

Labour (Arbitrators) Regulations, 2012

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IT is hereby notified that the Minister of Labour and Social Services has, in terms of section 17 of the Labour Act [*Chapter 28:01*], made the following regulations:—

*Title*

1. These regulations may be cited as the Labour (Arbitrators) Regulations, 2012.

*Interpretation*

2. In these by-laws—

“Arbitrator” means a person appointed in terms of section 98(6) of the Act to handle disputes under the Labour Act [*Chapter 28:01*] and issued with a certificate of appointment.

*Application, considerations, fees relating to appointment*

3. (1) An application for appointment as an arbitrator in terms of section 98 of the Act shall be made in Form L.A.1 set out in the First Schedule.

(2) In considering an application to appoint an arbitrator an Advisory Council shall satisfy itself that—

- (a) the applicant has a minimum educational qualification of a university degree with at least two years experience in the human resources or industrial relations field, a diploma in the field of personnel management, conciliation and arbitration, or industrial relations will be an added advantage;
- (b) if it is an application for renewal, the applicant should have—
  - (i) not violated any of the provisions of these regulations; and
  - (ii) conducted himself or herself in such a manner as would be reasonably expected of an arbitrator during the period he or she was appointed.

(3) When an arbitrator is appointed he or she shall be issued with a certificate of appointment as found in Form L.A. 2 of the Second Schedule authorising him or her to practise.

(4) The certificate shall be renewed annually in terms of section 3(2)(b).

(5) Upon expiry of the certificate of appointment, the certificate shall be returned to the Ministry of Labour and Social Services for renewal or cancellation.

(6) An arbitrator who wishes to cease practising shall notify the Ministry at least two months before doing so.

(7) An arbitrator who does not apply for renewal of the certificate of appointment shall be struck off the register four months after the expiry of the period of appointment.

(8) In respect of an application for appointment as an arbitrator a non-refundable fee shall be charged amounting to one hundred United States dollars (US\$100,00).

(9) For renewal of appointment the non-refundable fee shall be fifty United States dollars (US\$50,00).

(10) For the late renewal of appointment after a period of thirty days when the certificate of appointment has expired the fee shall be twenty-five United States dollars (US\$25,00) per month or part thereof up to a maximum of three months.

(11) Subsections (8), (9) and (10) of this section shall not apply to arbitrators appointed from government ministries or agencies.

(12) An arbitrator whose certificate of appointment has expired shall not receive or accept new matters for determination whether or not an application for renewal has been made.

*Rights and privileges of appointed arbitrators*

4. (1) Upon appointment, an arbitrator shall be authorised to deal with all labour matters which are brought to him or her for decision.

(2) No person shall seek to exercise the powers of an arbitrator unless he or she is appointed and issued with a certificate of appointment in terms of section 3(3).

*Records to be maintained*

5. Every Arbitrator shall—

- (a) remit a copy of their decision to the provincial office of the Ministry of Labour and Social Services within seven days of disposal of the matter;
- (b) maintain a record of cases he or she has handled for a period of five years subsequently to the disposal of the matter;
- (c) remit quarterly a register of the cases on hand and their status to the provincial office of the Ministry of Labour and Social Services.

*Fees payable for arbitration*

6. (1) The fees to be charged by an arbitrator shall be—

- (a) in the case of individual employee or employer disputes, three hundred United States dollars (US\$300,00);
- (b) in the case of collective disputes, four hundred United States dollars (US\$400,00);
- (c) in the case of union/employer association disputes, five hundred United States dollars (US\$500,00).

(2) The provisions of subsection (1) of this section shall not apply to arbitrators appointed from government ministries or agencies and employment councils.

*Code of ethics*

7. (1) It shall be the duty of every arbitrator to act in such manner as to ensure that—

- (a) all significant aspects of arbitration are treated by the arbitrator as confidential unless this requirement is waived by both parties;
- (b) impartiality and principles of natural justice are observed at all times;
- (c) he or she shall disclose to the parties or the conciliator any current or past managerial, representational, or consultative relationship with any employer or employers' organisation, trade union or a federation that is involved in the dispute at hand:

Provided that if any of the parties to the dispute or the conciliator request the arbitrator to recuse himself or herself, he or she shall do so;

