

# STANDARDS TRIBUNAL (PRACTICE AND PROCEDURE) RULES, 2012

## PART I — PRELIMINARY

### Citation

1. These Rules may be cited as the Standards Tribunal (Practice and Procedure) Rules, 2012.

### Interpretation

2. (1) In these rules, unless the context requires otherwise —
  - “Act” means the Standards Act Cap 496 Laws of Kenya;
  - “Appellant” means any person who is aggrieved by a decision of the Bureau, the Council or Kenya Accreditation Service who has filed an appeal to the Tribunal;
  - “Bureau” means the Kenya Bureau of Standards as established under Section 3 of the Act;
  - “Cabinet Secretary” means the Cabinet Secretary for the time being responsible for matters relating to standards;
  - “Chairperson” means the person appointed the Chairman of the Tribunal in accordance with section 16A of the Act;
  - “Council” means the National Standards Council as established under section 6 of the Act;
  - “Director” means the Director of the Kenya Bureau of Standards appointed under section 5 of the Act;
  - “Disputed decisions” means a decision of the Bureau, Council or KENAS against which an appeal is brought under these Rules;
  - “Expert” means a person who has comprehensive knowledge of or skills in matters relating to a specific field of standardization;
  - “Hearing” means a sitting of the Tribunal constituted to—
    - (a) receive evidence;
    - (b) hear submissions from a parties;
    - (c) deliver a decision; or
    - (d) doing anything lawfully required to enable the Tribunal to reach a decision;
  - “KENAS” means Kenya Accreditation Service established under Kenya Accreditation Service Order, 2009 vide Legal Notice No.

55 of 2009;

“KENAS ORDER” means Kenya Accreditation Service Order 2009

“Member” means a member of the Tribunal;

“Party” in relation to an appeal, includes the appellant, the respondent and any person joined to the proceedings;

“Pleading” includes the statement of appeal of the appellant, the statement of response by the respondent, application to join and any other motion or reply thereto;

“Recognized representative” means a person authorized to represent a party in accordance with rule 9;

“Reference” means a reference by the Director to the Tribunal where a matter appears to involve a point of law or to be of unusual importance or complexity;

“Registry” means the place where all pleadings and supporting documents and all orders and decisions of the Tribunal are kept in accordance with these Rules;

“Respondent” refers to the Director, Council, Bureau, KENAS and any party to the proceedings other than the appellant;

“Secretary” means the secretary to the Tribunal;

“Standards” means standards declared under Section 9(1) of the Act

“Standards Levy Order” means an order made by the Minister under the Act; and

“Tribunal” means the Standards Tribunal as established by section 16A of the Act.

(2) Until after the first elections under the Constitution, references in this Act to the expression “Cabinet Secretary” shall be construed to mean “Minister”.

### ***Application***

3. (1) These rules apply to all proceedings brought before the Tribunal under the Act or KENAS Order.
- (2) Nothing contained in these rules must limit or otherwise affect the inherent power of the Tribunal to make such orders as may be necessary for the ends of justice or to prevent abuse of the process of the Tribunal.

## **Objective**

4. (1) The overriding objective of these Rules is to facilitate the just, expeditious, proportionate and affordable resolution of civil disputes governed by the Act.
- (2) The Tribunal shall, in the exercise of its powers under the Act and these Rules or the interpretation of any of the provisions, seek to give effect to the overriding objective specified in subsection (1).
- (3) A party to proceedings under these rules or an advocate for such a party is under a duty to assist the Tribunal to further the overriding objective of the Act and, to that effect, to participate in the processes of the Tribunal and to comply with the directions and orders of the Tribunal.

## **Duty of the Tribunal**

5. For the purpose of furthering the overriding objective specified in section 4, the Tribunal shall handle all matters presented before it for the purpose of attaining the following aims—
  - (a) the just determination of the proceedings;
  - (b) the efficient disposal of the business of the Tribunal;
  - (c) the efficient use of the available judicial and administrative resources;
  - (d) the timely disposal of the proceedings, and all other proceedings in the Tribunal, at a cost affordable by the respective parties; and
  - (e) the use of appropriate technology.

## **Role of Chairperson**

6. (1) The Chairperson shall coordinate the work of the Tribunal and shall in addition be responsible for—
  - (a) assigning the business of the Tribunal to the members;
  - (b) presiding over the sittings of the Tribunal; and
  - (c) exercising all functions given to the Chairperson under the Act and these rules.

(2) The Tribunal may authorize the Chairperson to do any act required or authorized by these rules to be done by the Tribunal, not being an act which is required by to be done by the Tribunal itself.

(3) The Chairperson may assign any roles or duties not required by the Act to be personally performed by the Chairperson to any member or officer of the Tribunal.

### **Role of Secretary**

7. (1) The Secretary is the registrar of the Tribunal.
- (2) In relation to the proceedings before the Tribunal, the Secretary is in particular responsible to the Tribunal for—
- (a) establishment and maintenance of the registry;
  - (b) acceptance, transmission, service and custody of documents in accordance with these Rules;
  - (c) certifying that an order, direction or decision is an order, direction or decision of the Tribunal, the Chairperson or a member of the Tribunal, as the case may be;
  - (d) causing to be kept records of the proceedings and minutes of the meetings of the Tribunal and such other records as the Tribunal may direct;
  - (e) assessment of the costs awarded by the Tribunal; and
  - (f) undertaking any duties assigned by the Tribunal.
- (3) If a party is dissatisfied with the way the Secretary has exercised a function under sub rule (1), the party may within seven days request, in writing, that such exercise of the function be reviewed by the Tribunal.
- (4) The Secretary may with the authorization of the Tribunal consider and dispose of procedural or administrative matters in accordance to these rules.
- (5) The address for service of documents on the Tribunal is the Secretary of the Standards Tribunal.

