

**NATIONAL INDUSTRIAL COURT
ACT**

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NATIONAL INDUSTRIAL COURT ACT

An Act to provide for the establishment of the National Industrial Court as a superior court of record; and for related matters.

[2006 No. 37.]

[14th June, 2006]

[Commencement.]

ENACTED by the National Assembly of the Federal Republic of Nigeria.

PART I

The Constitution of the National Industrial Court

1. Establishment of the National Industrial Court

(1) There is established a court to be known as the National Industrial Court (in this Act referred to as "the Court").

(2) The Court shall consist of-

(a) the President of the Court who shall have overall control and supervision of the administration of the Court; and

(b) not less than twelve Judges:

Provided that in appointing Judges for the Court, one-third of the Judges so appointed shall satisfy the requirements of the provisions of subsection (4) (b) of section 2 of this Act.

(3) The Court shall-

(a) be a superior court of record; and

(b) except as may be otherwise provided by any enactment or law, have all the powers of a High Court.

2. Appointment of the President and Judges of the Court

(1) The President of the Court shall be appointed by the President, on the recommendation of the National Judicial Council, subject to confirmation by the Senate.

(2) The appointment of a person to the Office of a Judge of the Court shall be made by the President on the recommendation of the National Judicial Council.

(3) A person shall not be eligible to hold Office of the President of the Court unless the person is qualified to practice as a legal practitioner in Nigeria and has been so qualified for a period of not less than ten years and has considerable knowledge and experience in the law and practice of industrial relations and employment conditions in Nigeria.

(4) A person shall not be eligible to hold the Office of a Judge of the Court unless-

(a) the person is a legal practitioner in Nigeria and has been so qualified for a period of not less than ten years and has considerable knowledge and experience in the law and practice of industrial relations and employment conditions in Nigeria; or

(b) the person is a graduate of a recognised university of not less than ten years' standing and has considerable knowledge and experience in the law and practice of industrial relations and employment conditions in Nigeria.

(5) If the Office of the President of the Court is vacant, or if the person holding the Office is for any reason unable to perform the functions of the Office, then until a person has been appointed to and assumed the functions of that Office or until the person holding the Office has resumed those functions, the President shall appoint the most senior Judge of the Court having the qualification to be appointed as President of the Court as provided under subsection (3) of this section to perform those functions.

(6) Except on the recommendation of the National Judicial Council, an appointment pursuant to the provisions of subsection (5) of this section shall cease to have effect after the expiration of three months from the date of such appointment and the President shall not re-appoint a person whose appointment has lapsed.

(7) Notwithstanding the provisions of subsections (1), (2), (3) and (4) of this section, any person holding the Office of the President or ordinary member of the Court immediately before the commencement of this Act shall be deemed to have been appointed under this Act.

3. Tenure of Office of the President and Judges of the Court

The provisions in the Constitution of the Federal Republic of Nigeria 1999 relating to the tenure, removal, gratuity and pension of any person holding or appointed to act in the Office of the Chief Judge or Judge of the Federal High Court, shall respectively apply to any person holding or appointed to act in the Office of the President of the Court or as a Judge of the Court.

4. Precedence

(1) The President of the Court shall take precedence over the other Judges of the Court, and the other Judges shall take precedence after the President of the Court in order of seniority.

(2) The President of the Court shall rank equal with the Chief Judge of the Federal High Court or the Chief Judge of the High Court of the Federal Capital Territory, Abuja in precedence and the Judges of the Court shall, in like manner, rank with the Judges of the Federal High Court or High Court of the Federal Capital Territory, Abuja.

5. Salaries and allowances of the President and the Judge of the Court

(1) There shall be paid to-

(a) the President of the Court, such salaries, emoluments and allowances as are payable to the Chief Judge of the Federal High Court or of the High Court of the Federal Capital Territory, Abuja; and

(b) a Judge of the Court, such salaries, emoluments and allowances as are payable to a Judge of the Federal High Court or of the High Court of the Federal Capital Territory, Abuja.

(2) Any amounts payable under this section shall be charged and paid out of the Consolidated Revenue Fund of the Federation in accordance with section 81 (3) of the Constitution of the Federal Republic of Nigeria 1999.

