



Republic of Namibia
Annotated Statutes

REGULATIONS

REGULATIONS SURVIVING IN TERMS OF

Labour Act 11 of 2007
section 142

General Regulations

Government Notice 231 of 1953

(GG 1778)

came into force on date of publication: 1 August 1953

The General Regulations were originally made in terms of section 76 of the Wage and Industrial Conciliation Ordinance 35 of 1952, which was repealed by the Labour Act 6 of 1992 and subsequently repealed by the Labour Act 11 of 2007. Pursuant to section 142 of the Labour Act 11 of 2007, the General Regulations are deemed to have been made under that Act. Please note that in terms of these regulations, 1 British Pound (£1) is equivalent to 2 Namibian Dollars (N\$2). Additionally, there are 20 shillings in a pound and there are also 240 pence in a pound of British currency. The abbreviation "s" refers to shillings and the abbreviation "d" refers to pence.

as amended by

Government Notice AG 27 of 1978 (OG 3780)

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1. In these regulations, unless inconsistent with the context, “Ordinance” means the Wage and Industrial Conciliation Ordinance, 1952, “annexure” means an annexure to these regulations and any expression used in the Ordinance to which a meaning has therein been assigned bears the same meaning.

2. The completion, as far as circumstances require or permit, of any form prescribed in these regulations shall be deemed to be a compliance with the provisions thereof relating to such completion.

**CHAPTER I
WAGE DETERMINATIONS****Appointment of secretary to wage board**

1. The Administrator shall appoint an officer to be secretary to the board and may appoint an officer to act as secretary to the board during the absence of the secretary.

Enquiries by the board

2. (1) A summons to appear before the board in connection with any investigation by the board shall be in the form of annexure W.D. 1.

(2) Any such summons may be served on the person summoned -

(a) by delivering a copy thereof to him; or

(b) by leaving a copy thereof at his place of abode or business or employment with some person apparently not less than sixteen years of age and apparently residing or employed there; or

(c) by dispatching it by registered post in an envelope on which are written his name and his address, which may be his place of abode or business or employment or his post office box number,

(3) The service of any such summons may be effected by any person authorised thereto by the member of the board or the officer who has signed it.

(4) A witness who is summoned to appear before the board -

(a) shall, if the journey, or any portion thereof, can be performed by using the rail or motor road service of the Railway Administration, be furnished with a free rail-warrant for such journey, or portion thereof, and shall use such service or services unless the use thereof is impracticable in the circumstances;

(b) shall, if the journey, or any portion thereof, cannot be performed by using any of the services referred to in paragraph (a), or if it is impracticable in the circumstance to make use thereof, travel by means of any other public conveyance, unless the use thereof is impracticable in the circumstances, and shall be paid or refunded the actual fare;

(c) shall, if the journey, or any portion thereof, cannot be performed by using any of the means of transport referred to in paragraph (a) or (b), or if it is impracticable in the circumstances to make use thereof, use any other means of transport including

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his own there for, and shall be paid an allowance towards the cost of such transport at the rate of one shilling per mile for each mile of such journey, or portion thereof;

- (d) may, if by reason of his obedience to the summons, he has, in the opinion of the board, suffered any pecuniary loss or has been put to any expense other than travelling expenses be paid the amount thereof or an amount to be determined by the Administrator,

(5) Whenever any payment or refund is in terms of paragraph (b) or (c) of subregulation (4) to be made to any witness, the amount thereof shall be calculated according to the type or class of facility which, in the opinion of the Secretary for South West Africa, the witness, having regard to the circumstances, would ordinarily be expected to use if he were travelling on his own account.

(6) The Secretary for South West Africa may, in his discretion, issue such rail-warrants, orders, or other instructions as will enable the witness to attend at the place summoned and advance such amounts towards the allowances payable to such witness in terms of paragraph (b) or (c) of subregulation (4) as he may decide, pending the final adjustment of any claim by the witness in terms of the said paragraphs. In issuing any such rail-warrants, orders or other instructions, the facility to be furnished shall be of the type or class of facility which, in the opinion of the Secretary for South West Africa, the witness, having regard to the circumstances, would ordinarily be expected to use if he were travelling on his own account.

Whenever any rail-warrant, order, or other instruction is issued, the witness shall travel in accordance therewith; if, however, such witness uses any type or class of facility other than that specified therein or fails to take advantage thereof in respect of the journey, or any portion thereof, he shall not be entitled to be refunded in respect of travelling expenses for that journey, or portion thereof, more than the amount chargeable against public funds in accordance with such rail-warrants, orders or instructions.

(7) The provisions of subregulations (4), (5) and (6) shall, *mutatis mutandis*, apply in connection with any investigation carried out by a member of the board or by a member with additional members or an officer designated in terms of subsection (9) of section *twelve* of the Ordinance.

(8) Whenever, for the purposes of an investigation, an inspection in *loco* is about to be held, the occupier of the premises concerned shall, if he is upon the said premises at the time, be informed by the person conducting the said inspection, or by the secretary to the board, before the inspection is commenced, of the intention to hold the inspection. If the occupier is not upon the premises the person conducting the inspection may forthwith proceed therewith, but shall, if asked by any person in charge of the premises for the reason of his presence upon the premises, inform such person thereof.

(9) Whenever, in terms of subsection (3) of section *eleven* of the Ordinance, the board permits oral representations to be made, the place, the date and the time of hearing shall be determined by the chairman of the board, if the investigation is being carried out by the board, and by the member if the investigation is being carried out by a member with or without additional members.