- (d) no decision-making function is delegated to another person, without the consent of the parties;
  - (e) all pre-hearing matters are handled in a manner that fosters complete impartiality;
  - (f) a fair and adequate hearing which assures that both parties have sufficient opportunity to present their case is held and that where written submissions are made, to ensure that these are exchanged between the parties and that each party is given a reasonable opportunity to make counter submissions;
  - (g) the arbitration process is conducted so as to advance the fair and efficient resolution of the matter(s) submitted for decision, including making all reasonable efforts to prevent delaying tactics, harassment of parties or other participants or other abuse or disruptions being practised;
  - (h) he or she discharges duties with propriety without being influenced by—
    - (i) any partisan interest, or public clamour;
    - (ii) family, personal, social, political or other interests.
- (2) Upon reaching a decision on a matter at hand—
- (a) it is not proper for an arbitrator to inform anyone of any decision in advance of the time it is given to all parties;
  - (b) in a proceeding in which there is more than one arbitrator, it is not proper at any time for an arbitrator to inform anyone about the substance of the deliberations of the arbitrators.
- (3) Every arbitrator shall act professionally and shall not—
- (a) canvass for clients or cases at any office of the Ministry of Labour and Social Services;
  - (b) engage in any form of advertising whatsoever in relation to arbitration of labour disputes;

- (c) assist, allow, enable or partner an unregistered person to conduct a hearing, receive or recover fees for services which can only be offered by an appointed arbitrator.

(4) Arbitration proceedings shall be conducted at such a place and time as shall be decided by the arbitrator:

Provided that such place and time shall be chosen with due regard to the circumstances of the case and the parties to the dispute.

(5) An arbitrator shall not receive prior to, during the course of, or after the conclusion of arbitration proceedings, any gifts which may reasonably be construed to influence the execution of the duties of an arbitrator.

(6) Every Arbitrator whose appointment has expired, shall finalise all cases or matters received for determination before such expiry within three months of the date of expiry of the period of his or her appointment.

#### *Offences and penalties*

8. Any arbitrator who—

- (a) practices without a valid certificate of appointment in terms of section 3(3);
- (b) fails to maintain or remit records in the manner required in section 5;
- (c) fails to return the certificate as required in section 3(5) or to notify of his/her intention to cease practice;
- (d) charges fees in excess of those stipulated under these regulations;
- (e) fails to abide by the code of ethics provided for under section 7;

shall be guilty of an offence and be liable to being struck off the roll of arbitrators by the Minister.

#### *Transitional arrangements*

9. The letter of appointment of all arbitrators appointed before the promulgation of these regulations shall be subject to renewal one year after appointment or on the date of the publication of these regulations, whichever is earlier.

Labour (Arbitrators) Regulations, 2012

FIRST SCHEDULE (Section 3)

FORM L.A.1

**LABOUR ACT [CHAPTER 28:01]**

**Application for Appointment as an Arbitrator**

Name: .....

Address: .....

*(Full contact details of applicant)*

Date .....

The Minister of Labour and Social Services,  
Private Bag 7707,  
Causeway.

Sir,

I hereby apply for appointment as an arbitrator in terms of section 98 of the Labour Act [Chapter 28:01].

1. \*I was appointed on..... to be an Independent Arbitrator/  
*(Date of appointment)*

Arbitrator for the .....  
*(Name of Employment Council/Ministry/Other)*

for the period .....

2. Period of service with current employer/business: .....

3. Standard of education: .....

4. State whether at any time convicted of a criminal offence: .....

If so, give date(s) and particulars: .....

5. Name of previous employer: .....

Three recent testimonials as to the character of the above-mentioned person, from persons of standing, *curriculum vitae* and *certified photocopies of educational certificates* are attached.

6. I certify that the information provided is correct .....  
*Applicant's signature*

\* For those seeking re-appointment, delete inapplicable.

LABOUR ACT [CHAPTER 28:01]

CERTIFICATE OF APPOINTMENT OF AN ARBITRATOR

This is to certify that..... has  
(Full name)

in terms of section 98(6) of the Labour Act [Chapter 28:01] been appointed by  
the Minister as an Independent Arbitrator/Arbitrator for the .....  
.....\*  
(Name of Employment Council/Ministry/Other)

for the period..... to .....  
(Date) (Date)

Dated at Harare this ..... day of ..... 20.....

.....  
SECRETARY FOR LABOUR  
AND SOCIAL SERVICES

\* Delete inapplicable