### **Register**

8. (1) The Tribunal shall cause to be prepared a register with regard to any disputes or appeals before the Tribunal containing the following particulars—
- (a) names of the parties;
  - (b) serial number;
  - (c) date of claim or appeal;
  - (d) relief sought; and
  - (e) final determination or order and the date thereon.
- (2) There must be a separate register for references under Section 16B of the Act with the following particulars—
- (a) name of the parties;
  - (b) serial Number;
  - (c) date of the Reference;
  - (d) nature of the Reference; and
  - (e) opinion of the Tribunal

## **PART II – APPEALS AND REFERENCES TO THE TRIBUNAL**

### ***Recognized Representatives***

9. (1) In any proceedings before the Tribunal, a party may appear in person or be represented by—
- (a) an advocate of their choice; or
  - (b) in the case of a corporate body or a firm, an officer of the corporate body or firm duly authorized in writing by such body or firm.
- (2) Despite sub rule (1), a party may, with the leave of the Tribunal, appoint any other person knowledgeable in the subject matter of the proceedings before the Tribunal to represent them in such proceedings.
- (3) Appointment of an advocate or recognized representative must be in the prescribed Form ST 1 in the Second Schedule.

### ***Language***

10. (1) The language of the Tribunal is English.

- (2) If a party or a witness does not understand English, the Tribunal must provide an interpreter at no cost to the party or witness.

### **Appeals**

11.
  - (1) Appeals to the Tribunal must be filed by presenting a statement of appeal signed by the appellant or their recognized representative in the Form ST. 2.
  - (2) A person who is aggrieved by the decision of the Bureau or the Council may appeal to the Tribunal within fourteen days of notice of the decision.
  - (3) A person who is aggrieved by an order for destruction of goods as provided for in the Act may, within fourteen days of the notice of the order appeal in writing to the Tribunal.
  - (4) A person who is aggrieved by a decision under a Standards Levy Order may appeal, in writing, to the Tribunal within fourteen days of notice of the decision.
  - (5) An Accredited Conformity Assessment Body dissatisfied and aggrieved by a decision of KENAS may within twenty one days from the date of such decision appeal to the Tribunal.
  - (6) Where any decision or order by the Bureau, Council or KENAS is appealed against, the execution of decision or order must not be carried out until the Tribunal has heard and determined the appeal.

### **Statement of Appeal**

12.
  - (1) The statement of appeal must contain the following particulars—
    - (a) names and addresses of the parties;
    - (b) names and addresses of their recognized representatives (if any);
    - (c) copies of any written record of the decision being appealed against;
    - (d) the grounds on which the appellant relies;
    - (e) the relief sought; and
    - (f) a schedule listing all the documents annexed to the

statement of appeal.

- (2) Unless the Tribunal otherwise directs, the statement of appeal must be accompanied by five copies, signed by the appellant or the appellant's recognized representative.
- (3) Upon receipt of a statement of appeal, the Secretary must—
  - (a) acknowledge receipt by stamping it with the date of receipt which date must be the date of filing.
  - (b) enter the particulars of the appeal in a register kept by the Tribunal for the purpose;
  - (c) inform the parties in writing of the case number of the appeal as entered in the register; and
  - (d) advise the parties of the address to which notices and communications to the Tribunal must be sent.
- (4) The appellant may include in their statement of appeal, or in a separate application to the Tribunal—
  - (a) an application for an early hearing of the appeal; and
  - (b) the reasons for that application.
- (5) The appellant must, within fourteen days of filing an appeal, serve the statement of appeal and the supporting documents on the respondent.

**13.**

- (1) The Tribunal may dismiss all or part of an appeal without holding a hearing if it decides that any of the following apply—
  - (a) that the appeal is outside the jurisdiction of the Tribunal; or
  - (b) that the appeal was not filed within the time stipulated in the Act or KENAS Order; or the appeal is frivolous, scandalous, vexatious, trivial or an abuse of the due process of the Tribunal; or
  - (c) the appeal was made in bad faith or for an improper purpose;
  - (d) the appeal does not disclose a reasonable cause of action.
- (2) Where an appeal is dismissed under this rule, the Tribunal must notify the parties in writing giving reasons for the decision.

(3) In exercise of its power under this rule the Tribunal may act either on its own motion or on an application.

**14.** If the appellant does not take any action in the appeal for a period of thirty days, the respondent may—

(a) apply for the appeal to be dismissed for want of prosecution; or

(b) set the appeal down for hearing.

### **Service**

**15.** (1) A document required to be sent to or served on any person under these Rules may be—

(a) delivered personally at the person's address for service;

(b) mailed to the person's address for service by registered post, or courier service;

(c) where authorized by the Tribunal, sent to the person by facsimile or other electronic means; or

(d) served through such other means as may be authorized by the Tribunal.

