of the street and number of the house of the claimant's residence, if  
any).

Endorsement to be made on copy of Complaint forthwith after service.

This Complaint was served by me at.....on the defendant  
(here insert mode of service) on the .....day of .....20.....

INDORSED the.....day of  
.....20.....

.....  
(Signed)

.....  
(Address)

**Note:**

(a) *Heading and Title*—If the matter relates to any inter or intra Union dispute the  
Complaint must be headed: "In the Matter of Trade Union Act" In the Matter of Inter (or Intra)  
Union Dispute: In the matter of

.....Union (in the case of intra Union  
dispute) "Between.....Union (if inter-  
union dispute)

or.....(Individual(s) and  
capacity in which he or they are suing, if intra Union) and .....  
Union (if inter Union dispute) or.....(individual(s)  
and capacity in which or they are suing (if intra Union dispute)

(b) *Endorsements of Claim* – If the claimant sues, or defendant/respondent is sued, in a  
representative capacity, the endorsement must state in what capacity the claimant sues or the  
defendant/respondent is sued. See O.4 r.2. If the claim is for a debt or liquidated demand only,  
the Endorsement, even though not special, must strictly comply with the provisions of O.4.r.3,  
including a claim for four day's costs.

(c) *Address for Service* – see O.4.r.5. The address must be within the jurisdiction.

of.....Legal Practitioner for the said  
claimant who resides at  
(d).....  
.....(mention the city, town  
or district and also the name of the street and number of the house of the claimant's residence, if  
any).

Endorsement to be made on copy of Complaint forthwith after service.

This Complaint was served by me at.....on the defendant  
(here insert mode of service) on the .....day of .....20.....

INDORSED the.....day of  
.....20.....

.....  
(Signed)

.....  
(Address)

**Note:**

(a) *Heading and Title*—If the matter relates to any inter or intra Union dispute the  
Complaint must be headed: "In the Matter of Trade Union Act" In the Matter of Inter (or Intra)  
Union Dispute: In the matter of

.....Union (in the case of intra Union  
dispute) \*Between.....Union (if inter-  
union dispute)

or.....(Individual(s) and  
capacity in which he or they are suing, if intra Union) and .....  
Union (if inter Union dispute) or.....(individual(s)s  
and capacity in which or they are suing (if intra Union dispute)

(b) *Endorsements of Claim* – If the claimant sues, or defendant/respondent is sued, in a  
representative capacity, the endorsement must state in what capacity the claimant sues or the  
defendant/respondent is sued. See O.4 r.2. If the claim is for a debt or liquidated demand only,  
the Endorsement, even though not special, must strictly comply with the provisions of O.4.r.3,  
including a claim for four day's costs.

(c) *Address for Service* – sec 0.4.r.5. The address must be within the jurisdiction.

account to have been received, the said defendants are charged with the following sums (state the same here or in a schedule), and except that I have disallowed the items of disbursement in the said account numbered .....and.....(or in cases where a transcript has been made).

3. The defendants ..... have brought in an account verified by the affidavit of ..... filed on the.....day of .....and which account is marked .....and is to be filed with this certificate. The account marked ..... and which is also to be filed with this certificate, is a transcript of the account as altered and passed.

**N.B:**

The above numbers are to correspond with the number in the order after each statement: the evidence produced is to be stated as follows-

The evidence produced on this account (or, inquiry) consists of the following document.....filed on.....day of..... 20.....of the affidavit of C.D., filed .....



