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NEW LABOUR COURT RULES COMMENCE TODAY, 17 JULY 2024

The commencement of the New Rules marks a significant overhaul of the Labour Court's procedural framework. The reforms consolidate and modernize procedures, integrate various civil court practices, enhance procedural clarity, and introduce provisions for digital communication, aiming to streamline litigation and improve court efficiency.

Time for a change

In May 2024, the Rules Board of the Labour Court published the much-anticipated new Labour Court and Labour Appeal Court Rules. The New Rules replace both the Old Rules and the Labour Court Practice Manual, and come into force on 17 July 2024.

It has been almost three decades since the promulgation of the previous set of rules on 11 November 1996, a date which coincided with the full commencement of the Labour Relations Act. A change in the legislative framework underpinning practice and procedure in the Labour Court was therefore long overdue.

Significant developments

Before the promulgation of the New Rules, protocol in the Labour Court was regulated by a fragmented system of legislation. Practitioners relied on the Old Rules, the provisions of the Labour Court Practice Manual, and, where necessary, the procedures outlined in the Uniform Rules of Court (URC, which regulates procedures in the High Court). The New Rules are a most welcome development, that consolidates the three historic sources of Labour Court practice guidance into one blueprint.

As a result of this consolidation, the Labour Court has now formally incorporated procedures and terminology traditionally associated with the other civil courts. Many new rules mirror and are identical in substance to their counterparts as found in the URC.

In trial proceedings, the parties will (for the first time in the Labour Court) be referred to as 'plaintiff' and 'defendant', and the defendant will now be required to file a Notice of Intention to Defend before delivering a statement of response to a statement of claim. There is now a mechanism in terms of which litigants that fail to

deliver a pleading within the stipulated time limit may be served with a notice of bar and, failing compliance therewith, shall be ipso facto barred from filing the pleading concerned. Removal of any bar will necessitate a separate application in terms of which the defaulting party will be required to show good cause concerning why the bar should be removed.

The Rules also cover other legal processes and interlocutory applications such as replications and pleas in reconvention, exceptions and applications to strike out, and applications to set aside irregular proceedings. In addition, the New Rules now embrace the concept of *litis contestatio* (the close of pleadings) as a crucial stage in the pre-trial litigation process, from which various time periods are to be calculated.

Significantly, the New Rules now outline a completely new procedure to be followed in the enforcement of restraint of trade clauses. The procedure contemplated in these applications involves the exchange of four sets of affidavits. Noting the time periods outlined for the filing of these affidavits, it is likely that these applications, if opposed, will take over a month to be finalised once launched.

Some other material developments include the adoption of the following detailed procedures and processes:

- A 'special case' procedure, in terms of which parties to a trial may, under oath, agree on a written statement of facts and/or law to be adjudicated by the court.
- The conduct of the media and the recording of proceedings is permitted but strictly regulated.
- Decisions/rulings of the taxing master may now be reviewed in chambers.

Lastly, the New Rules also make headway into modernising the Labour Court's processes and embracing electronic communications. Although they fall short of facilitating a complete digital overhaul, as was the intention behind CaseLines in the High Court and the CCMA's 'e-Referral' platform, the value of technology in litigation has been acknowledged. The use of email for service and filing is permitted (provided there is compliance with other formalities), and provision has now been made for proceedings to be conducted virtually (at the discretion of the presiding judge). In the same breath, it is apparent that the use of fax and registered post for service and filing has been (cue a sigh of relief) scrapped entirely.

A welcome transformation

Although the practical implementation of the new rules and an improvement of the labour court user experience and quality of litigation will depend largely on the development and sophistication of other complementary systems and resources, their introduction signifies a desperately needed rejuvenation of the practical and procedural scaffolding that is foundational to labour court litigation, and their introduction is, overall, commendable. A copy of the New Rules is [available here](#).

- Dawn Norton & Luke Lagesse