- (10) At any hearing any party may appear -

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- (i) by an office-bearer or an official of a trade union or an employers' organization, or any person appointed by the secretary of a trade union or employers' organization; or
- (ii) in cases where there is no trade union or employers' organization by means of a person appointed by a number of employees or employers who, in the opinion of the board, are sufficiently representative of such employees or employers in the trade concerned.

(11) Whenever any question of procedure or evidence arises such question shall be decided by the chairman of the board, if the investigation is being carried out by the board, and by the member if the investigation is being carried out by a member with or without additional members.

**ANNEXURE W.D. 1
WAGE AND INDUSTRIAL CONCILIATION ORDINANCE, 1952**

SUMMONS

(Issued under the provisions of Chapter I of the Regulations under the Wage and Industrial Conciliation Ordinance, 1952.)

To:

.....

 } Name of witness and address.

You are hereby required to appear in person before (a)
at (place) on (date) at the hour of m.,
to give evidence respecting (b)

and to bring with you and produce to
the several books, documents and/or things specified in the list hereunder:—

List of Books, Documents or Things to be Produced:

1.
2.
3.

Given under my hand at this
day of 19

.....
(c) Member of Wage Board/Officer designed in terms of section 12.(4).

- (a) State body or person concerned.
- (b) Specify in what connection witness is required to give evidence.
- (c) Delete whichever is inapplicable.

**CHAPTER II
INDUSTRIAL DISPUTES**

General

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1. (1) A summons to appear before any person or body in accordance with the provisions of the Ordinance may be served on the person summoned -

- (a) by delivering a copy thereof to him; or
- (b) by leaving a copy thereof at his place of abode or business or employment with some person apparently not less than sixteen years of age and apparently residing or employed there; or
- (c) by despatching it by registered post in an envelope on which are written his name and his address, which may be his place of abode or business or employment or his post office box number.

The service of any such summons may be effected by any person authorized thereto by the person who has duly signed it.

(2) (a) Any member of the public may between the hours of 9 a.m. and 12 noon and 2 p.m. and 4 p.m. on Mondays to Fridays inspect at the office of the Secretary for South West Africa, Windhoek, any constitution or amendment to any constitution of any trade union, employers' organization, conciliation board, or any award by an arbitrator, or arbitrators, or umpire, or any report of the terms of settlement of any dispute submitted to the Administrator, as the case may be, on payment of a fee of five shillings for the inspection of each such document.

(b) Any such person may, within the hours referred to, copy and document in respect of which such fee has been paid.

(c) The Secretary for South West Africa, may, on application, furnish to any member of the public a certified copy of any such document, on payment of a fee of five shillings, together with, a reasonable sum for the preparation of such copy, not exceeding one shilling for every hundred words contained in such document.

Trade unions and employees' organizations

2. (1) An application for registration in terms of subsection (1) of section *twenty* of the Ordinance shall be made, in duplicate, in the case of a trade union, in the form of annexure I.D. 1 and, in the case of an employers' organization, in the form of annexure I.D. 2.

(2) The certificate of registration of a trade union or an employers' organization shall be in the form of annexure I.D. 3.

(3) Whenever a registered trade union or employers' organization has, in terms of subsection (1) of section *twenty-six* of the Ordinance, changed its name, the new certificate issued by the Secretary for South West Africa shall be in the form of annexure I.D.4. The notification to the Secretary for South West Africa of such change of name shall be accompanied by the current certificate of registration held by such trade union or employers' organization.

Enquiries by the secretary for South West Africa

3. (1) A summons for the attendance of a witness at an enquiry concerning a trade union or employers' organization under section *twenty-nine* of the Ordinance shall be in the form of annexure I.D. 5.

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(2) A witness who is summoned to appear before the Secretary for South West Africa, or an authorised officer, or an officer designated in terms of section *twenty-nine* of the Ordinance, at an inquiry referred to in subregulation (1) -

- (i) shall if the journey, or any portion thereof, can be performed by using the rail or motor road service of the Railway Administration, be furnished with a free rail-warrant for such journey, or portion thereof, and shall use such service or services unless the use thereof is impracticable in the circumstances;
- (ii) shall, if the journey, or any portion thereof, cannot be performed by using any of the services referred to in paragraph (i), or if it is impracticable in the circumstances to make use thereof, travel by means of any other public conveyance, unless the use thereof is impracticable in the circumstances, and shall be paid or refunded the actual fare;
- (iii) shall, if the journey, or any portion thereof, cannot be performed by using any of the means of transport referred to in paragraph (i) or (ii), or if it is impracticable in the circumstances to make use thereof, use any other means of transport including his own there for, and shall be paid an allowance towards the cost of such transport at the rate of one shilling per mile for each mile of such journey, or portion thereof;
- (iv) may, if by reason of his obedience to the summons, he has, in the opinion of the Secretary for South West Africa, or an authorised officer, suffered any pecuniary loss or has been put to any expense other than travelling expenses, be paid the amount thereof or an amount to be determined by the Administrator.

(3) Whenever any payment or refund is in terms of paragraph (ii) or (iii) of subregulation (2) to be made to any witness, the amount thereof shall be calculated according to the type or class of facility which, in the opinion of the Secretary for South West Africa, the witness having regard to the circumstances, would ordinarily be expected to use if he were travelling on his own account.