(2) A document which is sent or served in accordance with these Rules must be deemed to have been received by or served on that person—

(a) in the case of personal delivery, on the date of delivery;

(b) when sent by registered post or courier service, on the seventh day after it was posted or dispatched;

(c) in the case of a facsimile transmitted on a business day before 5 p.m., on that day or, in any other case, on the business day after the day on which it is transmitted;

(d) in the case of electronic mail or similar means, on the second day after the day on which it is transmitted;

(e) where any other method of service is permitted under sub rule (1)(d) above, such time as must be specified by the Tribunal.

(3) Where the Tribunal has to proceed on the basis that there was service, the party must prove to the satisfaction of the Tribunal that there was indeed service.

(4) If a document is served after 5 p.m. on a business day, or at



any time on a Saturday, Sunday or a public holiday, the document must be deemed to have been served on the next business day.

- (5) For the purposes of these Rules, "business day" means any day except Saturday, Sunday or a public holiday between 8am and 5pm.
- (6) The address for service for the purposes of proceedings before the Tribunal must be in the case of any document addressed to—
  - (a) the Secretary of the Standards Tribunal;
  - (b) the appellant or to their recognized representative, the address stated in the statement of appeal or such other address as may be provided to the Tribunal;
  - (c) the respondent, or their recognized representative the address stated in the statement of response, or such other address as may be provided to the Tribunal; and
  - (d) an interested party, the address stated in the application for joinder of party or such other address as may be provided to the Tribunal.
- (7) An item or document required to be sent to or served on a company is deemed as duly sent or served if it is sent to or left at the company's registered address or it is served on a director or the company secretary.
- (8) An item or document required to be sent to or served on a partnership is deemed to be duly sent or served if it is sent to or served on any of the partners.
- (9) For reasons to be recorded, the Tribunal may dispense with service of an item or document if the interests of justice so require.

### **Statement of response**

- 16.** (1) A respondent who wishes to oppose an appeal has fourteen days from the date of service of the statement of appeal to file and serve a statement of response containing the particulars prescribed under these Rules outlined in the Form ST. 3.
- (2) Where no statement of response is received from the respondent, the Tribunal may proceed to hear the appeal or

issue such directions as it may deem appropriate in the circumstances.

- (3) The statement of response must be signed and dated by the respondent, or the respondent's recognized representative and must contain—
  - (a) names and addresses of the parties;
  - (b) names and addresses of their recognized representatives (if any);
  - (c) the grounds of opposition, if any;
  - (d) a summary of the arguments of fact and law upon which the respondent intends to rely on; and
  - (e) a schedule listing all the documents annexed to the statement of response.
- (4) There must be annexed to the statement of response copies of the following documents—
  - (a) the documents the respondent wishes to rely on during hearing;
  - (b) any relevant statements;
  - (c) a case summary;
  - (d) an affidavit by the respondent verifying the facts contained in the statement of response and the authenticity of documents filed therewith; and
  - (e) minutes of meetings or proceedings, if any, which arrived at the decision being appealed against?
- (5) The Tribunal shall have the power to call for the record comprising any document in respect of which a decision appealed against was made.
- (6) The respondent or recognized representative must file six copies of signed statements of response.
- (7) Despite rule 6, the respondent must provide sufficient copies to be served on every party.

***Reference of a matter by the Director***

17. The following procedure must apply where a matter is referred to

the Tribunal for directions under section 16D of the Act—

- (1) The Director must provide the Tribunal with copies of all the relevant documentation relating to the matter and such other material as the Tribunal may require in order to determine the matter.
- (2) The Director must specify whether the matter appears to involve a point of law or is of unusual importance or complexity while referring to the Tribunal.
- (3) The Director must serve any party interested in the matter with a copy of the documents referred to the Tribunal under sub rule (1) within fourteen days of referring the matter to the Tribunal.
- (4) An interested party must file a response within thirty days of notice of the reference from the Director.
- (5) The Tribunal, after satisfying itself that all the necessary procedures have been followed shall set the matter for directions on the manner to proceed with the reference.
- (6) The Tribunal must thereafter determine the matter and give the necessary directions to the Director.
- (7) The Tribunal must inform any party, who had responded in accordance with this rule of its directions made to the Director.
- (8) A party dissatisfied with the decision of the Tribunal under this rule may appeal to the High Court.
- (9) Such a party may appeal to the High Court against the direction given by the Tribunal within fourteen days.

### **PART III—DIRECTIONS AND PRELIMINARY OBJECTIONS**

#### ***Directions***

- 18.** (1) Within seven days of service of the statement of response the appellant must with notice to the respondent set the matter before the Tribunal to take directions on the manner of hearing.
- (2) On the date taken under sub rule (1) the Tribunal may give

directions—

- (a) on the manner in which the proceedings are to be conducted, including any time limits to be observed in the conduct of the oral hearing;
- (b) that the parties file a response, reply, rejoinder or other additional pleadings or particulars;
- (c) for the preparation and exchange of skeleton arguments;
- (d) requiring persons to attend and give evidence or to produce documents;
- (e) on the evidence which may be required or admitted in proceedings before the Tribunal and the extent to which it must be oral or written;
- (f) on the submission in advance of the hearing of any witness statements or expert reports;
- (g) on the examination or cross-examination of witnesses;
- (h) on the fixing of time limits with respect to any aspect of the proceedings;
- (i) on the reduction or extension of any time limits;
- (j) to enable a decision to be referred back in whole or in part to the person by whom it was made;
- (k) for the disclosure between, or the production by, the parties of documents or classes of documents;
- (l) for the appointment and instruction of experts, whether by the Tribunal or by the parties and the manner in which expert evidence is to be given;
- (m) for the award of costs or expenses, including any allowances payable to persons in connection with their attendance before the Tribunal; and
- (n) for hearing a person who is not a party where, in any proceedings, it is proposed to make an order or give a direction in relation to that person;
- (o) as to the place of hearing of the appeal.

