

-
- (i) a salary of sixty-seven thousand dollars per annum;
 - (ii) a responsibility allowance of six thousand dollars per annum; and
 - (iii) a scarcity allowance of fifteen thousand dollars per annum.

SI 31/1997

**INDUSTRIAL RELATIONS (TRIBUNAL
PROCEDURE) RULES, 1997**

(SECTION 66)

[Commencement 5th March, 1997]

Citation.

1. These Rules may be cited as the Industrial Relations (Tribunal Procedure) Rules, 1997.

Interpretation.

2. In these Rules —

“applicant” means a person by whom, or on behalf of whom, a trade dispute within an essential service or a non-essential service has been reported under section 71 of the Act;

“Chairman” means the person presiding at a hearing;

“Full Tribunal” has the meaning assigned to that expression by section 54(1) of the Act;

“hearing” means a sitting of a tribunal duly constituted for the purpose of receiving evidence, hearing addresses and witnesses or doing anything lawfully requisite to enable the tribunal to reach a decision on any question;

“party” means the applicant or the respondent;

“President” means the member appointed, under section 54(3)(a) of the Act, as President of the Industrial Tribunal;

“Register” means the Register kept by the Secretary pursuant to rule 11 (3);

“respondent” means a person against whom relief is sought by or on behalf of an applicant;

“Secretary” means the person appointed, under paragraph 19 of the Fourth Schedule to the Act, as the Secretary of the Tribunal;

Ch. 99.

“sexual offence” means any offence under sections 6 to 14 or section 16 of the Sexual Offences and Domestic Violence Act, 1991;

“tribunal” means the Industrial Tribunal and includes a Full Tribunal;

“Vice-President” means a member appointed, under section 54(3)(b) of the Act, as Vice-President of the Industrial Tribunal.

Originating application.

Form A. Schedule

3. (1) Where the Minister has referred a dispute to the Industrial Tribunal pursuant to section 76 of the Act, the applicant shall, within fourteen days of receiving notice of the referral, present to the Secretary an originating application in Form A in the Schedule, which shall be signed by the applicant.

(2) The originating application shall contain —

- (a) the name and address of the applicant;
- (b) the name and address of the respondent;
- (c) the relief sought; and
- (d) the grounds; with particulars thereof, on which the relief is sought.

(3) Where the President is of the opinion that any of the matters specified under paragraph (2) are not sufficiently particularised in the originating application,

he may give notice in Form B in the Schedule to that effect to the applicant, stating the reasons for his opinion and requiring the applicant within fourteen days of receipt of the notice, to furnish in writing to the Secretary sufficient particulars in support of the originating application.

Form B
Schedule

(4) If the requirement under paragraph (3) is not complied with, a tribunal may strike out the whole or part of the originating application; but, a tribunal shall not so strike out unless it has sent notice to the applicant giving him an opportunity to show cause why the tribunal should not do so.

4. Upon receiving an originating application, the Secretary shall send to the respondent —

Action upon
receipt of
originating
application.

- (a) a copy of the application;
- (b) a copy of any additional particulars required to be furnished by the applicant; and
- (c) a notice in Form C in the Schedule which includes information, as appropriate to the case, about the means and time for entering an appearance and defence, the consequences of failure to do so, and the right to receive a copy of the decision.

Form C
Schedule.

5. (1) A respondent shall, within seven days of receiving the copy of the originating application, enter an appearance to the proceedings by presenting to the Secretary a written notice of appearance in Form D in the Schedule —

Appearance by
respondent.

- (a) setting out his full name and address; and
- (b) stating whether or not he intends to resist the application.

Form D.
Schedule.

(2) Upon receipt of a notice of appearance the Secretary shall send a copy of it to the applicant.

(3) A respondent who has not entered an appearance shall not be entitled to take any part in the proceedings except —

- (a) to apply under rule 14 for an extension of the time appointed by this rule for entering an appearance;
- (b) to make an application under rule 7(1)(a); or
- (c) to be called as a witness.

Defence

6. A respondent who intends to resist the application, shall within fourteen days of entering an appearance to the proceeding, present to the Secretary in writing a defence in Form E in the Schedule setting out sufficient particulars to show on what grounds he intends to resist the application.