6. Seal of the Court

- (1) The Court shall have and may use a seal bearing a device or impression approved by the President of the Court with the inscription, "The National Industrial Court".
- (2) The seal of the Court shall be kept by the President of the Court and a duplicate thereof shall be kept by each of the other Judges and the President of the Court and other Judges may entrust the seal or the duplicate to such officers of the Court as they may think fit.
- (3) The seal shall be a seal of the Court for all purposes for which it may be required under the provisions of any enactment or Rules of Court.

PART II

Jurisdiction and Law

7. Jurisdiction, etc.

- (1) The Court shall have and exercise exclusive jurisdiction In civil causes and matters-
 - (a) relating to-
 - (i) labour, including trade unions and industrial relations; and
 - (ii) environment and conditions of work, health, safety and welfare of labour, and matters incidental thereto; and
 - (b) relating to the grant of any order to restrain any person or body from taking part in any strike, lock-out or any industrial action, or any conduct in contemplation or in furtherance of a strike, lock-out or any industrial action;
 - (c) relating to the determination of any question as to the interpretation of-
 - (i) any collective agreement;
 - (ii) any award made by an arbitral tribunal in respect of a labour dispute or an organisational dispute;
 - (iii) the terms of settlement of any labour dispute or organisational dispute as may be recorded in any memorandum of settlement;
 - (iv) any trade union constitution; and
 - (v) any award or judgment of the Court.
- (2) The National Assembly may by an Act confer such additional jurisdiction on the Court in respect of such other causes or matters incidental, supplementary or related to those set out in subsection (1) of this section.
- (3) Notwithstanding anything to the contrary in this Act or any other enactment or law, the National Assembly may by an Act prescribe that *any matter under subsection (1) (a) of this section* may go through the process of conciliation or arbitration before such matter is heard by the Court.
- (4) An appeal shall lie from the decisions of an arbitral tribunal to the Court as of right in matters of disputes specified in subsection (1) (a) of this section.
- (5) For the purposes of subsection (4) of this section, a party to an arbitral award shall be entitled to obtain a copy of the records of the arbitral proceedings and the award from the arbitral tribunal.
- (6) The Court shall, in exercising its jurisdiction or any of the powers conferred upon it by this Act or any other enactment or law, have due regard to good or international best practice in labour or industrial relations and what amounts to good or international best practice in labour or industrial relations shall be a question of fact.

8. Power of the Court in civil appeals

The Court may, upon hearing an appeal under subsection (4) of section 7 of this Act, draw any inference of fact and-

- (a) confirm, vary or set aside the judgment, award or order of the Court, tribunal or body mentioned therein; or
- (b) order a rehearing and determination on such terms as the Court may think just; or
- (c) order judgment to be entered for any party; or
- (d) make a final or other order on such terms as the Court may think fit to ensure the determination on the merits of the matter in dispute between the parties.

9. Appeals to the Court of Appeal

(1) Subject to the provisions of the Constitution of the Federal Republic of Nigeria 1999 and subsection (2) of this section, no appeal shall lie from the decisions of the Court to the Court of Appeal or any other court except as may be prescribed by this Act or any other Act of the National Assembly.

(2) An appeal from the decision of the Court shall lie only as of right to the Court of Appeal only on questions of fundamental rights as contained in Chapter IV of the Constitution of the Federal Republic of Nigeria 1999.

10. Enforcement of judgment

The Court shall have the power to enforce its judgment and accordingly, may commit for contempt any person or a representative of a trade union or employers' organisation who commits any act or an omission which in the opinion of the Court constitutes a contempt of the Court.

11. Cessation of jurisdiction, etc.

(1) In so far as jurisdiction is conferred upon the Court in respect of the causes or matters mentioned in the foregoing provisions of this Part of this Act, the Federal High Court, the High Court of a State, the High Court of the Federal Capital Territory, Abuja or any other court shall, to the extent that exclusive jurisdiction is so conferred upon the Court, cease to have jurisdiction in relation to such causes and matters.

(2) Nothing in subsection (1) of this section shall affect the jurisdiction and powers of the Federal High Court, the High Court of a State or of the Federal Capital Territory, Abuja to continue to hear and determine causes and matters which are part-heard before the commencement of this Act and any proceedings in any such causes or matters, not determined or concluded at the expiration of one year after the commencement of this Act, shall abate.