**APPENDIX 1  
ORDER 31 RULE 1  
FEES PAYABLE**

1	For the recovery of a specified sum-	N :K
	(a) not exceeding N20,000.....	1,000.00
	(b) exceeding N20,000; but not above N100,000	1,500.00
	(c) exceeding N100,000; but not above N1,000,000	2,500.00
	(d) exceeding N1,000,000 per N1,000,000 or part thereof	1,500.00
	(e) maximum fee	50,000.00
	(f) claim in foreign currency shall be converted into the local currency as assessed above	
2.	For the recovery of an unspecified sum the fees payable is the same as the maximum payable per relief. For set off or counter-claim: the same as Payable under Item 1.	
3.	For an account to be taken and payment of the sum found due-	
	(a) initial fee	1,000.00
	(b) second fee (payable before setting down for judgment): per N100 or part thereof found due in excess of N200	1,000.00
	(c) maximum fee	5,000.00
4.	Originating Process	
	a. originating summons	500.00
	b. oaths	20.00
	c. filing	50.00
	d. double sealing	100.00
	e. one exhibit each as per distance	10.00
	f. service as per distance but not less than N100.00 per each	
5.	Motion on Notice	
	(a) motion on notice	200.00
	(b) oaths	20.00
	(c) filing	50.00
	(d) double sealing	50.00
	(e) one exhibit each service as per distance	10.0
	(f) service as per distance but not less than N100.00 per each	
6.	Motion Ex-parte	

	(a) motion Ex-parte	200.00
	(b) oaths	20.00
	(c) filing	50.00
	(d) double sealing	50.00
	(e) one exhibit each service as per distance	10.00
	(f) service as per distance but not less than N100.00 per each	
7	For any other relief or assistance not specially provided for Applications, Affidavits, Judgments, Order, Security Bonds, Warrants and Writs.	50.00
8	On application for a writ of Habeas Corpus	500.00
9.	On filing any other application-	
	(a) if on Notice	500.00
	(b) if ex-parte	
	(c) if accompanied by the other paper same as payable under item 4, 5 & 6	
10	On filing an affidavit	20.00
11	On filing a security bond	200.00
12	On filing any other paper	50.00
13	On justification of sureties: for each surety	500.00
14	For the issue of a writ of Habeas Corpus	500.00
15	For the drawing up of any order or judgment	200.00
16	For an inquiry by a court officer where so ordered: for each setting	200.00
17	For an account taken by a court officer where so ordered: per N100 or part thereof fund to have been received	10.00
18.	For taking down a person's statement where so ordered as the court may direct but not exceeding.	10.00
19.	For searching the archives: for each period of six months or part thereof	100.00
20	For drawing up a bill of costs where so directed: Per folio of 72 words	5.00
21	For taking costs where so ordered: per N10 or Part thereof	1.00
22	For preparing a copy where authorized: per folio of 72 words	5.00

23	For every subpoena	50.00
	witness allowance not less than	200.00
24	On warrant for prisoner to give evidence	500.00
25	On commission to take evidence	
	(a) out of the jurisdiction	5,000.00
	(b) within the jurisdiction	2,000.00
26	For attesting the execution or signature of an instrument (other than an instrument regarding payment of pension by Government) not otherwise provided for	20.00
27	For sealing any document not in proceedings	50.00
28	For certifying a copy as a true copy: per folio of 27 words or part thereof.....	5.00
29	For certifying a record of proceeding per folio.....	5.00
30	For payment into court (except when ordered by the Court or proceeds of execution)	
	(a) not exceeding N100 per N20 or part thereof.....	2.00
	(b) exceeding N100 per N100 or part thereof.....	10.00
	(c) on payment into an interest yielding account, Part of interest paid into Court.....	1%
31	On appointment of Commissioner to administer Oaths and take declarations (not being a Government Officer).....	500.00
32	For sealing a letter of request.....	500.00
33	On transfer of a foreign judgment.....	500.00
34	For certificate of service of foreign process (where not disallowed by convention).....	200.00
35	For the service of any document or process Initial fees plus distance in kilometer	
	(a) each service as per distance but not below but within 12 kilometers from the court.....	100.00
	(b) if beyond 12 kilometers for every subsequent 2 kilometers or part thereof (one way).....	10.00
	(c) if outside jurisdiction and in addition the postage fee or courier charges as the case may be.....	100.00
	<b>TRANSLATIONS</b>	
	For every folio of 72 words.....	5.00