Form E
Schedule

Power to require
further
particulars, etc
Form F
Schedule

7. (1) A tribunal may, on the application of a party made either by notice in Form F in the Schedule to the Secretary or at the hearing of the originating application, or of its own motion —

- (a) require a party to furnish in writing to the person specified by the tribunal further particulars of the grounds on which that party relies and of any facts and contentions relevant thereto; or
- (b) require one party to grant to another such discovery or inspection (including the taking of copies) of documents as might be granted by the Supreme Court,

and may appoint the time at or within which and the place at which any act required in pursuance of this rule is to be done.

Form G
Schedule

(2) A tribunal may, on the application of a party made either by notice in Form G in the Schedule to the Secretary or at the hearing of the originating application, or of its own motion —

- (a) require the attendance of any person, including a party, as a witness; and
- (b) if it does so require the attendance of a person, require him to produce any document relating to the matter to be determined,

and may appoint the time and place at which the person is to attend and, where appropriate, the time at or within which and the place at which any such document is to be produced.

Form H
Schedule

(3) A tribunal may, on the application of a party made by notice in Form H in the Schedule to the Secretary or of its own motion, require a party in writing to furnish to the tribunal a written answer to any question if it considers —

- (a) that the answer of the party to that question may help to clarify any issue likely to arise for determination in the proceedings; and

- (b) that it would be likely to assist the progress of the proceedings for that answer to be available to the tribunal before the hearing,

and may appoint the time within which the written answer is to be furnished.

(4) Upon the imposition of a requirement under paragraph (3), the Secretary shall send a copy of the requirement and a copy of the answer to each other party.

(5) The tribunal shall take account of a written answer furnished pursuant to paragraph (3) in the same way as it takes account of representations in writing presented by a party pursuant to rule 10(4).

(6) Where a requirement has been imposed under paragraph (1), (2) or (3) —

- (a) on a party in his absence; or
 (b) on a person other than a party,

that party or person may make an application to the tribunal to vary or set aside the requirement by notice in Form I in the Schedule to the Secretary given before the time at which or, as the case may be, the expiration of the time within which the requirement is to be complied with; and the Secretary shall give notice of the application to each party or, where applicable, to each party other than the party making the application.

Form I
Schedule

(7) If a requirement under paragraph (1) or (3) is not complied with, a tribunal, before or at the hearing, may strike out the whole or part of the originating application, or, as the case may be, of the notice of appearance, and, where appropriate, direct that a respondent shall be debarred from defending altogether; but a tribunal shall not so strike out or direct unless it has sent notice to the party who has not complied with the requirement giving him an opportunity to show cause why the tribunal should not do so.

8. (1) The Chairman shall fix the date, time and place of the hearing of the originating application and the Secretary shall send to each party a notice of hearing in Form J in the Schedule together with information and guidance as to attendance at the hearing, witnesses and the bringing of documents, representation by another person and the making of written representations.

Time and place
of hearing

Form J
Schedule

(2) The Secretary shall send the notice of hearing to every party not less than fourteen days before the date fixed for the hearing except where the Secretary has agreed a shorter time with the parties.

Entitlement to
bring or contest
the proceedings

9. (1) A tribunal may at any time before the hearing of an originating application, on the application of a party made by notice to the Secretary or of its own motion, determine any issue relating to the entitlement of any party to bring or contest the proceedings to which the originating application relates.

(2) A tribunal shall not determine such an issue unless the Secretary has sent notice to each of the parties giving them an opportunity to submit representations in writing and to advance oral argument before the tribunal.

The hearing

10. (1) Any hearing of an originating application shall be heard by a tribunal composed in accordance with section 54 or section 56 of the Act.

(2) Any hearing of or in connection with an originating application shall take place in public except where the Minister has directed a tribunal to sit in private on grounds of national security.

