



## **GUIDELINES FOR TERROR PREPAREDNESS AT THE WORKPLACE**

### **1. What is the industrial court of Uganda?**

This is a specialized court of judicature which was established under the Constitution of the republic of Uganda, 1995 (as amended) to handle labour and employment matters.

### **2. Where is the industrial court located?**

The official court premises is located at plot 25-27 Martyrs way Ntinda, Kampala. Within its operations, the industrial court is flexible to hold circuits (as often as possible), in the different locations where the high court of Uganda is situated. For instance, the industrial court holds circuits at the high court premises located in Jinja, Fortportal, Masaka, Gulu, Lira among others.

### **3. What is the composition of the industrial court? What is the seating of the court during a hearing session?**

At its seating, the industrial court is composed of

- i) a Chief Judge,
- ii) a Judge, and
- iii) Panelists including an employers' representative, employees/labour union representative and independent member.

Since the amendment in the Labour Disputes (Arbitration & Settlement) (Amendment) Act 2020 the above composition is going to be spilt at its commencement i.e. court seatings shall be separated with each court room consisting of a Judge or Chief Judge and a representative of the employers, employees/labour union and independent member respectively.

### **4. What is the role of Panelists?**

Arising from the International Labour Standards (Conventions, Recommendations & Regulations), labour matters are adjudged taking into account fairness and equity. In light of this, the panelists aid the judges to arrive at a fair and equitable decision concerning a labour matter before it. This does not disregard the application of the principles of the employment law and other rules of procedure, where required.

### **5. What do you mean by representatives of the employers, employees/labour union and independent member and what is their role?**

These representatives are termed industrial court panelists. The names of the employers' representatives are proposed by the Federation of Uganda Employers (FUE) and employees' representatives proposed by National Organisation of Trade Unions (NOTU) and Confederation of Free Trade Unions (COFTU) respectively. FUE and NOTU/COFTU nominate atleast 5 representatives and their names are forwarded to the Ministry of Gender Labour and Social Development (MGLSD) which confirms the proposed names. The Ministry also goes ahead to propose 5 names of the independent members.

It is these representatives that eventually constitute the panel (called panelists) at a particular seating of the industrial court.

## **6. Is the industrial court the same as the high court in Uganda?**

At the revival of the industrial court in 2015, the judges of the industrial court i.e. Justice Ruhinda Asaph Ntengye and Lady Justice Linda Lillian Tumusiime Mugisha filed a petition for the constitutional court to determine whether the industrial court is at the same level/rank as the high court or is a subordinate court as still indicated in the Constitution of the republic of Uganda, 1995 (as amended). In this petition, the judges collectively held that the industrial court is at the same rank/level as the high court of Uganda.

The above decision recognises the industrial court as a specialized court/branch of the high court hence a court of record/judicature. For instance, the high court of Uganda is divided into divisions such as family division, land division, anti-corruption court, civil division, criminal division, industrial court among others. Thus, the industrial court is at the same rank/level as the main stream high court of Uganda

## **7. What process do cases (or labor matters) take before getting to the industrial court?**

All labour and employment matters start from

- a) the various district labour offices across Uganda
- b) Kampala Capital City Authority (KCCA) designated labour officers
- c) Labour officers in the Directorate of Industrial Relations and Productivity at the Ministry of Gender Labour & Social Development (MGLSD).

The matters then reach the industrial court as;

- (i) Applications and preliminary objections: where a party to the suit may apply that court determines a certain matter of law or procedure before hearing/determining the main suit e.g. applications for stay of execution among others;
- (ii) References: when the above labour offices fail to resolve the labour and employment matter before it and thus refer it to the industrial court for its determination or;
- (iii) Appeals: where a decision has been taken by either of the above labour offices but either of the parties is aggrieved/dissatisfied with the outcome hence decides to appeal to the industrial court. Such appeals shall be on points of law but with leave of court on points of fact or;
- (iv) Executions: where a decision has been reached by the labour office or industrial court and the successful party applies to the industrial court for an order to enforce the decision/award/ruling.

But since the industrial court is at the same level/rank as the high court of Uganda, it has inherent and original jurisdiction thus a party may directly commence/start its matter at the industrial court of Uganda.

## **8. What kind of cases does the industrial court handle?**

As already indicated above, the industrial court handles the following matters;

- (i) Arbitrate on labour and employment matters referred to it.
- (ii) Adjudicate upon questions of law and fact.

Such labour and employment matters may be between employees, employee(s) and employer(s), employees' and employers' organisations among others.

These cases may reach the industrial court as applications, references, appeals and executions.

### **9. Who is eligible to represent the employer/company/organization at the industrial court?**

A party can appear by him/herself, be represented by an agent e.g. a labour union or employers' organisation or firm/advocate of the high court of Uganda.

### **10. What key aspects should an employer take into account while interacting/engaging with its representative in the course of its matter before the industrial court?**

It is important that every employer holds a discussion with the representative to ascertain their competence and skill in specifically practicing labour and employment law, previous cases handled among others. The employer together with the representative should sign a contract of engagement clearly specifying the terms of engagement, works to be executed among others. Besides this contract of engagement, an employer may enter into a retainer agreement for the provision of legal services as and when needed by the company/organization.