(3) The Tribunal may, in particular, of its own motion—

- (a) put questions to the parties;
- (b) invite the parties to make written or oral submissions on certain aspects of the proceedings;
- (c) ask the parties or third parties for information or

particulars;

(d) ask for documents or any papers relating to the case to be produced; or

(e) summon the parties or their recognized representatives to appear before the Tribunal.

(4) If an appellant does not comply with sub rule (1), the respondent may—

(a) apply for the appeal to be dismissed for want of prosecution; or

(b) set the appeal down for hearing.

(5) The Tribunal may at any time of its own motion give such directions as it thinks fit to secure the just and expeditious conduct of proceedings.

### ***Defective Pleading***

**19.** If the Tribunal considers that a pleading—

(a) does not comply with the rules;

(b) is materially incomplete; or

(c) is unduly long-winded or lacking in clarity,

the Tribunal may give such directions as may be necessary to ensure that those defects are remedied.

### ***Failure to comply with directions***

20. (1) If a direction given to a party under these Rules is not complied with by the party, the Tribunal may dismiss the whole or any part of the appeal, or, as the case may be, strike out the whole or any part of a respondent's statement of response, and, where appropriate, give such directions as may be necessary in the circumstances.

(2) Despite sub rule (1), the Tribunal must not dismiss an appeal or strike out a statement of response or give such a direction unless it has given notice to the party who has not complied with the direction a notice to show cause why it should not do so.

### ***Varying or setting aside of orders***

21. (1) Where a person to whom an order is addressed has not had an opportunity of objecting to the making of such order, the person may apply to the Tribunal to vary it or set it aside.
- (2) Despite sub rule (1), the Tribunal must not vary or set aside the order without—
- (a) notifying the person in writing who had applied for the order; and
  - (b) taking into account any representations made by both parties.
  - (c) an application under this rule must be made in Form number ST 4

#### **PART IV — JOINDER AND CONSOLIDATION**

##### ***Joinder of parties***

22. (1) Where it appears to the Tribunal, on the application of a party or on its own motion, that it is necessary that a person be made a party to the proceedings, the Tribunal may order such person to be enjoined as a party and may give directions including directions on the delivery and service of documents.
- (2) A person who considers that they have sufficient interest in the outcome of an appeal may apply to the Tribunal for leave to be enjoined in the proceedings.
- (3) An application for leave to be enjoined shall be in Form ST 5 and shall state—
- (a) the title of the proceedings to which that application relates;
  - (b) the name and address for service of the person wishing to join or intervene;
  - (c) grounds for seeking to intervene;
  - (d) a copy of every document on which the person relies; and
  - (e) the relief sought.
- (4) The applicant shall, within seven days from the date of filing,

serve a copy of the application on every party to the proceedings.

- (5) Every party served under sub rule (4) may, within fourteen days of service, file a response in Form ST 6.
- (6) Where the Tribunal is satisfied, that the proposed joinder has sufficient interest in the matter before it, it may permit the joinder on such terms and conditions as it deems fit.
- (7) The procedure for filing and service under rule 15 shall apply with necessary modifications to an application and response under this rule.

### **Consolidation**

- 23.** (1) Where two or more proceedings are pending in respect of the same subject of appeal, or which involve the same or similar issues, the Tribunal may, on the request of a party or of its own motion, order that the proceedings or any particular issue or matter raised in the proceedings be consolidated and heard together,
- (2) Before making an order under this rule, the Tribunal must invite the parties to the proceedings to make submissions as appropriate.

## **PART V — HEARING PROCEDURE**

### **Scheduling**

- 24.** (1) The time and place of a hearing in a proceeding shall be determined by the Secretary in consultation with the Chairperson.
- (2) The Secretary shall give the parties at least fourteen days notice of a hearing.
- (3) A hearing may be adjourned by the Tribunal on such terms as the Tribunal deems fit.

### **Hearing to be in public**

- 25.** (1) The proceedings of the Tribunal must be open to the public except where the Tribunal, for sufficient cause, otherwise directs, taking into account—

- (a) information the disclosure of which would in the Tribunal's opinion be contrary to the public interest;
  - (b) commercial information the disclosure of which would or might, in the Tribunal's opinion, significantly harm the legitimate business interests of the undertaking to which the information relates;
  - (c) information relating to the private affairs of an individual the disclosure of which would, or might, in the Tribunal's opinion, significantly harm their interests.
- (2) The hearing of any application for an interim order may be held in Chambers.

