



FEDERAL REPUBLIC OF NIGERIA

THE NATIONAL INDUSTRIAL COURT OF NIGERIA

*Alternative Dispute Resolution (ADR)
Centre Rules, 2015*

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NATIONAL INDUSTRIAL COURT OF NIGERIA
 ALTERNATIVE DISPUTE RESOLUTION (ADR)
 CENTRE RULES, 2015



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S. I. No. 10 of 2015

NATIONAL INDUSTRIAL COURT OF NIGERIA
ALTERNATIVE DISPUTE RESOLUTION (ADR)
CENTRE RULES, 2015.

[6th Day of April, 2015] Commence-
ment.

PREAMBLE

In exercise of the powers conferred on me by Sections 254(C)(3), 254F(1) of the 1999 Constitution of the Federal Republic of Nigeria (as amended by the Third Alteration Act, 2010) and Section 36 of the National Industrial Court Act, 2006 and Article 2 Paragraph (5) of the Alternative Dispute Resolution (ADR) Centre Instrument, 2015 and other powers enabling me in that behalf; I, HON. JUSTICE, BARATUNDE ADENIRAN ADEJUMO, OFB, MCLAB, GFSMIS, CTAB, FCLAB, FNLS, President, National Industrial Court of Nigeria hereby make the following Rules to govern the Practice and Procedure at the National Industrial Court of Nigeria Alternative Dispute Resolution (ADR) Centre of the National Industrial Court of Nigeria.

ORDER 1—APPLICATION, ETC

1. These Rules may be cited as the National Industrial Court of Nigeria Alternative Dispute Resolution (ADR) Centre Rules, 2015. Citation.
2. These Rules shall apply to all proceedings referred to the ADR Centre for settlement of disputes including all part-heard causes and matters in respect of steps and procedures to be further taken in such causes and matters for the attainment of a just, efficient and speedy dispensation of justice. Application.
3. Where a matter arises in respect of which no adequate procedural provisions are made in these Rules, the Centre shall with the approval of the President of the Court adopt such procedure as will do substantial justice between the parties. Adoption of additional procedure to do substantial justice.

ORDER 2—INTERPRETATION

1. These Rules shall be interpreted in accordance with the provisions of section 54(1) of the National Industrial Court Act 2006 as amended, Article 10 of the National Industrial Court Alternative Dispute Resolution Centre Instrument 2015, as may be amended and Order 2 of these Rules. Interpretation Act (Cap I.23 LFN 2004).
- Provided that where words or phrases are not interpreted in section 54(1) of the National Industrial Court Act 2006 as may be amended, the National Industrial Court of Nigeria ADR Instrument 2015, or Rules of the Centre recourse shall be made to the provisions of Interpretation Act, Cap I.23, Laws of the Federation of Nigeria, 2004 as may be amended or an English Language Dictionary.

2. In these Rules :

"Act of Misconduct" includes any act or behavior unbecoming of a responsible or upright person or a debasing or degrading act or action or inaction ;

"ADR" means Alternative Dispute Resolution which for the purpose of this Centre includes mediation or conciliation that involves the use of Mediator, Conciliator or Neutral who may facilitates the resolution of a dispute before the Centre ;

"ADR Centre" or "the Centre" means the Alternative Dispute Resolution Centre established by the Court pursuant to Section 254(C)(3) of the 1999 Constitution (as amended) and by virtue of Article 2 paragraph (1) of this National Industrial Court of Nigeria ADR Centre Instrument, 2015 ;

"ADR Officer" means a mediator or conciliator who is an officer of the Court so appointed or designated by the President of the Court and it includes a neutral ;

"Applicant" includes a person who files a motion, an application, or appeal or any other process against a respondent or a defendant in any matter before the court ;

"Cause" includes any action, suit or other proceedings between a claimant and a defendant, an appellant and a respondent or any applicant and a responding ;

"Chief Registrar" includes the Chief Registrar, Deputy Chief Registrar and Assistant Chief Registrar of the Court.