(4) The Secretary for South West Africa may, in his discretion, issue such rail-warrants, order, or other instructions as will enable the witness to attend at the place summoned and advance such amounts towards the allowances payable to such witness in terms of paragraph (ii) or (iii) of subregulation (2), as he may decide, pending the final adjustment of any claim by the witness in terms of the said paragraphs. In issuing any such rail-warrants, orders or other instructions, the facility to be furnished shall be of the type or class of facility which, in the opinion of the Secretary for South West Africa, the witness, having regard to the circumstances, would ordinarily be expected to use if he were travelling on his own account. Whenever any rail-warrant, order or other instruction is issued the witness shall travel in accordance therewith; if, however, such witness uses any type or class of facility other than those specified therein or fails to take advantage thereof in respect of the journey, or any portion thereof, he shall not be entitled to be refunded in respect of travelling expenses for that journey, or portion thereof, more than the amount chargeable against public funds in accordance with such rail-warrants, orders or instructions.

(5) Whenever, for the purposes of an inquiry under section *twenty-nine* of the Ordinance, an inspection *in loco* is about to be held, the occupier of the premises concerned shall, if he is upon the said premises at the time, be informed by the person conducting the said inspection, before the inspection is commenced, of the intention to hold the inspection. If the occupier is not upon the premises, the person conducting the inspection may forthwith proceed

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therewith, but shall, if asked by any person in charge of the premises for the reason of his presence upon the premises, inform such person thereof.

Conciliation boards

4. (1) An application for the appointment of a conciliation board in terms of subsection (1) of section *thirty-three* of the Ordinance shall be made, *in duplicate*, in the form of annexure I.D. 6 and shall be lodged with the Administrator. Every such application shall be accompanied by a concise statement, *in duplicate*, giving information in regard to the matter in dispute and particulars of any steps taken to arrive at a settlement thereof.

(2) (a) A member of a conciliation board who, in connection with his duties as such, is required to travel -

- (i) shall, if the journey, or any portion thereof, can be performed by using the rail or motor road service of the Railway Administration, be furnished with a free rail-warrant for such journey, or portion thereof, and shall use such service or services unless the use thereof is impracticable in the circumstances;
- (ii) shall, if the journey, or any portion thereof, cannot be performed by using any of the services referred to in paragraph (i), or if it is impracticable in the circumstances to make use thereof, travel by means of any other public conveyance, unless the use thereof is impracticable in the circumstances, and shall be paid or refunded the actual fare;
- (iii) shall, if the journey, or any portion thereof, cannot be performed by using any of the means of transport referred to in subparagraph (i) or (ii) hereof, or if it is impracticable in the circumstances to make use thereof, use any other means of transport, including his own, there for, and shall be paid an allowance towards the cost of such transport at the rate of one shilling per mile for each mile of such journey, or portion thereof.

(b) If a member of a conciliation board has, in the opinion of the Secretary for South West Africa, by reason of the performance of his duties as such, suffered any pecuniary loss or been put to any expense, other than travelling expenses, the Secretary for South West Africa may, in his discretion, direct that he be paid the amount thereof or an amount to be determined by the Administrator.

(c) Whenever any payment or refund is in terms of subparagraph (ii) or (iii) of paragraph (a) to be made to any member, the amount thereof shall be calculated according to the type or class of facility which, in the opinion of the Secretary for South West Africa, the member, having regard to the circumstances, would ordinarily be expected to use if he were travelling on his own account.

(d) All claims in terms of paragraph (b) shall be submitted in writing to the secretary of the board. The employer (if any) of the member shall certify as to the amount of wages lost (if any) by the member. No such claim shall be paid unless it has been countersigned by the chairman of the board.

(3) The provisions of subregulation (2) shall, *mutatis mutandis*, apply in respect of any witness who is summoned to appear before a conciliation board.

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(4) The Secretary for South West Africa may, in his discretion, issue such rail-warrants, orders or other instructions as will enable a member or witness to attend at the venue of the conciliation board proceedings and may advance such amounts towards the allowances payable to such member or witness in terms of this regulation as he may decide, pending the final adjustment of the claim of such witness or member.

In issuing any such rail-warrants, order or other instructions, the facility to be furnished shall be of the type or class of facility which, in the opinion of the Secretary for South West Africa, the member or witness, having regard to the circumstances, would ordinarily be expected to use if he were travelling on his own account. Whenever any railway-warrant, order or other instruction is issued, the member or witness shall travel in accordance therewith; if, however, such member or witness uses any type or class of facility other than that specified therein or fails to take advantage thereof in respect of the journey, or any portion thereof, he shall not be entitled to be refunded in respect of travelling expenses for that journey, or portion thereof, more than the amount chargeable against public funds in accordance with such rail-warrants, orders or instructions.

(5) A request by a conciliation board for a declaration that an agreement shall be made binding in terms of section *forty-six* of the Ordinance shall be made in the form of annexure I.D. 7.

(6) Subject to the provisions of subsection (7) of section *thirty-seven* of the Ordinance, whenever a conciliation board has, by reason of lack of a quorum at any meeting, been unable to transact business, a further meeting shall be called upon a date and at a time and a place to be determined by the Secretary for South West Africa, and notice, in writing, shall be sent by hand or by post to each representative on such board of the date on and the place and the time at which such meeting shall be held by the secretary of the board at the most usual or the last known address of such representative.