(3) Notwithstanding paragraph (2), a tribunal may sit in private for the purpose of—

- (a) hearing evidence which in the opinion of the tribunal relates to matters of such a nature that it would be against the interest of national security to allow the evidence to be given in public; or
- (b) hearing evidence from any person which in the opinion of the tribunal is likely to consist of—
 - (i) information which he could not disclose without contravening a prohibition imposed by or under any written law; or
 - (ii) any information which has been communicated to him in confidence, or which he has otherwise obtained in consequence of the confidence reposed in him by another person.

(4) If a party wishes to submit representations in writing for consideration by a tribunal at the hearing of the originating application he shall present his representations to the Secretary not less than seven days before the hearing and shall at the same time send a copy to each other party.

11. (1) The decision of a tribunal, which may be given orally at the end of a hearing or reserved, shall be recorded in a document signed by the Chairman.

Decision of
tribunal

(2) The tribunal shall give reasons for its decision in a document signed by the Chairman and where the tribunal makes an award of compensation, the document shall also contain a statement of the amount of compensation awarded, followed either by a table showing how the amount or sum has been calculated or by a description of the manner in which it has been calculated.

(3) The Secretary shall keep a Register at the office of the Industrial Tribunal and the Register shall be open to the inspection of any person without charge at all reasonable hours.

(4) The Secretary shall enter the documents referred to in paragraphs (1) and (2) in the Register and shall send a copy of the entry to each of the parties and to the Minister.

(5) The document referred to in paragraph (2) shall be omitted from the Register in any case in which —

- (a) the Minister has directed the tribunal, to sit in private on grounds of national security; or
- (b) evidence has been heard in private and the tribunal so directs.

(6) In any case appearing to involve allegations of a sexual offence, the document referred to in paragraph (2) shall be entered on the Register with such deletions or amendments as have been made in accordance with rule 12(5).

(7) Clerical mistakes in the documents referred to in paragraphs (1) and (2), or errors arising in those documents from an accidental slip or omission, may at any time be corrected by the Chairman by certificate under his hand.

(8) If a document is corrected by certificate under paragraph (7), the Secretary shall alter any entry in the Register which is affected to conform with the certificate and send a copy of any entry so altered to each of the parties and to the Minister.

(9) Where a document omitted from the Register pursuant to paragraph (5) is corrected by certificate under paragraph (7), the Secretary shall send a copy of the corrected document to each of the parties and to the Minister.

(10) Where this rule requires a document to be signed by the Chairman but by reason of death or incapacity the Chairman is unable to sign it, the document shall be signed by another member or the other members of the tribunal, who shall certify that the Chairman is unable to sign.

Miscellaneous
powers

12. (1) A tribunal may —

- (a) if the applicant at any time gives notice of the withdrawal of his originating application in Form K in the Schedule, dismiss the proceedings;
- (b) if both or all the parties agree in writing upon the terms of a decision to be made by the tribunal, decide accordingly;
- (c) consider representations in writing which have been submitted by a party to the Secretary (pursuant to rule 10(4)) less than seven days before the hearing;
- (d) subject to paragraph (2), at any stage of the proceedings, order to be struck out or amended any notice of appearance or defence, on the grounds that it is scandalous, frivolous or vexatious;
- (e) subject to paragraph (2), at any stage of the proceedings, order to be struck out any originating application, notice of appearance or defence, on the grounds that the manner in which the proceedings have been conducted by or on behalf of the applicant or, as the case may be, the respondent has been scandalous, frivolous or vexatious; and
- (f) subject to paragraph (2), on the application of the respondent, or of its own motion, order an originating application to be struck out for want of prosecution.

Form K
Schedule

(2) Before making an order under subparagraph (d), (e) or (f) of paragraph (1) the tribunal shall send notice to the party against whom it is proposed that the order should be made giving him an opportunity to show cause why the order should not be made; but this paragraph shall not be taken to require the tribunal to send such notice to that party if the party has been given an opportunity to show cause orally why the order should not be made.

(3) Where a notice required by paragraph (2) is sent in relation to an order to strike out an originating application for want of prosecution, service of the notice shall be treated as having been effected if it has been sent by post or delivered in accordance with rule 18(3) and the tribunal may strike out the originating application (notwithstanding that there has been no direction for substituted service in accordance with rule 18(6)) if the party does not avail himself of the opportunity given by the notice.