12. Practice and procedure

(1) The jurisdiction vested in the Court shall, so far as practice and procedure are concerned, be exercised in the manner provided by this Act or any other enactment or by such rules and orders of court as may be made pursuant to this Act or, in the absence of any such provisions, in substantial conformity with the practice and procedure of the Court existing immediately before the commencement of this Act.

(2) Subject to this Act and any rules made thereunder, the Court-

- (a) may regulate its procedure and proceedings as it thinks fit; and
- (b) shall be bound by the Evidence Act but may depart from it in the interest of justice.

13. Administration of law and equity

Subject to this Act, in every civil cause or matter commenced in the Court, law and equity shall be administered by the Court concurrently.

14. Determination of matter completely and finally

The Court shall, in the exercise of the jurisdiction vested in it by or under this Act in every cause or matter, have power to grant, either absolutely or on such terms and conditions as the Court thinks just, all such remedies whatsoever as any of the parties thereto may appear to be entitled to in respect of any legal or equitable claim properly brought

forward by the Court so that, as far as possible, all matters in dispute between the parties may be completely and finally determined and all multiplicity of legal proceedings concerning any of those matters avoided.

15. Rules of equity to prevail

Subject to the express provisions of any other enactment, and in all matters not particularly mentioned in this Act in which there was formerly or there is any conflict or variance between the rules of equity and the rules of common law with reference to the same matter, the rules of equity shall prevail in the Court so far as the matters to which those rules relate are cognisable by the Court.

16. Injunctions

(1) The Court may grant an injunction in all cases in which it appears to the Court to be just or convenient so to do.

(2) Any such order may be made either unconditionally or on such terms and conditions as the Court thinks just.

17. Orders of *mandamus*, prohibition and *certiorari*

(1) The Court shall have the power to make an order of *mandamus* requiring any act to be done or an order of prohibition prohibiting any proceedings, cause or matter, or an order of *certiorari* removing any proceedings, cause or matter into the Court for any purpose.

(2) The power conferred on the Court by this section to make an order of *mandamus*, prohibition or *certiorari* may be exercised notwithstanding that the order is made against an officer or authority of the Federal, State or Local Government as such.

18. Injunction in lieu of *quo warranto*

In any case where any person acts in an Office in which he is not entitled to act, the Court may grant an injunction restraining him from so acting and may (if the case so requires) declare the Office to be vacant.

19. Power of Court to make certain orders

The Court may in all other cases and where necessary make any appropriate order, including-

- (a) the grant of urgent interim reliefs;
- (b) a declaratory order;
- (c) the appointment of a public trustee for the management of the affairs and finances of a trade union or employers' organisation involved in any organisational dispute;
- (d) an award of compensation or damages in any circumstance contemplated by this Act or any Act of the National Assembly dealing with any matter that the Court has jurisdiction to hear; and
- (e) an order of compliance with any provision of any Act of the National Assembly dealing with any matter that the Court has jurisdiction to hear.

20. Reconciliation in civil cases

In any proceedings in the Court, the Court may promote reconciliation among the parties thereto and encourage and facilitate the amicable settlement thereof.

PART III

Sitting and Distribution of Business

21. Division of Court

(1) The Court shall have and exercise jurisdiction throughout the Federation, and for that purpose the whole area of the Federation shall be divided by the President of the Court into such number of Judicial Divisions, as the President may, from time to time, by instrument published in the Federal *Gazette* decide and may, designate any such judicial Division or part thereof by such name as he thinks fit.

(2) The Court may sit in any Judicial Division as the President of the Court may direct, and he may also direct a number of Judges to sit in any Judicial Division.

(3) The President of the Court shall determine the distribution of the business before the Court amongst the Judges thereof and may assign any judicial function to any Judge or Judges or in respect of a particular cause or matter in a Judicial Division.

(4) Subject to this Act, the Rules of Court made pursuant to section 36 of this Act and the directions of the President of the Court, the Court shall be constituted of not less than three Judges:

Provided that the presiding Judge shall be a Judge appointed under subsection (3) or (4) (a) of section 2 of this Act.

(5) Notwithstanding subsection (4) of this section, the President of the Court may assign a single Judge of the Court to sit and hear interlocutory applications or a preliminary matter in any proceedings brought before or pending in the Court:

Provided that such Judge shall be a Judge appointed under subsection (3) or (4) (a) of section 2 of this Act.