### ***Procedure at hearing***

- 26.**
- (1) At the beginning of the hearing, the Chairperson must explain the order of proceeding which the Tribunal proposes to adopt.
  - (2) Subject to sub rule 1, the Tribunal must conduct its hearings in such manner as it considers most suitable to the clarification of the issues before it and generally to the just handling of the proceedings.
  - (3) The parties must be heard in such order as the Tribunal must determine, and must be entitled to give evidence, to call witnesses, to question any witnesses and to address the Tribunal on the evidence and the subject matter of the appeal.
  - (4) Evidence before the Tribunal may be given orally or, if the Tribunal so orders, by affidavit or written statement.
  - (5) The Tribunal may at any stage of the proceedings require the personal attendance of any deponent or author of a written statement.
  - (6) At any hearing the Tribunal may, if it is satisfied that it is just to do so, permit a party to rely on grounds not stated in the statement of appeal or, the reply where such grounds were not within the knowledge of the party at the time of filing.
  - (7) The Tribunal may make orders to secure the attendance of any person before the Tribunal, discovery or production of any document concerning a matter before the Tribunal as it



deems necessary.

- (8) The Tribunal must require any witness giving evidence to swear an oath or affirm and for that purpose it may administer an oath or affirmation.
- (9) Unless the Tribunal otherwise directs, no witness must be heard unless the relevant witness statement or expert report has been submitted in advance of the hearing and in accordance with any directions of the Tribunal.

### **Expert Evidence**

- 27.** (1) The Tribunal may seek the opinion or advice of experts on a technical matter before it from persons who have been appointed in accordance with the Standards Act.
- (2) The expert referred to in sub rule (1) may be cross-examined by any of the parties and must—
  - (a) disclose any interest in the matter before the Tribunal or any subsequent interest acquired relating to the matter in question; and
  - (b) must be paid such remuneration as the Minister may determine.

### **Contempt of Tribunal**

- 28.** (1) A person who—
  - (a) fails to attend the Tribunal after having been required to do so under Rule 27;
  - (b) refuses to take an oath or affirmation before the Tribunal;
  - (c) fails to produce any article or document when lawfully required to do so by the Tribunal;
  - (d) knowingly gives false evidence or information which the person knows to be misleading before the Tribunal;
  - (e) at any sitting of the Tribunal willfully insults any member or officer of the Tribunal or willfully interrupts the proceedings;
  - (f) fails or neglects to comply with a decision, order, direction

or notice confirmed by the Tribunal.

may be held to be in contempt of the Tribunal and it may make any just and necessary orders to uphold its integrity.

- (2) The Tribunal may exclude from the hearing or any part of it; any person who is in contempt under sub rule (1) until the contempt is purged.

## **PART V - DECISIONS**

- 29.** (1) Unless a unanimous decision is reached, a decision on any matter before the Tribunal shall be by a majority of votes of the members present and in case of an equality of votes, the Chairperson or the person presiding shall have a casting vote.
- (2) The decision of the Tribunal shall be delivered in public on a date fixed for that purpose the decision must—
  - (a) be reduced to writing;
  - (b) contain a summarized statement of the reasons for the decision; and
  - (c) be signed and dated by the chairperson and every member who heard the matter.
- (3) Decisions of the Tribunal must be enforceable upon filing of the decision in a Subordinate Court registry and they may be executed as a decision of that Court.

### **Review**

#### **Application for Review**

- 30.** (1) If a person is aggrieved by a decision of the Tribunal from which an appeal is allowed but has not been preferred, the person may apply for a review of judgement to the Tribunal without unreasonable delay in any of the following circumstances—
  - (a) after the exercise of due diligence, new and important matter or evidence has been discovered, which was not within their knowledge or could not be produced by the person at the time when the decision was made; or
  - (b) mistake or error apparent on the face of the record; or

(c) any other sufficient reason.

(2) A party who is not appealing the decision of the Tribunal may apply for a review of judgment despite the pendency of an appeal by some other party except where the ground of such appeal is common to the applicant and the appellant, or when, being respondent, they can present to the High Court the case on which they applied for the review.

(1) (3) An application for review of a decision of the Tribunal upon some ground other than discovery of such new and important matter or evidence as is referred to in sub rule 1, or the existence of a clerical or arithmetic mistake or error apparent on the face of the decision, shall be made in Form ST 4.

(2) (4) Where it appears to the court that there is not sufficient ground for a review, it shall dismiss the application.

(5) Where the Tribunal is of the opinion that the application for review should be granted, it shall grant the same:

(6) Despite sub rule (5) no such application shall be granted on the ground of discovery of new matter or evidence which the applicant alleges was not within his knowledge, or could not be adduced by him when the decision was passed or made without strict proof of such allegation.

(7) The applicant must within fourteen days of filing the application serve the application for review and the supporting documents on all the parties.

(8) A party served has fourteen days from the date of service of the application under sub rule (3) to file and serve a statement of response.

(9) The statement of response under sub rule (8) must be in form ST 7.

(10) When the application for review is granted, the Tribunal shall make such order in regard to the review as it thinks fit.

(11) No application to review a decision made on an application for a review of a decision passed or made on a

review shall be entertained.

### **Decision on review**

- 31.** (1) The decision of the Tribunal under rule 30 may be made in the absence of the parties unless special circumstances render a hearing desirable.
- (2) Where the decision is made in the absence of any party, the Secretary must notify the absent party of the decision.