(7) The following provisions shall apply whenever the powers or duties of a conciliation board are being exercised or performed in terms of section *thirty-eight* of the Ordinance -

- (a) A summons for the attendance of a witness before a conciliation board shall be in the form of annexure I.D. 5.
- (b) Whenever, for the purpose of the carrying out of the duties of a conciliation board, an inspection *in loco* is about to be held, the occupier of the premises concerned shall, if he is upon the said premises at the time, be informed by the conciliation board, or person conducting the said inspection, before the inspection is commenced, of the intention to hold the inspection. If the occupier is not upon the premises, the board, or person conducting the inspection, may forthwith proceed therewith, but shall, if asked by any person in charge of the premises for the reason for its or his presence, inform such person thereof.

Arbitration proceedings

5. (1) The provisions of this regulation shall apply whenever the powers or duties of an arbitrator or an umpire are being exercised or performed in terms of section *forty-three* or subsection (1) of section *forty-four* of the Ordinance.

(2) A summons for the attendance of a witness before an arbitrator, arbitrators or an umpire shall be in the form of annexure I.D. 5.

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(3) Whenever for the purposes of arbitration proceedings an inspection *in loco* is about to be held, the occupier of the premises concerned shall, if he is upon the said premises at the time, be informed by the person conducting the said inspection, before the inspection is commenced, of the intention to hold the inspection. If the occupier is not upon the premises, the person conducting the inspection may forthwith proceed therewith, but shall, if asked by any person in charge of the premises for the reason of his presence, inform such person thereof.

(4) (a) A witness who is summoned to give evidence in terms of subregulation (2) -

(i) shall, if the journey, or any portion thereof, can be performed by using the rail or motor road service of the Railway Administration, use such service or services unless the use thereof is impracticable in the circumstances;

(ii) shall, if the journey, or any portion thereof, cannot be performed by using any of the services referred to in subparagraph (i), or if it is impracticable in the circumstances to make use thereof, travel by means of any other public conveyance, unless the use thereof is impracticable in the circumstances, and shall be paid or refunded the actual fare;

(iii) shall, if the journey, or any portion thereof, cannot be performed by using any of the means of transport referred to in paragraph (i) or (ii), or if it is impracticable in the circumstances to make use thereof, use any other means of transport including his own there for, and shall be paid an allowance towards the cost of such transport at the rate of one shilling per mile for each mile of such journey, or portion thereof;

(iv) shall, if by reason of his obedience to any summons, he has suffered any pecuniary loss or been put to any expense other than travelling expenses, be paid the amount thereof or an amount to be determined by the Administrator.

(b) Where a conciliation board considers the summoning of a witness to be necessary, the expenditure referred to in paragraph (a) shall be borne in equal proportions by the employers and employees represented on the board.

(c) Where a conciliation board is unable to decide whether a witness shall be summoned, the arbitrator or umpire may decide to summon the witness in which event the expenditure referred to in paragraph (a) shall be borne in equal proportions by the employers and the employees represented on the board.

(d) Where a conciliation board is unable to decide whether a witness shall be summoned and the arbitrator or umpire does not decide to summon the witness, the party or parties desiring the witness to be summoned shall request the arbitrator or umpire to summon the witness and the witness shall be summoned in which event the expenditure referred to in paragraph (a) shall be borne by such party or parties in the proportions determined by the arbitrator or umpire.

(e) Where an arbitrator or umpire wishes to summon any witness in circumstances other than those referred to in paragraphs (b), (c) or (d), the expenditure referred to in paragraph (a) shall, if the arbitration followed the failure of a conciliation board to settle the dispute, be borne in equal proportions by the employers and the employees represented upon the board.

(f) Whenever any payment or refund is in terms of subparagraph (ii) or (iii) of paragraph (a) to be made to any witness, the amount thereof shall be calculated according to the

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type or class of facility which, in the opinion of the Secretary for South West Africa, the witness, having regard to the circumstances; would ordinarily be expected to use if he were travelling on his own account.

(g) The Secretary for South West Africa may, in his discretion, issue such rail-warrants, orders or other instructions as will enable a witness to attend at the place summoned and advance such amounts towards the allowances payable to such witness in terms of paragraph (a), as he may decide, and shall in that event be entitled to recover from the parties responsible for the payment or the provision thereof the amount which such parties would have had to pay in connection therewith in terms of the said paragraph.

In issuing any such rail-warrants, orders or other instructions, the facility to be furnished shall be of the type or class of facility which, in the opinion of the Secretary for South West Africa, the witness, having regard to the circumstances, would ordinarily be expected to use, if he were travelling on his own account. Whenever any rail-warrant, order or other instruction is issued the witness shall travel in accordance therewith; if, however, such witness uses any type or class of facility other than that specified therein or fails to take advantage thereof in respect of the journey, or any portion thereof, he shall not be entitled to be refunded in respect of travelling expenses for that journey, or portion thereof, more than the amount that would have been payable had such rail-warrants, orders or instructions been used or followed.

ANNEXURE I.D. 1

[Annexure I.D. 1 amended by AG 27/1978]

(Regulation 2(1).)

WAGE AND INDUSTRIAL CONCILIATION ORDINANCE, 1952

APPLICATION FOR REGISTRATION OF A TRADE UNION

- N.B.— (i) The application should be submitted *in duplicate* and must be made within three months of the establishment of the union or of the commencement of the Ordinance, as the case may be, *vide* subsection (1) of section *twenty* of the Ordinance.
- (ii) The requirements under the Ordinance are indicated in this form and careful completion is essential to avoid undue delay.

Name of Trade Union

Address

(In duplicate.)

The Secretary for South West Africa,
WINDHOEK.