### **11. What are the employer's rights and or responsibility while it has a case at the industrial court?**

The employer is entitled to receive regular updates concerning the case, from their legal representative. Where need arises, the employer may require the legal representative to provide case analysis/legal opinion concerning the matter to ascertain whether or not there is likelihood of success. The organisation's management should seek to understand each step of the legal process at the industrial court and its implications, if any. The employers' management representative as may be nominated should attend court session(s) whenever informed and required, provide requisite support in preparation of court documents, witness statements among others.

### **12. What law does the industrial court follow when determining cases before it?**

The industrial court follows the following;

- (i) Constitution of the Republic of Uganda, 1995 (as amended)
- (ii) Employment Act 2006 as the principle law and Employment Regulations 2011 where applicable
- (iii) Labour Disputes Arbitration and Settlement Act 2006 and Amendment 2020
- (iv) Labour Unions Act 2006
- (v) Other employment laws and regulations depending on the case for the court's determination
- (vi) The court relies on judgements of superior courts i.e. Court of Appeal and Supreme Court. Similarly in some instances, it relies on its own previous decisions
- (vii) Labour Disputes Arbitration (Industrial Court) Rules 2012
- (viii) Various practice directions as may be issued by the Chief Justice
- (ix) Re-known best employment practices e.g. traced from international labour standards, organisation policy manuals among others.

### **13. What is the step-by-step procedure for hearing of a matter before the industrial court?**

In here, we present the re-known practice/process of handling a matter referred to the industrial court for its determination;

- (i) Court will write to the respondent (in most cases it is the employer) requiring it to submit its written defence, joint scheduling memorandum, witness statements and supporting documents
- (ii) The respondent should ensure that the above documents are in 9 copies, signed by the legal representative and stamped and filed at the industrial court registry. The court remains with 7 copies of all the above documents. The other set of documents should be served to the claimant/ the legal representative
- (iii) In most cases, the court schedules the case for mention to ascertain whether all concerned parties have filed the requisite documents and witnesses statements that pertain to the case
- (iv) Several mention sessions may be held to allow either parties to respond to the requirements of court as may be specified by the judge(s) from time to time. During the mention sessions, parties are usually encouraged to mediate i.e. opt for out of court settlement. Here, court appointed mediators are used or parties are left to choose a mediator of their choice
- (v) Once court is satisfied that all necessary documents have been filed and or mediation has been explored but has failed or yielded partial results, the matter is fixed for hearing
- (vi) At the hearing, the claimant presents its case first through witnesses and necessary support documents. Once the claimant's case is complete, the respondent too presents its case. This may be on the same or different dates depending on the number of witnesses for the claimant or respondent respectively. At this point, the hearing is closed
- (vii) Once hearing is closed, the court gives timelines when written submissions should be made/ filed. The claimant starts by putting in its written submissions followed by the respondent's submissions and thereafter the claimant places/files a rejoinder submission. The copies of submissions are made in 9 copies, signed by the parties' legal representatives and thereafter filed in the court registry
- (viii) Once court has received the parties' submissions, it peruses the same and comes up with its judgement. The court may set a date for judgement at the closure of the hearing or on notice.

In here, we present the process of handling an appeal by the industrial court;

- (i) The appellant would ordinarily file its memorandum of appeal and file it at the court in 9 copies at the court's registry
- (ii) The court's registrar then writes to the labour office or MGLSD to provide the entire file concerning the case
- (iii) When the file has been provided to the industrial court, the appeal is then scheduled for mention and the parties' legal representatives are informed in writing
- (iv) At the mention session, the court gives directions on how the appeal shall be dealt with and finally disposed off

(v) In most cases, the appeal proceeds by way of written submissions. But where the appellant applied for leave of court to appeal on matters of fact and this is allowed, the case may be re-opened to allow parties submit additional documents and question/produce witnesses

(vi) From the above, processes mentioned in (vi)-(viii) concerning a matter referred to the industrial court are followed.

#### **14. What kind of decisions does the industrial court make in disposing off matters before it?**

The decision that the industrial court takes depends on the nature of case before it for instance;

(i) **Applications:** court will look at the issue of contention and apply the principles of law taking into account the principles of natural justice and equity that is desired in labour and employment matters

(ii) **Appeals:** the court will restrict itself to the grounds of appeal raised by the dissatisfied party. This does not stop the court from granting other reliefs e.g. damages, costs among others at its discretion

(iii) **References:** court will base its decision on the claim made by the complainant/claimant and depending on the nature of the case. Again, the court exercises its discretion in making its judgment/award

(iv) **Executions:** court will determine which mode of implementing the judgement/award is appropriate for the judgement creditor/successful party e.g. attachment, garnishee order among others.

#### **15. If the employer is dissatisfied with the judgement/award of the industrial court, what should be in the next course of action?**

Where a party is aggrieved with the decision of the industrial court, he/she may appeal to the Court of Appeal in accordance with the Constitution of the Republic of Uganda, 1995 (as amended), Judicature Act (cap. 13), Civil Procedure Act (cap.71), Civil Procedure Rules, S.I 71-1, Judicature (Court of Appeal Rules) Directions S.I 13-10 among others.

In here, the legal representative prepares the appropriate paperwork for representation at the Court of Appeal while complying with the above laws/regulations. The employer's rights/responsibilities as indicated above remain applicable.