"Claimant" is any person seeking any relief (otherwise than by way of counter-claim as a defendant) against any other person in any proceeding ;

"Conciliation" means bringing two opposing sides together to attempt settling the matter without proceeding to trial. It is also a process of an amicable settlement of disputes in a friendly and win-win situation.

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

"Counsel" means a legal practitioner licensed to practise law in Nigeria in accordance with the Legal Practitioners Act ;

"Court" means the National Industrial Court of Nigeria, established by Section 254A of the 1999, Constitution, (as amended) and Section 1(1) of the National Industrial Court Act 2006, and includes the President sitting as a single Judge or Judges of the National Industrial Court sitting together or separately ;

"Court Process" includes complaint or any other originating process, notice of appeal or other notices, pleadings, orders, motions, summons,

warrants and all documents filed or written communication of which service is required or any other means of bringing dispute before the Court ;

"Defendant" includes a defendant to a counter claim ;

"Director" includes the Director, Deputy Director or Assistant Director of the Centre ;

"External Process Server" means a person or body corporate appointed by the President of the Court to serve any court process or document relating to a matter before the Centre on any of the parties or witness(es) in the matter before the Centre.

"Institution" includes any private or public institution which is a creation of an Act or Law, or a company registered under the Companies and Allied Matters Act (CAMA) ;

"Instrument" means the Alternative Dispute Resolution Centre Instrument 2015, as may be amended ;

"Issue" means dispute or disagreement between or amongst the parties ;

"Judge" includes President of the Court and a Judge of the Court ;

"Matter" includes a suit or an action ;

"Mediation" is a dispute resolution technique in which an impartial third party, the mediator, or conciliator, neutral appointed by the President of the Court in line with these Instrument facilitates negotiation or mediation between or amongst the parties in a dispute, and in order to help them to arise at an amicable and acceptable settlement ;

"Neutral" means an impartial and unbiased individual appointed by the President of the Court in accordance with the provisions of National Industrial Court of Nigeria, ADR Centre Instrument to mediate or conciliate in a dispute or issue referred to the Centre.

"Official Process Server" means an officer of the Court designated by the President of the Court or the Rules to serve process(es) or any other document(s) relating to a matter before the Centre on any party(ies) or witness(es) in the matter ;

"Organization" Includes any workplace registered, incorporated or established by statute, an Act, Laws and enactment or otherwise recognized as workplace.

"Part-heard" means a cause or matter already placed under the hearing cause list, in which trial proceedings has commenced and still in progress ;

"Practice Direction" means any direction that may be issued by the President of the Court from time to time.

"President of the Court" means the President of the National Industrial Court of Nigeria.

"*Referral*" means a transfer of a matter or suit from the normal Court adjudicating process to the mediation or conciliation process of the Alternative Dispute Resolution Centre of the Court ;

"*Registrar of the Centre*" means any person or Officer of the Court so designated by the President of the Court to carry out functions in the Registry of the Centre including the Assistant Registrar of the Centre ;

"*Respondent*" includes a person against whom a claim, an application, motion or an appeal before the Court is pending ;

"*Rules*" means—

(a) The National Industrial Court Rules 2007, as may be amended ; and

(b) The National Industrial Court Alternative Dispute Resolution Centre Rules, 2015, and any Practice Direction arising therefrom.

"*Suit*" includes an action or matter ;

"*Terms of Settlement*" includes an agreement mutually reached and executed by parties and counsel, if any, in a matter before the Court ;

"*The Act*" means the National Industrial Court Act, 2006, as may be amended.

ORDER 3—REFERRAL AND CONSIDERATION OF ADR QUALIFIED MATTERS

Filing of
originating
process.

1.—(1) Subject to the provisions of the Act on transfer of suits, an originating process in respect of a matter which may qualify for resolution by the Centre shall be filed in any Registry of the Court nearest to where the defendant or respondent resides or has presence or in which the defendant or respondent carries on business or has a branch office.