### **Costs**

- 32.** (1) The Tribunal may, at any stage of the proceedings, make any order it may deem fit in relation to the payment of costs by one party to another in respect of the whole or part of the proceedings including an order for security for costs.
- (2) The Tribunal may direct any party against whom an order for costs is made to pay such costs to any other party in a lump sum or such proportion of the costs as may be just.
- (3) Where the Tribunal makes an order for costs under this rule, the Tribunal may—
- (a) assess the costs at the time of making the order; or
  - (b) direct that the costs be assessed on conclusion of the matter.
- (4) Any costs required by an order under this rule to be assessed must be assessed by the Secretary.
- (5) The Tribunal may direct that witness expenses be paid to any witness or expert.

### **Consent orders**

- 33.** (1) Where the parties agree the terms on which to settle proceedings, either wholly or in part, the parties may request the Tribunal to record a consent order.
- (2) A request for a consent order must be made by sending or delivering to the Secretary —
- (a) a draft consent order; and

(b) a statement signed by all the parties to the proceedings or their recognized representatives requesting that an order be recorded in accordance with the draft consent order.

(3) The Tribunal must, after ensuring that the consent is within the law, adopt the consent order as a decision of the Tribunal.

### **Interim orders**

- 34.** (1) The Tribunal may make an interim order—
- (a) suspending, in whole or part, the effect of any decision which is the subject matter of an appeal or any other proceedings before it; or
  - (b) granting any remedy which the Tribunal would have the power to grant in its final decision.
- (2) Where the Tribunal considers it necessary, the Tribunal may make such orders or give such directions as it considers appropriate to—
- (a) prevent substantial loss or irreparable damage to a particular person or category of persons; or
  - (b) protect the public interest;
- (3) The Tribunal must exercise its power under this rule taking into account all the relevant circumstances, including—
- (a) the urgency of the matter;
  - (b) the effect on the party making the request if the relief sought is not granted; and
  - (c) the effect on any interested party or the Bureau or KENAS if the relief is granted.
- (4) A party must apply for an order or directions under paragraphs (1) and (2) above by filing an application with the Tribunal for interim relief stating the matters set out in paragraph (5);
- (5) The application for interim relief must be in form ST9 and must state —
- (a) the subject matter of the proceedings;

- (b) grounds relied on; and
  - (c) the relief sought.
- 6) The Tribunal may, for the purposes of this rule, join any party to the proceedings.
- (7) Subject to paragraph (6), an order or direction for interim relief may be made against a person who is not a party to the proceedings, provided that such a person must be accorded an opportunity to participate in subsequent proceedings.
- (8) An application for an interim order may be heard in chambers,
- (9) Ex parte interim orders must not be sustained for a period exceeding fourteen days.

### ***Supporting affidavit***

- 35.** Every application or request under these rules must be supported by the affidavit of the applicant.

### **Interlocutory Applications**

- 36.** (1) Interlocutory matters arising in the course of proceedings before the Tribunal may be heard and determined by the Chairperson.
- (2) All interlocutory applications made to the Tribunal must be by notice of motion in the prescribed Form ST. 4 in the second schedule, signed by the applicant, their advocate or a recognized representative and must be supported by an affidavit.
- (3) Any party who wishes to oppose an application must file and serve a replying affidavit or grounds of opposition at least three clear days before the date of the hearing unless the Tribunal otherwise directs.
- (4) Despite sub rule (3) the Tribunal may hear a party who has not filed a replying affidavit or grounds of opposition if the ends of justice so require.
- (5) Upon making an application, the party must within seven days or such other period as the Tribunal may direct, serve a

copy of the application on all the other parties to the proceedings.

- (6) The Tribunal must give directions as to the manner of disposal of the Application.

## **PART VI - MISCELLANEOUS**

### ***Computation of time***

- 37.** (1) Where a period expressed in days, weeks or months is to be calculated from the moment at which an event occurs or an action takes place, the day during which that event occurs or that action takes place must not be counted as falling within the period in question.
- (2) A period expressed in weeks or months must expire at intervals of seven or thirty days as the case may be.
- (3) Where the time prescribed by the Tribunal, the Chairperson, the Secretary or by these Rules, for doing any act expires on an excluded day the act is on time if done on the next day immediately after the excluded day.
- (4) The Tribunal may, on application, for good reason shown, extend the time appointed by these Rules for doing any act or taking any proceedings, and may do so upon such terms and conditions, if any, as appear to it just and expedient.
- (5) The extension of time referred to in sub rule (4) does not include time limited by the Act.

### ***Irregularities***

- 38.** (1) Any irregularity resulting from failure to comply with any provision of these Rules must not render the proceedings void where the irregularity does not occasion a miscarriage of justice.
- (2) Where any irregularity comes to the attention of the Tribunal, it must, if it considers any person may have been prejudiced by the irregularity, give such directions as it deems just, 'to cure or waive the irregularity before reaching its decision.
- (3) Clerical mistakes in any document recording a direction,

order or decision of the Tribunal, or errors arising in such a document from an accidental slip or omission, may be corrected by certificate issued by the Chairperson.

### ***Prescribed forms***

- 39.** (1) The forms prescribed in the Second Schedule must, with such modifications as may be necessary, be used for the purposes of filing appeals, applications, responses or any other documents.
- (2) Despite sub rule (1), an instrument or document which deviates from the prescribed form must not be void by reason of a deviation that does not affect the substance of the instrument or document, unless it is calculated to mislead.