22. Sittings

(1) Subject to the Rules of Court and to any provisions pertaining to vacations as may be prescribed by the President of the Court, the Court shall open throughout the year for the transaction of any pending general legal business.

(2) Provisions shall be made in the Rules of Court for the hearing of all such applications as may be required to be expeditiously or urgently heard.

23. Lack of quorum

Where the Court is unable to form a quorum and no arrangement can be made to ensure that a quorum is formed, the Court shall stand adjourned from day to day until a quorum is formed for the purpose of hearing the case, or until the Court shall be adjourned or closed by order under the hand of the presiding Judge.

24. Power of transfer

(1) A panel of Judges constituted to hear a case may, at any time or at any stage of the proceedings in any cause or matter before final judgment, either with or without application from any of the parties thereto, transfer such cause or matter before the Court to any other panel of Judges.

(2) No cause or matter shall be struck out by the Court merely on the ground that such cause or matter was taken in the Court instead of the Federal High Court or the High Court of a State or of the Federal Capital Territory, Abuja in which it ought to have been brought, and the Court before whom such cause or matter is brought may cause such cause or matter to be transferred to the appropriate Federal High Court or the High Court of a State or of the Federal Capital Territory, Abuja in accordance with Rules of Court to be made under section 36 of this Act.

(3) Notwithstanding anything to the contrary in any enactment or law, no cause or matter shall be struck out by the Federal High Court or the High Court of a State or of the Federal Capital Territory, Abuja on the ground that such cause or matter was not brought in the appropriate Court in which it ought to have been brought, and the Court before whom such cause or matter is brought may cause such cause or matter to be transferred to the appropriate Judicial Division of the Court in accordance with such Rules of Court as may be in force in that High Court or made under any enactment or law empowering the making of Rules of Court generally which enactment or law shall by virtue of this subsection be deemed also to include the power to make Rules of Court for the purposes of this subsection.

(4) Every order of transfer made pursuant to subsections (2) and (3) of this section shall operate as a stay of proceedings before the Court before which such proceedings are brought or instituted and shall not be subject to appeal.

(5) Where the Court to which any cause or matter has been transferred, pursuant to subsection (2) or (3) of this section, is of the opinion that the cause or matter ought in law to be dealt with by the Court which transferred the cause or matter, the first mentioned Court shall, after hearing counsel on behalf of the parties, state a case on a point of law for the opinion of the Court of Appeal.

(6) Where any case on a point of law is stated for the opinion of the Court of Appeal, the Court of Appeal shall in accordance with rules applicable in that Court, give its decision upon the case and the Court which stated the case shall dispose of the cause or matter accordingly.

25. Proceedings to be disposed of by a panel of Judges

Every proceeding in the Court and all business arising therefrom shall, so far as practicable and convenient and subject to the provisions of any enactment or law and the Rules of Court made pursuant to section 36 of this Act, be heard and disposed of by a panel consisting of not less than three Judges as the President of the Court may direct, all proceedings in an action subsequent to the hearing or trial, down to and including the final judgment or order, shall, so far as is practicable and convenient, be taken before the panel of Judges before whom the trial or hearing took place.

26. Power of a panel of Judges in Court and in chambers

A panel of Judges to whom a case is assigned may, subject to Rules of Court, exercise in Court or in chambers all or any part of the jurisdiction vested in the Court in all such causes and matters and in all such proceedings in any cause or matter as may be heard conveniently in Court or in chambers respectively.

27. Discharge of orders made in chambers

Subject to the provisions of the Act and the Rules of Court made pursuant thereto, every order made by a panel of Judges in chambers, except orders as to costs only, may upon notice be set aside or discharged by the panel of Judges sitting in Court.

PART IV

General Provisions as to Trial and Procedure

28. Decision of the Court

(1) Every decision of the Court shall be in writing.

(2) Every decision of the Court shall be taken, in the event of a difference between the Judges dealing with the case by the votes of a majority of the Judges.

(3) For the purpose of delivering its decision, judgment or ruling, the Court shall be deemed to have been duly constituted if at least one Judge of the panel sits for that purpose.

29. Use of assessors

(1) In any civil cause or matter, the Court may, if it thinks it expedient so to do or in a manner prescribed under any enactment, law, or Rules of Court, call in the aid of one or more assessors specially qualified and try and hear the cause or matter wholly or partially with the assistance of such assessors.