Application
for
Mediation or
Conciliation.

(2) Notwithstanding the provisions of sub-rule (1) above, either of the parties in a dispute may upon filing of his or her action before the Court apply to the President of the Court that his or her matter be resolved through the process of mediation or conciliation.

Referral of
matter to the
Centre after
all interim or
interlocutory
applications.

2. Except as otherwise provided for in the Instrument or the Rules of the Centre, all matters which qualify for ADR process as provided under Article 4 paragraph (5) (a-d) of the Instrument of the Centre shall only come to the Centre by referral from the President of the Court or a Judge of the Court after all interim or interlocutory applications on such matters have been heard by the Court.

Referral of
matter after
joining of
issues.

3. Where parties have joined issues in a matter before the Court and such matter qualifies for ADR consideration, it shall be referred to the Centre by the President of the Court or a Judge of the Court handling such matter.

4. Once a matter is referred to the Centre, no party shall be allowed or permitted to file any interim or interlocutory application before the Court until the process of mediation and/or conciliation is concluded.

Prohibition of interim or interlocutory applications on matters in the Centre.

5. Upon receipt of the referral of a matter at the Centre :

Processing of referred matter.

(1) the Director of the Centre shall cause notices, stating the venue, date and time of the mediation and/or conciliation session(s) to be issued and served on the parties and their counsel, if any, who would be required to make a brief presentation of the summary of the issues in dispute in line with the provisions of Order 4 Rule 2(2)(b) of these Rules ;

(2) at the session(s) parties or their counsel if any, would be required to make a brief presentation of the summary of the issues in dispute in line with provision of Order 4 Rule 2(2)(d) of these Rules ;

(3) The matter shall be set down for mediation and/or conciliation at the appropriate Centre of the Division of the Court indicated in the notice and the time the mediation and/or conciliation session(s) shall commence.

6. When a matter is referred to the Centre for mediation and/or conciliation and any process is intended to be used by any of the parties, such process shall be filed at any of the Registries of the Court and shall be transmitted to the Registry of the Centre.

Filing and transmission of additional process from the Registry of Court to Registry of the Centre.

7. The Director of the Centre shall ensure that the mediation and/or conciliation processes on the matters referred to the Centre are completed within 21 working days from the date the first session commences.

Duration of ADR Session.

Provided that, if the ADR proceedings could not be completed within the said 21 working days, the President of the Court may grant an extension of additional 10 working days at the request of the Director of the Centre.

8. In the course of mediation and/or conciliation, a matter shall not be adjourned for more than 3 working days at a time at the instance of any of the parties.

Limits of adjournments during Sessions.

Provided that no party shall ask for or be granted more than two (2) adjournments in the course of any mediation and/or conciliation session(s) of any matter referred to the Centre.

9. Upon conclusion of the mediation or conciliation processes, the ADR Officer(s) :

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Report of
conclusion
of ADR
Session(s).

(1) (a) shall submit a report of the outcome of the mediation and/or conciliation to the Director of the Centre.

(b) The Director of the Centre upon receipt of the report of the outcome of the mediation and /or conciliation by the ADR officer shall forward same to the President of the Court or a Judge of the Court who referred the matter for the consideration of the Centre ;

Submission
of report and
record of
proceedings.

(2) Where a matter has been satisfactorily resolved and terms of settlement entered into by the parties, the ADR officer(s) shall submit the report and record of proceedings of the sessions to the Director of the Centre, who shall forward same to the President of the Court or the Judge of the Court who referred the matter to be entered as judgment of the Court.

Court to
issue hearing
notices to
parties to
adopt Terms
of
Settlement.

(3) On receipt of the terms of settlement, the Court shall issue hearing notices to the parties or their counsel, if any specifying the date, time and courtroom in which the matter will be heard for adoption of the terms of settlement.

Entry of
Terms of
Settlement
as Final
Judgment.