(4) A tribunal may, before determining an application under rule 7 or rule 16, require the party making the application to give notice of it to every other party; and such notice shall give particulars of the application and indicate the address to which and the time within which any objection to the application shall be made, being an address and time specified for the purposes of the application by the tribunal.

(5) In any case appearing to involve allegations of the commission of a sexual offence, the Secretary shall omit or delete from the Register any decision, document or record of the proceedings and any identifying matter which is likely to lead members of the public to identify any person affected by or making such an allegation.

(6) The Chairman may postpone the day or time fixed for, or adjourn, any hearing and vary any such postponement or adjournment.

(7) Any function of the Secretary may be performed by a person acting with the authority of the Secretary.

13. (1) In any case which involves allegations of sexual misconduct the tribunal may at any time before promulgation of its decision in respect of an originating application, either on the application of a party made by notice to the Secretary or of its own motion, make a restricted reporting order.

Restricted
reporting orders

(2) The tribunal shall not make a restricted reporting order unless it has given each party an opportunity to advance oral argument at a hearing, if they so wish.

(3) Where a tribunal makes a restricted reporting order —

(a) it shall specify in the order the persons who may not be identified;

- (b) the order shall remain in force until the promulgation of the decision of the tribunal on the originating application to which it relates unless revoked earlier; and
- (c) the Secretary shall ensure that a notice of that fact is displayed on the notice board of the tribunal with any list of the proceedings taking place before the tribunal, and on the door of the room in which the proceedings affected by the order are taking place.

(4) A tribunal may revoke a restricted reporting order at any time if it thinks fit.

(5) For the purposes of this rule “promulgation” occurs on the date recorded as being the date on which the document recording the determination of the originating application was sent to the parties.

Extension of
time.

14. (1) The Chairman may on the application of a party or of his own motion extend the time for doing any act appointed by or under these rules (including this rule) and may do so whether or not the time so appointed has expired.

Form L
Schedule.

(2) An application under paragraph (1) shall be made by presenting to the Secretary a notice of application in Form L in the Schedule which shall state the title of the proceedings and shall set out the grounds of the application.

(3) The Secretary shall give notice to each of the parties of any extension of time granted under this rule.

Directions.

15. (1) A tribunal may at any time, on the application of a party or of its own motion, give directions on any matter arising in connection with the proceedings.

(2) An application under paragraph (1) shall be made by presenting to the Secretary a notice of application, which shall state the title of the proceedings and set out the grounds of the application.

Joinder and
representative
respondents.
Form M.
Schedule.

16. (1) A tribunal may at any time, on the application of any person made by notice to the Secretary in Form M in the Schedule or of its own motion, direct any person against whom any relief is sought to be joined as a party, and give such consequential directions as it considers necessary.

(2) A tribunal may likewise, on such application or of its own motion, order that any respondent named in the originating application or subsequently added, who appears to the tribunal not to have been, or to have ceased to be, directly interested in the subject of the originating application, be dismissed from the proceedings.

(3) Where a number of persons have the same interest in an originating application, one or more of them may be cited as the person or persons against whom relief is sought, or may be authorised by the tribunal, before or at the hearing, to defend on behalf of all the persons so interested.

17. (1) Where, in relation to two or more originating applications pending before a tribunal, it appears to the tribunal, on the application of a party made by notice to the Secretary in Form N in the Schedule or of its own motion, that —

Combined
proceedings

Form N
Schedule

- (a) a common question of law or fact arises in some or all the originating applications;
- (b) the relief claimed in some or all of those originating applications is in respect of or arises out of the same set of facts; or
- (c) for any other reason it is desirable to make an order under this rule,

the tribunal may order that some (as specified in the order) or all of the originating applications shall be considered together, and may give such consequential directions as may be necessary.

(2) The tribunal shall only make an order under this rule if —

- (a) each of the parties concerned has been given an opportunity at a hearing to show cause why such an order should not be made; or
- (b) it has sent notice to all the parties concerned giving them an opportunity to show such cause.