Attestation to translation..... 20.00

**FEEs FOR REGISTRATION OF JUDGMENTS**

Registration of a certificate of a judgment of a High Court..... 200.00  
 Registration of a certificate of a judgment of any court

**REGISTRATION OF A CAVEAT**

For filing a caveat..... 200.00

**APPENDIX 2**

Per Diem  
N : K

**ORDER 31 RULE 1 (2)**

**ALLOWANCES TO WITNESSES**

Professional men, mercantile agents, bank Managers, chiefs, surveyors, and any officer of the public service whose salary is not Less than N5,000 a year..... 500.00

Merchants, Captains of ships, mercantile assistances and officers in the public service whose salary is N5,000 but less than N20,000 per month..... 200.00

**TRANSPORT ALLOWANCES**

(a) By private car per kilometer..... as per allowance granted

(b) By private motorcycle per kilometer as per allowance granted

(c) Maximum assessment by bus fare and not airfare unless the applicant requests for payment of fare by air.

**NOTE**

\* The traveling expenses of witnesses shall be allowed according to the sums reasonably and actually paid. No allowance is made to an officer of the public service who is summoned as a witness by the Government or by any department of the government. In all other cases he is allowed costs and traveling expenses as if he were not an officer in the public service. Fees, costs expenses payable to an officer in the public service shall be paid into revenue unless otherwise ordered.

Fees to be paid before issue of process

**APPENDIX 3**

**ORDER 31, RULE 2**

**REGULATIONS REGARDING FEES**

1. No summons, warrant, writ or subpoena shall, except by special court order be issued until-

Fees to be paid before issue of process

(a) all fees payable thereon as contained in the appropriate Appendix of fees shall have been paid; and

(b) an account thereof, initialed as received is set forth by the officer issuing the process both in the margin and in the counter-foil thereof.

2. All such fees shall be carried to account immediately on the process being signed by the Judge.

Fees to be carried to account on process being signed

3. (1) Every document, for or in respect of which any fee has been paid shall bear an endorsement initialed by the Registrar or other officer showing the amount of the fee so paid and the number of receipt referring to the payment.

Documents to be endorsed with amount of fees and number of receipt

(2) When any form of process specifies the fees thereof, it shall be sufficient for the Registrar or other officer to initial the amount of the fees appearing thereon, and to quote the number of the receipt

4. Every Registrar or other officer submitting any originating or process whatever for signature by a Judge shall at the same time produce the stamp of the receipt given for the fees of such process.

Counterfoil receipt to be produced on signature

5. No document in respect whereof a fee is payable shall be used in any legal proceeding, unless it has been initialed as aforesaid by the Registrar or other officer or unless the court is otherwise satisfied that the proper fees in respect thereof has been paid.

No document to be used unless fees paid

6. All fees for service, execution and distance in kilometers shall be paid into revenue.

Fees for service to be paid into revenue

7. No hearing fee or other fee shall be returned except upon a voucher payable to the Treasury, in favour of the party entitled to receive it and prepared at the direction of the Judge before whom the cause or matter is set down and comes on for hearing.

Mode of returning fees

**MADE at Abuja this 1st day of August, 2007**

**JUSTICE B.A ADEJUMO, OFR**  
**President**  
**National Industrial Court of Nigeria**

**EXPLANATORY NOTE**

(This note does not form part of the above Rules but is intended to explain their purport)

These Rules provide for the rules of procedure to be followed in the National Industrial Court of Nigeria.