(4) Upon adoption of the terms of settlement by the parties or their counsel, if any, the Court shall enter the terms of settlement as the judgment of the Court on the matter and such judgment shall be binding on the parties.

Remittal of
unresolved
matter back
to Court.

(5) Where the matter could not be resolved, the ADR officer(s) shall submit a report of the sessions to the Director of the Centre who shall remit the matter back to the Court (without the record of proceedings of mediation and/or conciliation sessions) for hearing in accordance with the Rules of the Court.

Court to
issue hearing
notices to
parties to fix
date for
continuation
of hearing.

(6) Where the matter remains unresolved and already remitted back to the Court, the Court shall issue hearing notices to the parties or their counsel if any to appear before the Court for a date to be fixed for the continuation of hearing of the matter in accordance with the Rules of the Court.

Procedure on
management
of matters
referred to
the Centre.

ORDER 4—MEDIATION AND CONCILIATION PROCEDURES

1. The Procedure to be followed during mediation and/or conciliation by the ADR Officer(s) in the management of the matters referred to the Centre shall be as prescribed by these Rules.

2. EXCEPT otherwise provided in the Rules of the Court, the processes and procedures stated hereinafter amongst others shall guide the mediation and conciliation sessions at the Centre :

Processes and Procedure Guiding Mediation and Conciliation at the Centre.

(1) The Centre shall formally accept and notify parties of the referral of the matter by the President of the Court or a Judge of the Court who referred the matter and that shall be sufficient notice to the parties and their counsel that the matter has become a subject for mediation and/or conciliation.

Notification of parties of referral of matter to the Centre.

(2) (a) A counsel or any other individual designated by a party may accompany the party to and participate in the mediation or conciliation ;

Non-party Participation.

(b) At the commencement of mediation and/or conciliation, the Centre shall request parties or their counsel, if any, to present a brief summary of the issues in dispute.

Presentation of issues in Dispute.

3. The following procedures shall be adopted during any mediation and/or conciliation session(s) at the Centre—

Mediation and/or Conciliation Procedures.

(1) Mediation and/or conciliation session(s) shall commence with an opening statement by the leading ADR Officer describing the purpose and procedure and the ground rules of the session.

Opening statement by ADR Officer.

(2) The ADR officer shall explain the guidelines which the participants shall observe during the mediation or conciliation process.

Explanation of Guidelines of Mediation or Conciliation.

(3) The guiding principle shall be that the ADR process is confidential and shall be without prejudice.

Principle of Confidentiality.

4. Issues that transpired during mediation or conciliation session(s) shall not be disclosed to a person or a body of persons who is not a party to the dispute.

Non-disclosure of Issues in the Mediation or Conciliation Session to non-parties.

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Participation of non-party to issues not allowed.

Permission by the Centre to invite non-party as Witness.

Access of parties to records of session.

Non-disclosure of outcome of session by ADR Officer

Court to make public the outcome of resolved matter.

Court or Centre not to make Public Unresolved Matter.

Neutral not to be counsel to Parties.

Participation of counsel in ADR Session.

Presence or Participation of person(s) to aid Resolution of Dispute.

5.—(1) A person or group of persons or body corporate or incorporate, who is not a party to the issues in dispute shall not be permitted to participate in mediation or conciliation session at the Centre.

(2) Notwithstanding the provisions of sub-rule (1) of this rule, any of the parties or their counsel, if any, with the permission of the Centre may invite any person or group of persons or body corporate to attend the session, produce and submit any document(s) that will facilitate fair and equitable resolution of the dispute.

6. Except the parties to the mediation and/or conciliation session(s), no other person or group of persons shall be permitted to have access to the records of the Centre.

7.—(1) The ADR Officer(s) shall not make public the outcome of mediation or conciliation session(s), whether amicably resolved or otherwise.

(2) Where a matter is amicably resolved by mediation or conciliation, it shall only be made public by the Court after the adoption and entry of the settlement agreement as the judgment of the Court.

(3) The outcome of an unresolved matter at the Centre shall not be made public either by the Court or the Centre.