Sir,

1. We hereby, in accordance with the provisions of section *twenty* of the Wage and Industrial Conciliation Ordinance, 1952, apply for registration of this trade union.
2. Three copies of the constitution of the union, including all amendments, are attached, duly authenticated by the chairman and the secretary as being true copies.
3. The following particulars are supplied:—
 - (a) The name of the union is that stated above.
 - (b) The interests in respect of which the union desires registration are set out in section of the constitution.
 - (c) The area(s) in respect of which the union desires registration is/are

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.....

 (insert names of magisterial districts, municipal areas, etc.)

(d) The magisterial district(s)/municipal area(s) in which the union has enrolled members is/are ..

.....

(e) The official address of the union will, until further notice, be that given above.

(f) The designations, names and addresses of the office-bearers and the officials of the union and of its executive committee or the committee of management are as follows:—

<i>Designation.</i>	<i>Name.</i>	<i>Postal Address.</i>
Chairman
.....
.....
.....
.....
Secretary

(g) the membership of the union, the standing of members, and the number of persons eligible for membership, but not enrolled, are as at this date -

	Total
No. of members	
No. of members whose subscriptions are not in arrear in terms of the constitution	
<i>Estimated</i> number of persons eligible for membership but not enrolled	

4. Attached hereto is a list of branches setting out the areas in which they operate, giving in respect of each branch information similar to that required under subparagraphs (f) and (g) of paragraph 3.

(If no branches have been formed, state "Nil".)

Yours faithfully,

.....

Chairman.

.....

Secretary.

Witnesses:

1.

2.

Date

For Departmental Use Only.

I hereby certify that I have investigated the statements made on this form and am satisfied that the particulars are substantially correct.

.....

Inspector.

Date 19

Place

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[Annexure I.D. 2 amended by AG 27/1978]

(Regulation 2(1).)

WAGE AND INDUSTRIAL CONCILIATION ORDINANCE, 1952

APPLICATION FOR REGISTRATION OF AN EMPLOYERS' ORGANIZATION

- N.B.— (i) The application should be submitted *in duplicate* and must be made within three months of the establishment of the organization or of the commencement of the Ordinance, as the case may be, *vide* subsection (1) of section *twenty* of the Ordinance.
- (ii) The requirements under the Ordinance are indicated in this form and careful completion is essential to avoid undue delay.

Name of Employers' Organization

Address

(In duplicate.)

The Secretary for South West Africa,
WINDHOEK.

Sir,

1. We hereby, in accordance with the provisions of section *twenty* of the Wage and Industrial Conciliation Ordinance, 1952, apply for registration of this employers' organization.

2. Three copies of the constitution of the organization, including all amendments, are attached, duly authenticated by the chairman and the secretary as being true copies.

3. The following particulars are supplied:—

- (a) The name of the organization is that stated above.
- (b) The interests in respect of which the organization desires registration are set out in section of the constitution.
- (c) The area(s) in respect of which the organization desires registration is/are
.....
.....
(insert names of magisterial districts, municipal areas, etc.)
- (d) The magisterial district(s)/municipal area(s) in respect of which the organization has enrolled members is/are
- (e) The official address of the organization will, until further notice, be that given above.
- (f) The designations, names and addresses of the office-bearers and the officials of the organization and of its executive committee or the committee of management are as follows:—

<i>Designation.</i>	<i>Name.</i>	<i>Postal Address.</i>
Chairman
.....
.....
.....
.....
Secretary

- (g) The membership of the organization, the standing of members and the number of persons eligible for membership, but not enrolled, are at this date -

	Total
--	-------

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No. of members	
No. of members whose subscriptions are not in arrear in terms of the constitution	
<i>Estimated</i> number of persons eligible for membership but not enrolled	

4. Attached hereto is a list of branches setting out; the areas in which they operate, giving in respect of each branch information similar to that required under subparagraphs (f) and (g) of paragraph 3.

(If no branches have been formed, state "Nil".)

Yours faithfully,

.....
Chairman.

.....
Secretary.

Witnesses:

1.
2.

Date

For Departmental Use Only.

I hereby certify that I have investigated the statements made on this form and am satisfied that the particulars are substantially correct

.....
Inspector.

Date 19

Place

**ANNEXURE I.D. 3
(Regulation 2 (2).)**

WAGE AND INDUSTRIAL CONCILIATION ORDINANCE, 1952

A. CERTIFICATE OF REGISTRATION OF A TRADE UNION OR EMPLOYERS' ORGANIZATION.

This is to certify that the

.....

.....

(Name of trade union or employers' organization)

has in terms of section *four* of the Wage and Industrial Conciliation Ordinance, 1952, been registered as a trade union/an employers' organization in respect of

.....

.....

(interests)

in

.....

.....

(area)

with effect from 19.....

.....

**REGULATIONS
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Secretary for South West Africa.

Date 19

B. The scope of registration of the above-named trade union/employers' organization has, in terms of subsection (1) of section *twenty-three* of the Ordinance, been varied.

With effect from 19 the trade union/employers' organization is registered in respect of

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

(interests)

in
.....
.....

(area)

Secretary for South West Africa.

Date 19

**ANNEXURE I.D. 4
(Regulation 2(3).)**

WAGE AND INDUSTRIAL CONCILIATION ORDINANCE, 1952

A. CERTIFICATE OF REGISTRATION OF A TRADE UNION OR EMPLOYERS' ORGANIZATION.

(CHANGE OF NAME.)

This is to certify that the
.....