Extraordinary



# Federal Republic of Nigeria

## Official Gazette

No 20

Lagos -7<sup>th</sup> March, 2011

Vol 98

Government Notice No. 103

The following is published as Supplement to this Gazette:

Act No	Short Title	Page
3 Act. 2010	Constitution of the Federal Republic of Nigeria (Third Alteration)	A23-32

**CONSTITUTION OF THE FEDERAL REPUBLIC OF NIGERIA  
(THIRD ALTERATION) ACT, 2010**



**ARRANGEMENT OF SECTIONS**

**SECTIONS:**

1. Alteration of Cap C23 LFN, 2004.
2. Alteration of Section 6 of the Principal Act.
3. Alteration of Section 84 of the Principal Act.
4. Alteration of Section 240 of the Principal Act.
5. Alteration of Section 243 of the Principal Act.
6. Insertion of new sub-heading "(cc)" and Section 254A-254F.
7. Alteration of Section 287 of the Principal Act.
8. Alteration of Section 289 of the Principal Act.
9. Alteration of Section 292 of the Principal Act.
10. Alteration of Section 294 of the Principal Act.
11. Alteration of Section 295 of the Principal Act.
12. Alteration of Section 316 of the Principal Act.
13. Alteration of Section 318 of the Principal Act.
14. Alteration of the Third Schedule to the Principal Act.
15. Alteration of the Seventh Schedule to the Principal Act.
16. Citation.



**CONSTITUTION OF THE FEDERAL REPUBLIC OF NIGERIA  
(THIRD ALTERATION) ACT, 2010**

Act. No. 3

An Act to alter the Constitution of the Federal Republic of Nigeria Cap C.23, Laws of the Federation of Nigeria, 2004 for the establishment of the National Industrial Court under the Constitution.

[4<sup>th</sup> Day of March, 2011] Commencement

ENACTED by the National Assembly of the Federal Republic of Nigeria -

- |  |  |
|--|--|
| <p>1. The Constitution of the Federal Republic of Nigeria Cap.C23, Laws of the Federation of Nigeria, 2004 (in this Act referred to as "the Principal Act") is altered as set out under this Act.</p>  | <p>Alteration of Cap. C23, LFN, 2004</p>               |
| <p>2. Section 6 of the Principal Act is altered in subsection (5) by inserting immediately after the existing paragraph (c) a new paragraph "(cc)"—<br/>"cc) the National Industrial Court"</p>  | <p>Alteration of section 6 of the Principal Act.</p>   |
| <p>3. Section 84(4) of the Principal Act is altered by inserting immediately after the words "Judge of the Federal High Court" in line 4, the words "President of the National Industrial Court, Judge of the National Industrial Court".</p>  | <p>Alteration of section 84 of the Principal Act.</p>  |
| <p>4. Section 240 of the Principal Act is altered by inserting immediately after the words "Federal High Court" in line 3, the words "the National Industrial Court".</p>  | <p>Alteration of section 240 of the Principal Act.</p> |
| <p>5. Section 243 of the Principal Act is altered by---</p> <p>(a) inserting immediately after the words "Federal High Court" in the marginal note, the words "National Industrial Court"; and</p> <p>(b) inserting immediately after the existing section 243, new subsections "(2)-(4)" ---</p> <p>"(2) An appeal shall lie from the decision of the National Industrial Court as of right to the Court of Appeal on</p> | <p>Alteration of section 243 of the Principal Act.</p> |

questions of fundamental rights as contained in Chapter IV of this Constitution as it relates to matters upon which the National Industrial Court has jurisdiction.

(3) An Appeal shall only lie from the decision of the National Industrial Court to the Court of Appeal as may be prescribed by an Act of the National Assembly:

Provided that where an Act or Law prescribes that an appeal shall lie from the decisions of the National Industrial Court to the Court of Appeal, such appeal shall be with the leave of the Court of Appeal.

(4) Without prejudice to the provisions of section 254C (5) of this Act, the decision of the Court of Appeal in respect of any appeal arising from any civil jurisdiction of the National Industrial Court shall be final" and

(c) renumbering section 243 as new section "243(1)"

6. Chapter VII, Part 1 of the Principal Act is altered by inserting immediately after section 254 a new sub-heading "(cc)" and sections "254A-254F" -

Insertion of new sub-heading "lcc" and sections 254A-254F.