(3) The tribunal may, on the application of a party made by notice to the Secretary in Form O in the Schedule or of its own motion, vary or set aside an order made under this rule but shall not do so unless it has given each party an opportunity to make either oral or written representations before the order is varied or set aside.

Form O
Schedule

Notices, etc

18. (1) Any notice given under these rules shall be in writing.

(2) All notices and documents required by these rules to be presented to the Secretary may be presented at the office of the Industrial Tribunal or such other office as may be notified by the Secretary to the parties.

(3) All notices and documents required or authorised by these rules to be sent or given to any person hereinafter mentioned may be sent by post (subject to paragraph (5)) or delivered to or at —

(a) in the case of a notice or document directed to a party —

(i) the address specified in his originating application or notice of appearance to which notices and documents are to be sent, or in a notice under paragraph (4), or

(ii) if no such address has been specified, or if a notice sent to such an address has been returned, to any other known address or place of business in The Bahamas or, if the party is a corporate body, the body's registered or principal office in The Bahamas, or, in any case, such address or place outside The Bahamas as the Chairman may allow; or

(b) in the case of a notice or document directed to any person (other than a party to the proceedings), his address or place of business in The Bahamas or, if the person is a corporate body, the body's registered or principal office in The Bahamas,

and a notice or document sent or given to the authorised representative of a party shall be deemed to have been sent or given to that party.

(4) A party may at any time by notice to the Secretary in Form P in the Schedule and to the other party or parties change the address to which notices and documents are to be sent to him.

(5) The registered postal service shall be used instead of the ordinary post —

(a) when a second set of notices or documents is sent to a respondent who has not entered an appearance under rule 5(1); and

Form P
Schedule

4. (a) Name of respondent(s) *(in block capitals) (i.e. the employer, person or body against whom a decision is sought)*

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

Address(es)

.....

Telephone No.

(b) Respondent's relationship to you for the purpose of the application *(e.g. employer, trade union, employment agency, employer recognising the union making application, etc.)*.....

.....

5. Place of employment to which this application relates, or place where act complained about took place

.....

.....

6. My occupation or position held/applied for, or other relationship to the respondent named above is *(e.g. user of a service supplied in relation to employment)*

.....

.....

7. Dates employment began

8. Basic wages/salary

9. Other remuneration or benefits

10. Normal basic weekly hours of work

11. Please explain the grounds for your application below. It will be helpful to the Tribunal if you can give details of the reasons for the application; you will be able to amplify them at the hearing.

12. If you wish to state what in your opinion was the reason for your dismissal, please do so here.

13. If the Tribunal decides that you were wrongly dismissed, please state which of the following you would prefer: reinstatement: to carry on working in your old job as before; re-engagement: to start another job, or a new contract with your old employer; or compensation: to get an award of money. You can change your mind later. The Tribunal will take your preference into account but will not be bound by it.

Dated the day of 19

.....

(signature)

The applicant

FORM D (Rule 5(1))

NOTICE OF APPEARANCE

COMMONWEALTH OF THE BAHAMAS No. of
INDUSTRIAL TRIBUNAL
⁵NASSAU/FREEPORT

In the matter of the Industrial Relations Act

X Y Applicant
v.
A B Respondent

To: The Secretary of the Industrial Tribunal

Office of the Industrial Tribunal

(address)

- 1. I ⁶ do/do not intend to resist the claim made by the applicant(s).
- 2. ⁷ My/Our Name is ⁸ Mr/Mrs/Miss/title (*f company or organisation*)

.....

My address is:

Telephone No:

- 3. If you have arranged to have a representative to act for you, give his name and address below and note that further communications will be sent to him and not to you.

Name of Representative:

Address:

.....

Telephone No:

Dated the day of 19

.....