(new name of union or organization)

formerly registered on the
as

(old name of union or organization)

has, in terms of subsection (5) of section *twenty-six* of the Ordinance, been registered under the first-mentioned name as a trade union/employers' organization in respect of

.....
.....

(interests)

in
.....

(area)

with effect from 19

Secretary for South West Africa.

Date 19

B. The scope of registration of the above-named trade union/employers' organization has, in terms of section *twenty-three* of the Ordinance, been varied. With effect from 19 the trade union/employers' organization is registered in respect of

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

(interests)

in

(area)

.....
Secretary for South West Africa.

Date 19

ANNEXURE I.D. 5

WAGE AND INDUSTRIAL CONCILIATION ORDINANCE, 1952

SUMMONS

(Issued under the provisions of the Wage and Industrial Conciliation Ordinance, 1952.)

To:

.....
.....
..... } Name of Witness and address

You are hereby required to appear in person before (a)
at (place)
on (date)
at the hour of m., to give evidence respecting
(b)

and to bring with you and then produce to
(a) the several books, documents and/or things specified in the list hereunder:—

List of Books, Documents or Things to be Produced:

- 1.
- 2.
- 3.

Given under my hand at
this day of 19

.....
(c) Chairman/Vice -Chairman/Secretary/
Arbitrator(s) or Umpire/Secretary for South
West Africa/Authorised Officer under section
29 (1).

- (a) State body or person concerned.
- (b) Specify in what connection witness is required to give evidence.
- (c) Delete whichever is inapplicable.

ANNEXURE I.D. 6

[Annexure I.D. 6 amended by AG 27/1978]

**REGULATIONS
Labour Act 11 of 2007**

General Regulations

(Regulation 4 (1).)

WAGE AND INDUSTRIAL CONCILIATION ORDINANCE, 1952

APPLICATION FOR THE APPOINTMENT OF A CONCILIATION BOARD

N.B.—Application and supporting statement should be submitted in duplicate and the form suitably modified according to the circumstances when individual employers or employees are the applicants.

Name of applicant trade union/employers' organization

Address

The Administrator of South West Africa,
WINDHOEK.

Sir,

1. We, the undersigned, duly authorised thereto, hereby apply on behalf of the above-mentioned body, in terms of the Wage and Industrial Conciliation Ordinance, 1952, for the appointment of a conciliation board for the consideration and determination of a dispute which exists in the

(insert character of undertaking/industry/trade/ occupation)

between the applicant and

(insert name of respondent employers' organization(s)
or trade union(s) or individual respondent(s) as the case may be)

- 2. Attached is a concise statement, in duplicate, giving—
 - (a) information in regard to the matter in dispute, and
 - (b) particulars of the steps taken to arrive at a settlement.

3. It is desired that the conciliation board shall consist of representatives
(insert number)

on either side.

4. The area(s) in which the dispute exists is/are

(detail the areas, indicating whether local authority or magisterial)

5. (a) The number of employers who are members of the employers' organization is employees.

(b) The number of employers involved in the dispute is employing employees.

(c) Of the number shown at (b) are members of the employers' organization, employing employees.

(Note.—To be completed only when applicant is an employers' organization.)

6. (a) The number of employees who are members of the trade union is

(b) The number of employees of the class(es) catered for by the union involved in the dispute is of whom are members.

(Note.—To be completed only when applicant is a trade union.)

Yours faithfully,

**REGULATIONS
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.....
 Chairman. } Of the applicant organization/union.
 } (a)
 Secretary.

As Witnesses:

1.
2.

Date 19

.....
 Chairman. } Of the
 } branch of the organization/ union.
 Secretary.

As Witnesses:

1.
2.

Date 19

Note:

- (a) Signatures unnecessary where branch has full autonomy to apply for a conciliation board.
- (b) Any alteration should be initialled.

For Departmental use only.

- (a) This application is made in terms of section *thirty-three* of the Ordinance.
- (b) I certify that the statements made on this form have been investigated and I am satisfied that the particulars shown are substantially correct.
- (c) I attach a statement containing a report on the representative character of the parties to the dispute and the suggested terms of reference in the event of a conciliation board being appointed.
- (d) Remarks

Inspector.

Place

Date 19

N.B.—Any alteration should be initialled by the Inspector.

**ANNEXURE I.D. 7
(Regulation 4 (5).)**

WAGE AND INDUSTRIAL CONCILIATION ORDINANCE, 1952

APPLICATION BY CONCILIATION BOARD FOR PUBLICATION OF AGREEMENT

N.B.—Form to be suitably modified according to the circumstances when individual employers or employees are the parties to the application.

The Administrator of South West Africa,
WINDHOEK.

Sir,

1. We, representing the conciliation board appointed by you on the
 to consider and determine a dispute between

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.....
.....
and
.....
.....

hereby transmit an agreement arrived at by certain of the above disputants and in terms of section *thirty-four* (2) read with section *forty-six* (1) of the Ordinance, request you to declare the agreement to be binding upon—

- (a) the employer(s) who,
the employers' organization(s) which, and
the trade union(s) which,

entered into the said agreement and upon the employers and employees who are members of the said employers' organizations and trade unions.

- (b) 2. In terms of subsection (1) of section *forty-six* of the Ordinance we also request you to declare the agreement (excluding sections) to be binding upon the other employers and employees in the

(insert character of undertaking/industry/trade/occupation)

within the (area).

Yours faithfully,

.....
.....
(c)
.....
.....

Witnesses;

- 1.
- 2.