8. No person who appears as a neutral in a referral before the Centre shall be allowed to appear as a counsel for any of the parties before the Centre in same matter.

9.—(1) Counsel to each of the parties may participate wholly or in part in the mediation or conciliation session(s).

(2) Mediator(s) or conciliator(s) may require the presence or participation of a person or persons who may assist or aid in the fair and efficient resolution of the dispute.

- | | |
|---|--|
| <p>(3) The mediator(s) or conciliator(s) may apply to the President of the Court for permission to invite any person(s) whose presence may assist and aid amicable settlement of the disputes.</p> | <p>Permission by Centre to invite Non-Party as Witness.</p> |
| <p>10. The ADR Officer shall address the parties jointly in the presence of their counsel, if any, giving a summary of the facts of the dispute before the Centre and the need for amicable settlement of the dispute.</p> | <p>First joint address by ADR Officer.</p> |
| <p>11. The ADR Officer(s) shall accord each party the opportunity to express their views and positions on the subject matter of the dispute for resolution.</p> | <p>Brief Presentations by Parties.</p> |
| <p>12. The ADR Officer(s) shall help the parties to explore areas of mutual compromise and achieve a solution that meets parties' interest.</p> | <p>Exploring Areas of Mutual Compromise.</p> |
| <p>13. To arrive at an amicable settlement of the dispute that fairly meets the parties' interest, the ADR Officer shall hold separate caucus meetings with the parties or their counsel, if any.</p> | <p>Holding of Separate Caucus Meetings with Parties.</p> |
| <p>14. After the caucus meetings with the parties or their counsel, if any, the ADR Officer(s) shall hold any other joint meeting(s) with the parties and/ or their counsel, if any, to afford the parties the opportunity to negotiate with a view to reaching a consensus, compromise or mutual agreement.</p> | <p>Other joint Meeting with Parties.</p> |
| <p>15. When terms of settlement have been reached by the parties after negotiation, the ADR Officer(s) shall reduce into writing the terms of the settlement which shall be given to all the parties or their counsel, if any, for their consideration and observations.</p> | <p>Reducing Agreement into writing.</p> |
| <p>16. Upon receipt of observations of the parties, the ADR Officer(s) shall in the light of the observations made by the parties draft final terms of settlement for execution in accordance with the Rules.</p> | <p>Draft of Final Terms of Settlement.</p> |
| <p>17. After the terms of settlement has been agreed upon and put into writing, the ADR Officer shall read its contents to the hearing of the parties in the presence of their counsel, if any. If there is any correction, alteration, or amendment in the draft agreement, it shall be with the consent of the parties.</p> | <p>Reading and Vetting of written Terms of Settlement before Parties, etc.</p> |
| <p>18. Parties shall execute the final terms of settlement with their counsel, if any, as witnesses.</p> | <p>Execution of final terms of settlement.</p> |

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Parties Bound by Procedures of the Centre.

19. For matters referred by the Court to the ADR Centre or where parties in the course of the proceedings opt for ADR processes, parties and their counsel, if any, shall follow the procedures listed above to arrive at mutually accepted settlements.

Centre not bound by mere Technicalities.

20. In the process of mediation and conciliation, the Centre shall not be bound by mere technicalities which may cause delay in the discharge of its function.

Serving of hearing notice on parties and counsel.

21. Where the parties are represented by Counsel, the Centre shall serve the notices on the parties and/or their Counsel.

Effect of failure to reach agreement.

22.—(1) Where parties are unable to settle, the ADR Officer shall submit a memorandum to that effect to the Director of the Centre who shall forward same to the President of the Court or the Judge of the Court who referred the matter, but such memorandum shall not be accompanied by the record of proceedings of the session(s).

Notification of parties of remittal of matter back to Court.

(2) Where parties are unable to arrive at a resolution of the dispute, the ADR Officer shall inform the parties of the remittal of the matter back to the Court ;

Progress Report of ADR Sessions.