(2) The remuneration, if any, to be paid to an assessor shall be determined by the Court on the direction of the President of the Court or as may be otherwise prescribed pursuant to this Act or any other enactment or law or any Regulations made pursuant thereto.

30. Reference for report

(1) Subject to the Rules of Court, the Court may refer to an official or special referee for inquiry or report any question arising in any cause or matter.

(2) The report of an official or special referee may be adopted wholly or partially by the Court and if so adopted, may be endorsed as a judgment or order to the same effect.

31. Reference for trial

In any cause or matter-

- (a) if all the parties interested, who are not under disability, consent; or
- (b) if the cause or matter requires any prolonged examination of documents or any scientific or local investigation which cannot, in the opinion of the Court, conveniently be conducted by the Court through its ordinary officers; or

(c) if the matter in dispute consists wholly or in part of accounts, the Court may at any time order the whole cause or matter, or any question or issue of fact arising therein, to be tried before a special referee, an official referee, officer of the

Court or arbitrator respectively agreed on by the parties.

32. Power and remuneration of referees and arbitrators

(1) In all cases of reference to an official or special referee or arbitrator, the official or special referee or arbitrator shall be deemed to be an officer of the Court and, subject to Rules of Court, shall have such authority, and conduct the reference in such manner, as the Court may direct.

(2) The report of an official or special referee on any reference shall, if adopted and not set aside by the Court, be equivalent to a finding of the Court.

(3) An award of an arbitrator or any reference, shall unless set aside, be binding on the Court and equivalent to its finding.

(4) The remuneration to be paid to a special referee or arbitrator to whom any matter is referred under an order of the Court shall be determined by the Court on the direction of the President of the Court.

33. Statement of case pending arbitration

A referee or arbitrator may at any stage of the proceedings under a reference, and shall, if so directed by the Court, state in the form of a special case for the opinion of the Court any question of law arising in the course of the reference.

34. Power of the Court to impose terms as to costs

An order made under the provisions of this Act relating to inquiries and trials by referees may be made on such terms as to costs or otherwise as the Court thinks fit.

35. Meaning of "reference"

In the provisions of this Act relating to inquiries and trials by referees, unless the context otherwise requires, the expression "reference" relates to a reference under an order made by the Court under the said provisions.

PART V

Rules of Court

36. Power to make Rules of Court

(1) The President of the Court may make Rules of Court for carrying into effect the provisions of this Act, and in particular-

(a) regulating the practice and procedure of the Court, including all matters connected with the forms to be used and the fees to be paid;

(b) prescribing the practice and procedure upon an appeal or an application to the Court where provision is made in any enactment or law for such an appeal or such an application;

(c) regulating the practice and procedure in cases where an order of *mandamus*, prohibition or *certiorari* is sought or proceedings are taken for an injunction or declaratory order;

(d) regulating, subject to the provisions of this Act, trials by the Court with assessors;

(e) regulating-

(i) the fees to be paid; and

(ii) the taxation and recovery of fees and disbursements;

(f) defining, so far as may be conveniently defined by general rules, the duties of the several officers of Court;

(g) regulating, subject to the provisions of this Act, the sittings of the Court and of the Judges thereof whether sitting in Court or chambers, the business and hours of the Court and of the offices connected therewith, and the conduct of the business of the Court during vacation;

(h) prescribing what part of the business which may be transacted and of the jurisdiction which may be exercised by Judges of the Court in chambers or may be transacted or exercised by registrars or other officers of the Court;

(i) regulating any matters relating to the costs of proceedings in the Court;

(j) regulating the means by which any judgment or decree of any court outside Nigeria or of the Supreme Court of Nigeria (or the former Federal Supreme Court), Court of Appeal, High Court or other superior court established or to be established elsewhere in Nigeria which it is necessary to prove or lawful to enforce shall be proved or enforced;

(k) regulating the procedure for the detention and trial of any person charged for contempt before the Court;

(l) regulating the payment of allowances and travelling expenses of witnesses;

(m) imposing penalties on any person who fails to take any action required by a Rule of Court or who disobeys any Rule of Court;

(n) for requiring and regulating the filing of accounts;

(o) for regulating the procedure in respect of any matter in which the Court has and may exercise original or appellate jurisdiction under this Act and for fixing the fees payable or providing that no fees be paid or that certain fees need not be paid;