Date 19

- (a) Delete where inapplicable.
- (b) Delete where extension to other employers or employees is not required.
- (c) The representatives on the Board (or in their absence, alternates) of the parties to the agreement should sign.

**CHAPTER III
ADMINISTRATIVE AND GENERAL**

Notices to be posted

1. The notices required to be posted by an employer bound by any determination, agreement, notice or award, in terms of subsection (1) of section *fifty-nine* of the Ordinance shall be the form of annexures G. 1, 2 and 3.

Records to be kept

2. (1) (a) Every employer upon whom any determination, agreement, notice or award is binding, which relates to remuneration to be paid, time to be worked, or deductions which may be made from remuneration, shall, in terms of section *sixty-six* of the Ordinance, at all times keep a record in respect of all persons employed by him in the form of annexure G. 5.

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(b) Every such employer shall, in addition to the records referred to in paragraph (a), keep, in respect of each pieceworker employed by him, a record showing -

- (i) the identification number (if any) and the name of such pieceworker;
- (ii) a description of the class and quantity of the work performed by each pieceworker and the piecework rate due in respect of each item of such work.

(2) Every principal or contractor upon whom any agreement or award is binding under the Act, which regulates the rates at which, the basis of, or the principles upon which payment shall be made by him to any person to whom any work is given out on contract by that principal or contractor for that work, shall at all times keep, in addition to the record of payments made, which he is required to keep in terms of subsection (3) of section *sixty-six* of the Ordinance, a record showing -

- (a) the name, address, race and sex of the person to whom the work has been given out;
- (b) a description of the class and quantity of the work given out and the contract rate due in respect of each item of such work; and
- (c) the date upon which the work was given out and the dates upon which it was received back and upon which payments were made.

(3) Every person to whom work has been given out on contract by a principal or a contractor referred to in subregulation (2) shall, in addition to the record of payments received by him for the principal or the contractor from whom he has received such work, which he is required to keep in terms of subsection (3) of section *sixty-six* of the Ordinance keep a record showing -

- (a) the name and address of the principal or the contractor;
 - (b) a description of the class and the quantity of the work received and the contract rate due in respect of each item of such work, and
 - (c) the (date upon which the work was received and returned or completed and upon which payments were made.
- (4) The records referred to in this regulation shall be kept in ink.

ANNEXURE G. 1

[Annexure G. 1 amended by AG 27/1978]

(Chapter III - Regulation 2.)

WAGE AND INDUSTRIAL CONCILIATION ORDINANCE, 1952

(Notice in terms of Section 59 (1) (a).)

Attention is drawn to the following extracts from and summaries of sections of the Wage and Industrial Conciliation Ordinance, 1952 -

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50. (1) It is an offence for any person, whether an employer or an employee, to contravene a determination, an agreement, award or licence of exemption, (Maximum penalty £100 or one year's imprisonment or both and in certain circumstances forfeiture of trading licence).

[The word "licence" in the phrase "circumstances forfeiture of trading licence" is misspelt in the *Official Gazette*, as reproduced above.]

52. Where an employee has been underpaid in terms of any determination, agreement, award or licence of exemption, the Court has a discretion whether to make an order directing that the amount underpaid be paid to the employee or into the Territory Revenue Fund. The employee is only entitled to the whole of the amount underpaid where he did not agree to accept lower wages than those prescribed or, if he did so agree, he was ignorant of his rights under the relative agreement, award or licence of exemption. In other circumstances the Court may award a lesser amount.

54. (2) No employer may require or permit any employee to repay to him any remuneration paid under any determination, agreement, notice, award, licence of exemption or order of Court.

(3) An employer who requires or permits any employee to give a receipt for, or otherwise to represent that he has received more than he actually received by way of remuneration shall be guilty of an offence.

(Maximum penalty a fine not exceeding one hundred pounds or imprisonment for a period not exceeding one year or such imprisonment without the option of a fine or both such fine and such imprisonment.)

55. It is an offence for an employer to dismiss or to alter the conditions of employment of any employee to the disadvantage of the latter by reason of such employee having given evidence before a court of law or having given information to an inspector or other person entitled to such information under the Ordinance.

(Maximum penalty £300 or two years' imprisonment or both.)

57. An inspector may without notice enter any premises and may question any person, require any books or documents to be produced and take extracts or make copies thereof. Any employer or person employed by him shall furnish facilities required by the inspector for conducting his investigation. The inspector may take with him an interpreter or other assistant.

Any person who refuses to answer questions put by the inspector or fails to comply with the inspector's requirements or hinders an inspector in the performance of his functions under the Ordinance is guilty of an offence.

(Maximum penalty £100 or one year's imprisonment or both.)

58. Strikes and lockouts are illegal -

(a) during the currency of an agreement, notice or award dealing with the matter giving occasion for the strike or lock-out;

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- (b) by employees or employers engaged in essential services, i.e., work connected with the supply of light, power or water or sanitation, passenger transportation or the extinguishing of fires; and
- (c) where neither (a) nor (b) applies then, until the matter has been dealt with by a conciliation board or by arbitration, as the case may be, or unless otherwise not prohibited by section *fifty-eight*.

(Maximum penalty £300 or two years' imprisonment or both.)

64. (1) If an employer, except to give effect to the provisions of a determination, an agreement, notice, award or licence of exemption binding upon him under this Ordinance, alters or gives notice of his intention to alter the conditions of employment of all or any of his employees, the employees concerned may apply for the establishment of a conciliation board for the consideration of the matter in such form as may be prescribed by regulation.