### ***Recording of proceedings***

- 40.** The proceedings before the Tribunal must be recorded in such form or manner as the Tribunal may determine.

### ***Protection from personal liability***

- 41.** The Chairperson, Member or Secretary of the Tribunal, is not liable for anything done in good faith in the performance of their functions.

### ***Practice directions***

- 42.** The Chairperson may issue practice directions in relation to the procedures provided for by these Rules.
- 43.** Nothing in these Rules must limit or otherwise affect the inherent power of the Tribunal to make such orders as may be necessary for the ends of justice or to prevent abuse of the process of the Tribunal.

### ***Oath of Office***

- 44.** (1) A person, who is appointed chairperson, member or Secretary of the Tribunal, must take and subscribe to the oath of allegiance to the office before assuming the duties of that office.



(2) The oath referred to in sub rule (1) is to be administered by the Chief Justice.

### ***Powers of Tribunal***

45. (1) The Tribunal may, at its discretion where both or all the parties to an appeal agree in writing upon the terms on which an appeal or issue should be decided, confirm the agreement reached by such parties and decide accordingly.
- (2) The Tribunal shall enforce its orders and decisions.

### ***Disclosure of interest***

46. Where a member of the Tribunal, has any interest, that could conflict with the proper performance of the member's functions, the member must disclose the interest to the parties to the proceedings and must not participate during any deliberations on the matter by the Tribunal.

### ***Quorum of the Tribunal***

47. Except where otherwise specifically provided for in these rules, for purposes of proceedings before the Tribunal, quorum must be the Chairperson and two members.

### ***Official seal***

48. The Tribunal must have an official seal.

### ***Amendments***

49. These rules may be amended from time to time as the Cabinet Secretary may direct.

### ***Fees***

50. (1) There must be paid to the Tribunal such filing and other fees, including fees for service by the Tribunal of any notice or process, as prescribed in the First Schedule.
- (2) The Tribunal may, if it considers it to be in the interest of justice, and for reasons to be recorded, waive or postpone all or any of the fees payable to the Tribunal.

<b>FIRST SCHEDULE</b>	
<b>FEES</b>	
(a) Upon filing an appeal, where the value of the subject matter	Fees (Kshs.)
i) is unliquidated or does not exceed shs.50,000	2,000
ii) exceeds Kshs.50,000 but does not exceed Kshs.550,000	2,000 and Ksh.100 for each Ksh.5,000 or part thereof in excess of Ksh.50,000
iii) exceeds Ksh.550,000	12,000 and Ksh.100 for each Ksh.5,000 or part thereof in excess of Ksh.50,000 up to a maximum fee of Ksh.100,000
(b) Upon filing a statement of response –	
(i) without a cross appeal	500
(ii) with a cross appeal	A fee calculated in accordance with paragraph 1 of the Schedule
Upon filing any application or request	1,000
Upon filing a notice of preliminary objection	1,000
Withdrawal of appeal	500
(f) Consent order	1,000
(g) Upon filing a reply or response to an application or request	500
(h) For sealing a decree or order	1,000
(i) Upon filing a document where no other fees is prescribed under this Schedule	200
(h) For certifying or attesting a signature or seal on a document	100
(k) For a certified copy of the record of the proceedings of the Tribunal or a document in its archives, per page or part thereof	30

(l) For service of any document by the Tribunal	
i) within 10km of the Tribunal	200
ii) for every kilometers after the first 10km	20

FORM ST 1 r 9

REPUBLIC OF KENYA

IN THE STANDARDS TRIBUNAL AT.....

TRIBUNAL APPEAL NO..... OF 20.....

BETWEEN

..... APPELLANT

AND

..... RESPONDENT

**NOTICE OF APPOINTMENT OF ADVOCATE/RECOGNIZED REPRESENTATIVE**

TAKE NOTICE THAT the appellant/respondent has appointed..... to act for him in this matter.

Address for service.....

.....  
.....

.....  
.....

Dated at ..... this ..... day of .....

.....  
ADVOCATE/RECOGNIZED  
REPRESENTATIVE

DRAWN AND FILED BY:

.....

TO BE SERVED UPON:

.....

.....

FORM ST 2 r 11

REPUBLIC OF KENYA

IN THE STANDARDS TRIBUNAL AT.....

TRIBUNAL APPEAL NO..... OF 20.....

BETWEEN

..... APPELLANT

AND

..... RESPONDENT

**STATEMENT OF APPEAL**

(Being an appeal against the respondent's decision dated .....)

1. Appellant's address for service .....  
.....

2. Name and address of appellant's recognized representative (where applicable)

.....  
.....

3. Respondent's address for service

.....

.....  
.....

4.

.....  
.....

.....  
.....

5. Grounds of appeal and concise arguments in support thereof:

.....  
...

.....  
.....

6. Relief sought:

.....  
.....

.....  
...

.....  
...

.....  
.....

Dated at ..... this ..... Day of  
20.....

*\*attach schedule listing all documents in support of the appeal*

.....

Appellant/Appellant's  
Recognized Representative

Drawn & Filed by:

To Served upon

FORM ST 3 r 16

REPUBLIC OF KENYA

IN THE STANDARDS TRIBUNAL AT.....

TRIBUNAL APPEAL NO..... OF 20.....