Establishment and composition of National Industrial Court.

"CC---The National Industrial Court of Nigeria;

254A-(1) There shall be a National Industrial Court of Nigeria.

(2) The National Industrial Court shall consist of :

(a) President of the National Industrial Court; and

(b) such number of Judges of the National Industrial Court as may be prescribed by an Act of the National Assembly.

Appointment of President and Judges of the National Industrial Court.

254B-(1) The appointment of a person to the office of President of the National Industrial Court shall be made by the President on the recommendation of the

National Judicial Council subject to the confirmation of such appointment by the Senate.

(2) The appointment of a person to the office of a Judge of the National Industrial Court shall be made by the President on the recommendation of the National Judicial Council.

(3) A person shall not be eligible to hold the office of a President of the National Industrial Court unless the person is qualified to practice as a legal practitioner in Nigeria and has been so qualified for a period of not less than ten years and has considerable knowledge and experience in the law and practice of industrial relations and employment conditions in Nigeria.

(4) A person shall not be eligible to hold the office of a Judge of the National Industrial Court unless the person is a legal practitioner in Nigeria and has been so qualified for a period of not less than ten years and has considerable knowledge and experience in the law and practice of industrial relations and employment conditions in Nigeria.

(5) If the office of the President of the National Industrial Court is vacant, or if the person holding the office is for any reason unable to perform the functions of the office, then, until a person has been appointed to and assumed the functions of that office or a person holding the office has resumed those functions, the President shall appoint the most senior Judge of the Court having the qualification to be appointed as President of the National Industrial as provided under subsection (3) of this section to perform those functions.

(6) Except on the recommendation of the National Judicial Council, an appointment pursuant to the

provisions of subsection (5) of this section shall cease to have effect after the expiration of three months from the date of such appointment and the President shall not re-appoint a person whose appointment has lapsed.

254C—(1) Notwithstanding the provisions of sections 251, 257, 272 and anything contained in this Constitution and in addition to such other jurisdiction as may be conferred upon it by an Act of the National Assembly, the National Industrial Court shall have and exercise jurisdiction to the exclusion of any other court in civil causes and matters---

- (a) relating to or connected with any 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 or connected therewith;
- (b) relating to, connected with or arising from Factories Act, Trade Disputes Act, Trade Unions Act, Labour Act, Employees' Compensation Act or any other Act or Law relating to labour, employment, industrial relations, workplace or any other enactment replacing the Acts or Laws;
- (c) relating to or connected with the grant of any order restraining any person or body from taking part in any strike, lock-out or any industrial action, or any conduct in contemplation or in furtherance of a strike, lock-out or any industrial action and matters connected therewith or related thereto;
- (d) relating to or connected with any dispute over the interpretation and application of provisions of Chapter IV of this Constitution as it relates to any employment, labour, industrial relations, trade unionism, employer's association or any matter

which the Court has jurisdiction to hear and determine;

- (e) relating to or connected with any dispute arising from national minimum wage for the Federation or any part thereof and matters connected therewith or arising therefrom;
- (f) relating to or connected with unfair labour practice or international best practices in labour, employment and industrial relation matters;
- (g) relating to or connected with any dispute arising from discrimination or sexual harassment at workplace;
- (h) relating to, connected with or pertaining to the application or interpretation of international labour standards;
- (i) connected with or related to child labour, child abuse, human trafficking or any matter connected therewith or related thereto;
- (j) relating to the determination of any question as to the interpretation and application of any---
  - (i) collective agreement;
  - (ii) award or order made by an arbitral tribunal in respect of any trade dispute or a trade union dispute;
  - (iii) award or judgment of the Court;
  - (iv) term of settlement of any trade dispute;
  - (v) trade union dispute or employment dispute as may be recorded in a memorandum of settlement;
  - (vi) trade union constitution, the constitution of an association of employers or any association relating to employment, labour, industrial relations or workplace;
  - (vii) dispute relating to or connected with any personnel matter arising from any free trade zone in the Federation or any part thereof;