64. (3) If the employees concerned apply for the establishment of a conciliation board within a period of thirty days reckoned from the date on which the alteration was made or the notice was given, the employer shall,

[Regulation 64(3) numbered incorrectly in the *Official Gazette*, as reproduced above.]

- (a) if he has not yet made the alteration, refrain from making it; or,
- (b) if he has already made the alteration, restore the said conditions as they were before they were altered with effect from the date on which they were altered, and thereafter refrain from altering them,

until -

- (i) if application has been made for the establishment of a conciliation board for the consideration of the matter -
 - (aa) any board that may be established has reported thereon to the Administrator in writing, or
 - (bb) a period of thirty days reckoned from the date on which the Administrator has approved of the establishment of a board, or such longer period as the Administrator may fix in the case of a service such as is referred to in section *forty-four* or as the board may fix in other cases, has expired; or
 - (cc) the Administrator has refused to approve of the establishment of a board; or
 - (dd) if the Administrator has not within a period of twenty-one days reckoned from the date on which the application was lodged approved or refused to approve of the establishment of a board the expiration of that period;

‘whichever event occurs first; or
- (ii) if the matter has been referred to arbitration in terms of section *forty-three* or *forty-four*, pending the making of an award.

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(4) The notice referred to in subsection (1) may be given by a registered employers' organization acting on behalf of any or all of its members -

- (a) to each of the employees concerned; or
- (b) to any trade union of which they are members, in which event the provisions of subsections (1), (2) and (3) shall, *mutatis mutandis*, apply and any application for a conciliation board submitted by a trade union authorised by the employees concerned shall be deemed to be an application submitted by the employees concerned to the extent to which they are members of that trade union,

5. Any person who fails to comply with the provisions of this section shall be guilty of an offence.

(6) In this section, the expression "conditions of employment" does not include the engagement, suspension, discharge, promotion, transfer or derating of an individual employee, the assessment of contract prices to be paid to an individual or any other matter which affects an individual employee unless, in the opinion of the Administrator, a matter of principle is involved; and in this subsection the expression "individual" does not include an employee engaged upon a service such as is referred to in subsection (1) of section *forty-four*.

65. No employer shall make it a condition of employment of any employee that the latter shall not be or shall not become a member of a trade union.

(Maximum penalty £100 or one year's imprisonment or both.)

ANNEXURE G. 2
(Chapter III - Regulation 2.)

WAGE AND INDUSTRIAL CONCILIATION ORDINANCE, 1952

NOTICE IN TERMS OF SECTION *FIFTY-NINE* (1)(b)

It is notified for general information that the official address of the inspector defined by regulation is:—

The Industrial Inspector,
Government Buildings,
WINDHOEK.

ANNEXURE G. 3
(Chapter III - Regulation 2.)

WAGE AND INDUSTRIAL CONCILIATION ORDINANCE, 1952

NOTICE IN TERMS OF SECTION *FIFTY-NINE* (1)(c)

(a) Appended is a copy of an agreement/award/notice/ determination at present applicable to this business:—

Here follows agreement/award/notice/determination:

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

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(a) Appended are summaries of/extracts from the provisions of the agreement/award/notice/determination at present applicable to this business:—

(Insert summaries or extracts which in terms of the relative agreement/award/notice/determination must be affixed upon the premises in terms of the Ordinance.)

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

(Delete whichever is inapplicable.)

ANNEXURE G. 4
(Chapter III - Regulation 2.)

WAGE AND INDUSTRIAL CONCILIATION ORDINANCE, 1952

NOTICE IN TERMS OF SECTION FIFTY-NINE (1)

Time and Place of Payment of Remuneration.

Payment of remuneration to persons employed in this business will take place at

.....

(place)

at on

(time)

(Specify the day where payment is made weekly.)

(Specify the date each month where payment is made monthly.)

.....
Signature of employer or person authorised by him.

ANNEXURE G. 5

[Annexure G. 5 amended by AG 27/1978]

(Chapter III - Regulation 3.)

RECORDS TO BE KEPT BY EMPLOYER

REGULATIONS
Wage and Industrial Conciliation Ordinance, No. 35 of 1952

Regulations

Week ending 19.....

I. State shifts worked in establishment:—

Shift (a) m. to m. Shift (b) m. to m. Shift (c) m. to m.

(If only one shift per day is worked, state the ordinary hours of commencing and ceasing work, viz. a.m. to p.m.)

II. Particulars in respect of persons employed:—

1	2	3	4	5	6	7	8	9	10	11	12	13	14	15	16	17	18
Identity number of employee (if any).	Name in full.	Occupation.	Specify age if under 21, otherwise state adult.	Sex.	Ordinary time worked (in hours or fractions thereof). State (a), (b) or (c) after the number of hours on each day according to the shifts worked vide paragraph I. (Insert day of week).	Total of ordinary time for week, i.e. excluding overtime.	State whether on time work or piece work.	If time worker state ordinary rate or wages per hour, per day, per week or per month.	If piece worker state legal minimum amount payable per week.	Amount due for ordinary time worked.	Overtime worked (in hours or fractions thereof). (Insert day of week).	Total of overtime for week (Hours).	Amount due for overtime worked.	Authorised deductions.	Total amount paid for ordinary time and. overtime.	Receipt of payee.	REMARKS (a) If short-time worked specify reason as either "absence of employee" or "shorttime required by employer". (b) If not working shift (a), (b) or (c), state hours in each case. (c) If in receipt of other benefits, e.g. lodging or food, state nature and value thereof.