(p) for ascertaining the value of anything that requires to be ascertained;

(q) for regulating and prescribing the duties and procedure for assessors, referees and arbitrators;

(r) for regulating the means by which particular facts may be proved, and the mode in which evidence thereof may be given in any proceedings or on any application in connection with or at any stage of any proceedings;

(s) for providing for the service or execution of any writ, warrant, order or other process issuing out of the Court, the payment of mileage allowance before or after service or execution, the conditions precedent before any such process or process of certain classes will be served or executed and the procedure to be followed after the service or execution of such process;

(t) for providing for the taking of notes whether manually or by electronic device of evidence and proceedings in the Court and for the payment of fees for the taking of notes out of public funds, and for fixing the charges for the making and supply of transcripts of the notes, and for the payment of such charges either by the parties to the proceedings or out of public funds;

(u) prescribing the procedure for the transfer of proceedings from the Court to the Federal High Court, the High Court of a State or of the Federal Capital Territory; and

(v) for prescribing vacations.

(2) Rules of Court made under this section shall apply to all proceedings by or against the Government of the Federation or of a State or a Local Government.

PART VI

Miscellaneous

37. Chief Registrar and other officers of the Court

(1) The Federal Judicial Service Commission may, from time to time, appoint a fit and proper person to be the Chief Registrar of the Court who shall perform such duties in execution of the powers and authorities of the Court as may, from time to time, be assigned to him by Rules of Court and, subject thereto, by any special order of the President of the Court.

(2) The Federal Judicial Service Commission may, from time to time, appoint registrars, deputy registrars and such other officers as may be deemed necessary who shall perform such duties with respect to business before the Court as may be directed by Rules of Court and any order of the President of the Court.

(3) The Chief Registrar, registrars and deputy registrars shall have power to administer oaths and perform such other duties with respect to any proceedings in the Court as may be prescribed by the Rules of Court or by any special order of the President of the Court.

(4) Any person holding the Office of Chief Registrar, registrar, deputy registrar or any other Office in the Court immediately before the commencement of this Act shall be deemed to have been appointed under this Act and shall continue to hold such Office under such terms and conditions not less favourable than those obtaining immediately before the commencement of this Act.

38. Negligence or misconduct of officers

If an officer of the Court, employed to execute an order, wilfully or by neglect loses the opportunity of executing it, then on complaint of the person aggrieved, and proof of the act alleged, the Court may, if it thinks fit, order the officer to pay the damages sustained by the person complaining, or part thereof, and the order shall be enforced as an order directing payment of money.

39. Restriction on officers of the Court buying property sold at execution

No person in permanent employment as an officer of the Court shall or may directly or indirectly or by the intervention of a trustee or otherwise purchase any property sold at execution, and in the event of any such person purchasing or being interested in the purchase of any property at an execution sale, such purchase shall be entirely void:

Provided that nothing in this section shall prevent any such person from purchasing by leave of the Court at an execution sale any property which it may be necessary for him to purchase in order to protect the interest of himself, his wife or child.

40. Costs

Subject to the provisions of this Act or any other enactment, Rules of Court or law, the costs of and incidental to all proceedings in the Court shall be in the discretion of the Court and the Court shall have full power to determine by whom and to what extent the costs are to be paid.

41. Allowances to witnesses

(1) The Court may, in any matter, order and allow to all persons required to attend, or to be examined as witnesses, such sum or sums of money as may be specified by Rules of Court for defraying the reasonable expenses of such witnesses and for allowing them a reasonable compensation for their trouble and loss of time.

(2) No person may refuse to attend as a witness, or to give evidence when so required by process of the Court, on the ground that his expenses have not been first paid or provided for.

42. How allowances are to be defrayed

All sums of money so allowed shall be paid in civil proceedings by the party on whose behalf the witness is called and shall be recoverable as ordinary costs of suit if the Court shall so order.

43. Person in Court may be required to give evidence though not summoned

Any person present in Court, whether a party or not in a cause or matter, may be compelled by the Court to give evidence or produce any document in his possession or in his power in the same manner and subject to the same rules as if he had been summoned to attend and give evidence or produce such document and may be punished for any refusal to obey the order of the Court.