- (k) relating to or connected with disputes arising from payment or nonpayment of salaries, wages, pensions, gratuities, allowances, benefits and any other entitlement of any employee, worker, political or public office holder, judicial officer, or any civil or public servant in any part of the Federation and matters incidental thereto;
- (l) relating to---
  - (i) appeals from the decisions of the Registrar of Trade Unions, or matters relating therewith;
  - (ii) appeals from the decisions or recommendations of any administrative body or commission of enquiry, arising from or connected with employment, labour, trade unions or industrial relations; and
  - (iii) such other jurisdiction, civil or criminal and whether to the exclusion of any other court or not, as may be conferred upon it by an Act of the National Assembly;
- (m) relating to or connected with the registration of collective agreements.

(2) Notwithstanding anything to the contrary in this Constitution, the National Industrial Court shall have the jurisdiction and power to deal with any matter 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.

(3) The National Industrial Court may establish an Alternative Dispute Resolution Centre within the Court premises on matters which jurisdiction is conferred on the Court by this Constitution or any Act or Law:

Provided that nothing in this subsection shall

preclude the National Industrial Court from entertaining and exercising appellate and supervisory jurisdiction over an arbitral tribunal or commission, administrative body, or board of inquiry in respect of any matter that the National Industrial Court has jurisdiction to entertain or any other matter as may be prescribed by an Act of the National Assembly or any Law in force in any part of the Federation.

(4) The National Industrial Court shall have and exercise jurisdiction and powers to entertain any application for the enforcement of the award, decision, ruling or order made by any arbitral tribunal or commission, administrative body, board of inquiry relating to, connected with, arising from or pertaining to any matter of which the National Industrial Court has jurisdiction to entertain.

(5) The National Industrial Court shall have and exercise jurisdiction and powers in criminal causes and matters arising from any cause or matter of which jurisdiction is conferred on the National Industrial Court by this section or any other Act of the National Assembly or by any other law.

(6) Notwithstanding anything to the contrary in this Constitution, appeal shall lie from the decision of the National Industrial Court from matters in sub-section 5 of this section to the Court of Appeal as of right.

Powers.

254D--- (1) For the purpose of exercising any jurisdiction conferred upon it by this Constitution or as may be conferred by an Act of the National Assembly, the National Industrial shall have all the powers of High Court.

(2) Notwithstanding subsection (1) of this section, the National Assembly may by law, make provisions

conferring upon the National Industrial Court powers additional to those conferred by this section as may appear necessary or desirable for enabling the Court to be more effective in exercising its jurisdiction.

Constitution  
of the Court.

254E—(1) For the purpose of exercising any jurisdiction conferred upon it by this Constitution or any other law, the National Industrial Court shall be duly constituted if it consists of a single Judge or not more than three Judges as the President of the National Industrial Court may direct.

(2) For the purpose of exercising its criminal jurisdiction, the President of the Court may hear and determine or assign a single Judge of the Court to hear and determine such matter.

(3) For the purpose of exercising any jurisdiction conferred upon it by the Constitution or any other law, the Court may, if it thinks expedient to do so or in a manner prescribed under any enactment, law or rules of court, call in the aid of one or more assessors specially qualified to try and hear the cause or matter wholly or partly with the assistance of such assessors.

(4) For the purpose of subsection (3) of this section, an assessor shall be person who is qualified and experienced in his field or specialization and who has been so qualified for a period of not less than ten years.

Practice and  
procedure.

254F-- (1) Subject to the provisions of any Act of the National Assembly, the President of the National Industrial Court may make rules for regulating the practice and procedure of the National Industrial Court.

(2) For the purpose of exercising its criminal jurisdiction, the provisions of the Criminal Code, Penal



Code, Criminal Procedure Act, Criminal Procedure Code or Evidence Act shall apply”.

Alteration of section 287 of the Principal Act.