BETWEEN

..... APPELLANT

AND

..... RESPONDENT

**STATEMENT OF RESPONSE**

1. Respondent's address for service  
.....
2. Name and address of Respondent's recognized representative (where applicable)

.....  
3. Grounds of opposition.....

4. CROSS APPEAL (where applicable)

Grounds

5. Relief sought:

.....  
Dated at ..... This ..... Day of 20.....

\*Attach list of documents in support of the statement of response

.....  
Respondent/Respondent's  
Recognized Representative

Drawn & Filed by:

To Served upon

REPUBLIC OF KENYA

IN THE STANDARDS TRIBUNAL AT.....

TRIBUNAL APPEAL NO..... OF 20.....

BETWEEN

..... APPELLANT

AND

..... RESPONDENT

**NOTICE OF MOTION**

(under rule.....of the Standard Tribunal rules...)

TAKE NOTICE that.....this Tribunal shall be moved on the .....day of  
.....in the forenoon or soon thereafter by .....for orders that

1.....

2.....

3.....

This application is supported by the affidavit of  
.....and based on the following grounds:

1.....

2.....

3.....

...

Dated at ..... This ..... Day of 20.....



.....

Applicant/Recognized Representative

Drawn & Filed by:

To be served upon

REPUBLIC OF KENYA

IN THE STANDARDS TRIBUNAL AT .....

TRIBUNAL CASE NO..... OF 20.....

BETWEEN

..... APPELLANT

AND

.....  
RESPONDENT

**APPLICATION FOR JOINDER OF PARTIES**

1. Name and address for /proposed interested party  
.....
2. Matters in the appeal affecting proposed interested party  
.....
3. Grounds for seeking to be enjoined  
.....
4. Prayer in the appeal whose position proposed interested party supports:  
.....

Dated at ..... This ..... Day of  
20.....

.....  
Interested Party/Recognized Representative

Drawn & Filed by:

To Served upon:

REPUBLIC OF KENYA

IN THE STANDARDS TRIBUNAL AT .....

TRIBUNAL CASE NO..... OF 20.....

BETWEEN

..... APPELLANT

AND

.....  
RESPONDENT

**RESPONSE ON APPLICATION FOR JOINDER OF PARTIES**

- 5. Name and address for /proposed interested party  
.....
- 6. Matters in the appeal affecting proposed interested party  
.....
- 7. Grounds for seeking to be enjoined  
.....
- 8. Prayer in the appeal whose position proposed interested party supports:  
.....

Dated at ..... This ..... Day of  
20.....

.....  
Interested Party/Recognized Representative

Drawn & Filed by:

To Served upon:

REPUBLIC OF KENYA

IN THE STANDARDS TRIBUNAL AT

TRIBUNAL CASE NO..... OF 20.....

BETWEEN

..... APPELLANT

AND

..... RESPONDENT

**APPLICATION FOR REVIEW**

1. Name and address of party applying for review

.....  
.....

2. Decision sought to be reviewed:

.....

3. Grounds for review:

.....  
.....

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

.....  
Party/Party's Recognized Representative

REPUBLIC OF KENYA  
IN THE STANDARDS TRIBUNAL AT

TRIBUNAL CASE NO..... OF 20.....

BETWEEN

.....  
APPELLANT

AND

.....  
RESPONDENT

**STATEMENT OF RESPONSE ON REVIEW**

1. Name and address of party applying for review  
.....
2. Application of review being supported/opposed:  
.....
3. Grounds for opposing/supporting review:  
.....

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

.....  
Party/Party's Recognized Representative

REPUBLIC OF KENYA

IN THE STANDARDS TRIBUNAL AT .....

TRIBUNAL CASE NO. .... OF 20.....

BETWEEN

.....APPELLANT

AND

..... RESPONDENT

**APPLICATION FOR INTERIM RELIEF**

1. Name and address of party requesting for interim relief:  
.....  
.....

2. Relief sought:  
.....

3. Circumstances, if any, for the request to be treated with urgency:  
.....

4. Grounds for making the request:  
.....  
.....

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

.....  
Applicant/Applicant's  
Recognized Representative

REPUBLIC OF KENYA

IN THE STANDARDS TRIBUNAL AT.....

TRIBUNAL APPEAL NO..... OF 20.....

BETWEEN

..... APPELLANT

AND

..... RESPONDENT

**SUMMONS TO.....**

TO:.....

.....

.....Whereas your attendance is required to  
.....

.....  
..... on behalf of the ..... in the above matter,  
you are hereby required to appear before this Tribunal on the .....  
**day of ..... 20..... at ..... o'clock** in the forenoon, and from  
day to day until your presence is dispensed with by the Tribunal.

**If you fail to comply with this summons, without lawful excuse, you will be  
subjected to the provisions of rule.... of the Standards Tribunal rules as  
to contempt.**

Given under my hand and the seal of the Tribunal

This ..... **day of ..... 20....**

Signed .....

**CHAIRPERSON**

NOTES:

- 1) If you are summoned to produce a document only and not to give evidence, you shall be deemed to have complied with the summons if you cause such document to be produced in this Tribunal on the day and hour aforesaid.
  
- 2) Your attendance costs shall be met by the .....

**Dated the -----of -----2012**

**Henry Kosgey,  
MINISTER FOR INDUSTRIALIZATION**