44. Witness summons in civil causes and matters

The Court may issue a summons for bringing up any person under civil process to be examined as a witness in any cause or matter pending or to be inquired into in the Court.

45. Representation of Government

In any civil cause or matter in which the Government of the Federation or any public officer in his official capacity is a party or in any civil cause or matter affecting the activities of the Government of the Federation, that Government or that officer may be represented by a law officer, State Counsel, or any legal practitioner or other person duly authorised in that behalf by or on behalf of the Attorney-General of the Federation.

46. Right to practice

All persons admitted as legal practitioners to practice in Nigeria shall, subject to the provisions of the Constitution of the Federal Republic of Nigeria 1999 and the Legal Practitioners Act, have the right to practise in the Court:

[Cap. L11.]

Provided that a party to a dispute before the Court may represent himself or herself or be represented by the organisation to which he or she belongs.

47. Appeal not to operate as a stay of execution

Where permitted by this Act or any other Act of the National Assembly, an appeal to the Court of Appeal from the decision of the Court shall not operate as a stay of execution but the Court may order a stay of execution either unconditionally or upon the performance of such conditions as may be imposed in accordance with Rules of Court.

48. Notes of evidence and minutes of proceedings to be kept by presiding Judge

(1) In every cause or matter the Court shall take down in writing the substance of all oral evidence given before the Court and minutes of the proceedings, and shall sign the same at any adjournment of the case and at the conclusion thereof:

Provided that the Court may cause the whole or any part of the proceedings to be recorded either manually or by electronic devices by an official employed for that purpose except that the transcript of such recording shall be transcribed and duly authenticated by the signature of the presiding Judge in a manner prescribed by Rules of Court.

(2) No person shall be entitled, as of right, to the inspection of or to a copy of the records so kept pursuant to subsection (1) of this section, except as may be imposed by Rules of Court.

(3) The record so kept pursuant to subsection (1) of this section, or a copy thereof signed and certified by the registrar as a true copy shall at all times without further proof, be admitted as evidence of such proceedings and of statements made by the witnesses.

49. Inspection

In any case the Court may on the application of either party, or of its own motion, make such order for the inspection by the Court, the parties or witnesses of any movable or immovable property, the inspection of which may be material to the proper determination of the question in dispute, and give such direction respecting such inspection as to the Court may seem fit.

50. President of the Court may appoint commissioners for affidavits or for taking evidence

The President of the Court may appoint under his hand and seal of the Court, from time to time, such and so many persons as may be requisite to be commissioners for taking affidavits and declarations and receiving production of documents, or for taking the examination of witnesses on interrogatories or otherwise which may be necessary to be taken in respect of any proceedings in the Court, and any order of the Court for the attendance and examination of witnesses or production of documents before any such commissioner shall be enforced in the same manner as an order to attend and be examined or produce documents before the Court.

51. Protection of commissioners from action

No action shall be brought against any commissioner in respect of any act or order performed or made *bona fide* by him in the execution, or supposed execution of the powers or jurisdiction vested in him, but every such act or order if in excess of such powers and jurisdiction shall be liable to be revised, altered, amended or set aside upon summary application to the Court.

52. Judicial officers not liable to be sued if they acted in good faith

(1) No Judge or other person acting judicially shall be liable to be sued in any court for any act done or ordered to be done by him in the discharge of his judicial duty, whether or not within the limits of his jurisdiction.

(2) No officer of the Court or other person bound to execute the lawful orders of any such Judge or other person acting judicially shall be liable to be sued in any court, for the execution of any warrant or order which he would be bound to execute.

53. Repeal of Part II of Cap. 432 L.F.N. 1990, etc.

(1) Part II of the Trade Disputes Act is hereby repealed.

(2) Without prejudice to the provisions of subsection (1) of this section, the other provisions of the Trade Disputes Act shall be construed with such modifications as may be necessary to bring it into conformity with the provisions of this Act.

(3) If any provision of the Trade Disputes Act is inconsistent with the provision of this Act the provisions of this Act shall prevail.