7. Section 287(3) of the Principal Act is altered by inserting “the National Industrial Court” immediately after “the Federal High Court”, in lines 1 and 4 respectively.

Alteration of section 289 of the Principal Act.

8. Section 289 of the Principal Act is altered by inserting immediately after the words “a Judge of the Federal High Court or” in line 2, the words “Judge of the National Industrial Court”.

Alteration of section 292 of the Principal Act.

9. Section 292 of the Principal Act is altered in subsection (1)(a)(i), line 2, by inserting immediately after the words “Federal High Court” the words, “President of the National Industrial Court”.

Alteration of section 294 of the Principal Act.

10. Section 294(4) of the Principal Act is altered by inserting immediately after the word “Appeal” in line 2, the words “or the National Industrial Court”.

11. Section 295 of the Principal Act is altered ---

Alteration of section 295 of the Principal Act.

(a) in subsection (1), by inserting immediately after the word “or” in lines 4 and 7, the words, “the National Industrial Court”;

(b) in subsection (1)(b), by inserting immediately after the word “or” in line 3, the words, “National Industrial Court or”; and

(c) in subsection (2), by inserting immediately after the word “or” in line 2, the words “National Industrial Court or”

12. Section 316 of the Principal Act is altered by inserting a new subsection “(5)” after the existing subsection (4)

Alteration of section 316 of the Principal Act.

“(5) Notwithstanding the provisions of this section, the

National Court Act, 2006 and any office or authority established and charged with any function under the Act, shall be deemed to have been duly established and shall continue to be charged with such function by virtue of this Constitution or in accordance with the provision of a law made thereunder”.

**13.**Section 318 of the Principal Act is altered by inserting the words—

Alteration of section 318 of the Principal Act.

(a)“the office of the President or Judge of the National Industrial Court” immediately after the words “Federal High Court” in line 3 under the interpretation of Judicial Office; and

(b) “the National Industrial Court” immediately after the words “the Federal High Court” in paragraph (b), in line 1 under the interpretation of “Public Service of the Federation”.

**14.** The Third Schedule to the Principal Act is altered—

Alteration of the Third Schedule to the Principal Act.

(a) in paragraph 12, by inserting immediately after paragraph (d), a new paragraph “(dd)” –

“(dd)” the President of the National Industrial Court”;

(b) in paragraph 13(a), by inserting new subparagraphs “(via)” and “(vib)” immediately after the existing subparagraph(vi)—

“(via) the President of the National Industrial Court”, and

“(vib) a Judge of the National Industrial Court, and”;

(c) in paragraph 13( c), by inserting immediately after the word “Court” in line 3, the words “the National Industrial Court”;

(d) in paragraph 20, by inserting immediately after subparagraph (c), a new subparagraph “(ce)”—

	<p>“(ee)” “The President of the National Industrial Court”; and</p> <p>(e) in paragraph 21(a)(i), by inserting immediately after the words “Federal High Court” in line 4, the words “the President and Judges of the National Industrial Court”.</p>
Alteration of the Seventh Schedule to the Principal Act.	<p><b>15.</b> The Seventh Schedule to the Principal Act is altered by inserting immediately after the words “Federal High Court” in line 4 under the “Judicial Oath”, the words “President /Judge of the National Industrial Court”.</p>
Citation	<p><b>16.</b> This Act may be cited as the Constitution (Third Alteration) Act, 2010.</p>

#### **EXPLANATORY MEMORANDUM**

This Act further alters the provisions of the Constitution of the Federal Republic of Nigeria for the establishment of the National Industrial Court under the Constitution.

I certify, in accordance with Section 2(1) of the Acts Authentication Act, Cap. A2, Laws of the Federation of Nigeria 2004, that this is a true copy of the Bill passed by both Houses of the National Assembly.

SALISU ABUBAKAR MAIKASUWA, mni  
Clerk of the National Assembly

22<sup>nd</sup> Day of February, 2011.