(signature)

The Respondent(s)

For Official Use

Date of receipt	Initials

⁵ Delete inappropriate items

⁶ Delete inappropriate items

⁷ Delete inappropriate items

⁸ Delete inappropriate items

FORM E (Rule 6)

DEFENCE

COMMONWEALTH OF THE BAHAMAS No. of
INDUSTRIAL TRIBUNAL

⁹NASSAU/FREEPORT

In the matter of the Industrial Relations Act

X	Y	Applicant
v.		
A	B	Respondent

**To: The Secretary of the Industrial Tribunal
Office of the Industrial Tribunal**

(address)

1. I hereby submit a defence to the Tribunal pursuant to Rule 6 of the Industrial Relations (Tribunal Procedure) Rules, 1997 in relation to this matter.
2. ¹⁰ My/Our name is ¹¹ Mr/Mrs/Miss/title (*f company or organisation*)
.....
Address:
.....
Telephone number:
3. If you have arranged to have a representative to act for you, give his name and address below:
Name of Representative:
Address:.....
Telephone No:
4. (a) Was the applicant dismissed?¹² YES/NO
(b) If YES, what was the reason for the dismissal?
.....
.....
(c) Are the dates given by the applicant as to his period of employment correct?¹³ YES/NO
(d) If NO, give dates of commencement and termination
.....
(e) Are details of remuneration stated by the applicant correct?¹⁴ YES/NO

⁹ Delete inappropriate items
¹⁰ Delete inappropriate items
¹¹ Delete inappropriate items
¹² Delete inappropriate items
¹³ Delete inappropriate items
¹⁴ Delete inappropriate items

- (a) to furnish me/us with further and better particulars of the grounds relied upon. The particulars requested are as follows:
-
-
- (b) to provide me/us with a list of documents which are or have been in his possession or power relating to the matters in question in these proceedings;
- (c) to produce for inspection at ...(address)...the following documents: (specify).....and that the²⁰ Applicant/Respondent be at liberty to inspect and peruse the documents so produced and to take copies and extracts therefrom at (specify) expense.
Dated the day of 19

.....
(signature)
The²¹ Applicant/Respondent)

For Official Use

Date of receipt	Initials

FORM G (Rule 7(2))

NOTICE FOR ATTENDANCE AS A WITNESS AND PRODUCTION OF DOCUMENTS AT HEARING
COMMONWEALTH OF THE BAHAMAS No. of
INDUSTRIAL TRIBUNAL
²²NASSAU/FREEPORT

In the matter of the Industrial Relations Act

X Y Applicant
v.
A B Respondent

To: The Secretary of the Industrial Tribunal
Office of the Industrial Tribunal
(address)

²³ I/We, the ²⁴ Applicant/Respondent in this matter hereby apply to the Tribunal, pursuant to Rule 7(2) of the Industrial

²⁰ Delete inappropriate items
²¹ Delete inappropriate items
²² Delete inappropriate items
²³ Delete inappropriate items
²⁴ Delete inappropriate items

Relations (Tribunal Procedure) Rules, 1997, for a direction that (name) of (address)..... attend to give evidence in the above matter at (address) on the day of at o'clock a.m./p.m. and at any adjourned hearing of the proceedings and to produce the following documents: (specify).

Dated the day of 19

.....

(signature)

The²⁵ Applicant/Respondent)

For Official Use

Date of receipt	Initials

FORM H (Rule 7(3))

NOTICE FOR INTERROGATORIES

COMMONWEALTH OF THE BAHAMAS No. of
INDUSTRIAL TRIBUNAL
²⁶NASSAU/FREEPORT

In the matter of the Industrial Relations Act

X Y Applicant
v.
A B Respondent

**To: The Secretary of the Industrial Tribunal
Office of the Industrial Tribunal**

(address)

²⁷ I/We, the ²⁸ Applicant/Respondent in this matter, hereby apply to the Tribunal, pursuant to Rule 7(3) of the Industrial Relations (Tribunal Procedure) Rules, 1997, for an order directing the ²⁹ Applicant/Respondent to furnish. ³⁰ me/us with written answers to the following questions: (Here set out the interrogatories in the form of concise questions, each interrogatory to be set out in a separate paragraph and numbered consecutively.)

Dated the day of 19

.....

(signature)

The³¹ Applicant/Respondent)

²⁵ Delete inappropriate items
²⁶ Delete inappropriate items
²⁷ Delete inappropriate items
²⁸ Delete inappropriate items
²⁹ Delete inappropriate items
³⁰ Delete inappropriate items
³¹ Delete inappropriate items