54. Interpretation

(1) In this Act, unless the context otherwise requires-

"action" means a civil proceeding commenced by writ or in such other manner as may be prescribed by Rules of Court but does not include a criminal proceeding;

"cause" includes any action, suit or other original proceeding between a claimant and a defendant and any contempt proceeding;

"claimant" includes every person asking any relief (otherwise than by way of counter-claim as a defendant) against any other person by any form of proceeding, whether the proceeding is by action, suit, petition, motion, summons or otherwise;

"collective agreement" means any agreement in writing regarding working conditions and terms of employment concluded between-

(a) an organisation of employers or an organisation representing employers (or an association of such organisations), of the one part; and

(b) an organisation of employees or an organisation representing employees (or an association of such organisations) of the other part;

"Constitution" means the Constitution of the Federal Republic of Nigeria, 1999;

"Court" means the National Industrial Court and includes the Judges of the National Industrial Court sitting together or separately;

"Court of Appeal" means the Court of Appeal as established by the Constitution of the Federal Republic of Nigeria 1999;

"employee" means a person employed by another under oral or written contract of employment whether on a continuous, part-time, temporary or casual basis and includes a domestic servant who is not a member of the family of the employer;

"employer" means any individual or body corporate or unincorporate who has entered into a contract of employment to employ any other person as an employee or apprentice;

"enactment" means any Act of the National Assembly (including this Act) or law having effect with respect to the Federation or applicable or having effect as Federal law;

"inter-union dispute" means dispute between trade unions or employers' associations;

"intra-union dispute" means dispute within a trade union or an employers' association;

"Judge" except where the reference is to the Judge of the Federal high Court or of a High Court of a State or the Capital Territory, Abuja, means the President or other Judge of the National Industrial Court;

"judgment" includes a decision, decree or order of a court of record;

"matter" includes every proceeding in court or order in a cause;

"National Industrial Court" means the National Industrial Court reconstituted under section 1 of this Act;

"organisation" includes a trade union or an employers' association;

"**party**" includes every person served with notice of, or attending, any proceeding, who, although not named on the record of the proceeding, has the like interest in the subject matter of the proceeding as a person named on the record of the proceedings;

"**President**" means the President of the Federal Republic of Nigeria;

"**President of the Court**" means the President of the National Industrial Court appointed under section 2 of this Act;

"**registrar**" includes the Chief Registrar and all other registrars of the Court;

"**suit**" includes action;

"**trade dispute**" means any dispute between employers and employees, including disputes between their respective organisations and federations which is connected with-

- (a) the employment or non-employment of any person;
- (b) terms of employment and physical conditions of work of any person;
- (c) the conclusion or variation of a collective agreement; and
- (d) an alleged dispute.

(2) For enabling full effect to be given to the provisions of this Act-

(a) any reference (whether express or by necessary implication) in any enactment (other than the Constitution of the Federal Republic of Nigeria 1999) to "the Federal High Court", "High Court of the Federal Capital Territory, Abuja", "High Court", "court of law" or a "court of record"-

(i) in so far as the reference relates to or is connected with the jurisdiction, powers, practice and procedure of a High Court; and

(ii) except in so far as it is inconsistent with the provisions of this Act, shall include a reference to the Court established by this Act; and

(b) all references (whether express or by necessary implication) in any enactment (other than the Constitution of the Federal Republic of Nigeria) to the High Court of a State in so far as the enactment-

(i) is of general application throughout the Federation; and

(ii) relates to a matter as respects which jurisdiction is conferred upon the Court by or under this Act, shall be construed as references to the Court, notwithstanding that in an appropriate case, the enactment is, or has become, by operation of law, a law of a State.

(3) The powers conferred upon the Attorney-General of the Federation and exercisable by him or the Attorney-General of a State under the Constitution or any thing made thereunder shall, to the extent that jurisdiction is conferred upon the Court, the Federal High Court, or the High Court of a State, or of the Federal Capital Territory, Abuja by or pursuant to this Act, be exercisable subject as in this Act otherwise provided, and that section and any other enactment in law pertaining thereto shall be so construed.

(4) For the avoidance of doubt, the following enactments-

- (a) the Regional Courts (Federal Jurisdiction) Act;
- (b) section 31 of the Interpretation Act;

[Cap. 123.]

(c) Trade Disputes Act; and

[Cap. T8.]

(d) such other Federal enactment as the President may by order specify, shall be construed with such modifications as may be necessary to bring them into conformity with the provisions of this Act.

55. Citation

This Act may be cited as the National Industrial Court Act 2006.

SUBSIDIARY LEGISLATION

No Subsidiary Legislation