23. At the end of all ADR sessions on matters referred to the Centre, the ADR Officer shall inform the Director of the Centre on the progress of the matter.

Reporting of concluded matter.

24. Where a matter has been concluded and an agreement to settle amicably has been reached by parties to the dispute, the ADR Officer shall report in writing to the Director of the Centre, who shall transmit the report accompanied with the record of proceedings to the President of the Court or the Judge of the Court who made the referral.

Transmission of executed Final Terms of settlement for adoption by Court.

25. Where a mutual and amicable settlement is reduced into writing, same shall be transmitted by the Director of the Centre to the President of the Court or the Judge of the Court who referred the matter for adoption and to be entered as the judgment of the Court.

Language of Communication.

26. The Language of the session(s) shall be English Language.

27. A non-English speaking party may apply to the Centre for the services of an interpreter at no cost to the party.
28. Where a document is to be used during mediation or conciliation session(s) and the document is made in a language other than English language, it shall be accompanied by a translation into English language and further into a language understood by the party(ies).
29. Except the parties otherwise agree, a notice or any written communication may be served :
- (i) Personally on a party or his counsel if any ;
 - (ii) Or by registered post or courier to his counsel's address ;
 - (iii) Or by e-mail, telegraph, text message SMS or through any other electronic means ;
 - (iv) Or by telephone call to the numbers provided by the parties or their counsel, if any ; and
 - (v) Or by any other means permitted by the Rules or as may be directed by the President of the Court.
- 30.—(1) Where documents or other processes are to be submitted to any of the Centres, they may be submitted in any of the Registries of the Court and such document shall be headed "for service on NICN ADR Centre," stating the appropriate Centre where same is to be submitted.
- (2) Where any document or other process is submitted in line with sub-rule (1) of this rule, the officer at the Registry where it is filed shall forward same to the ADR Centre indicated in the heading and shall indicate when it was filed and when forwarded.
- (3) On receipt of the document or other process(es) the officer at the Centre shall indicate when the document was received by stamping same or sealing same with the stamp or seal of the Centre.
31. For the purpose of service of a process in a matter referred to the Centre, a staff of the Centre may act as an Official Process Server.
32. Where any person is served through any of the above means, the service shall be deemed to be good service.

Party may apply for Service of an Interpreter.

Translation of document into English Language.

Mode of Service of Notice or any Information.

Submission of Document to the Centre or Registry of the Court.

Staff of Centre to act as competent Official Process Server.

When service is deemed good service.

Duty of Official Process Server to file proof of service.

33.—(1) Upon service of any process on the parties or their counsel, if any, the Official Process Server shall file the proof of service in any of the Registries of the Court where the Centre situates.

(2) Where a process is served by an External Process Server he or she shall swear to an affidavit of service and hand same over to the Official Process Server of the Court who shall cause same to be put in the file before the Centre.

Duty of parties whether natural or artificial to ensure attendance at the Sessions.

34. Parties shall ensure personal attendance and where the party is a Trade Union, Corporation, Partnership, Association, Commission, public or private Institution, a person at law or a head of a public body, Federal, State or Local Government, or government agency(ies), shall be suitably represented by senior official(s).

Provided such an official shall be issued with a letter(s) of authority bearing the seal of the author or donor of the letter or that of the organization or workplace he or she represents with the name, signature and official seal of the author or donor where applicable duly inscribed on the letter to negotiate and settle the dispute on behalf of the organization :

Confirmation of Authority to represent.

35. The Director of the Centre may in appropriate cases write for confirmation of the authorization mentioned in rule 34 above.

Deeming Authorization Appropriate.

36. A letter of authorization to represent is deemed appropriate if after 7 days of the delivery of same to the author or donor there is no response, confirmation or denial of such authorization.

Provided that the onus of denial of autorisation of representation shall be on the person who signed the letter authorizing the representation.

ORDER 5—EXECUTION OF TERMS OF SETTLEMENT

Parties to peruse Terms of Settlement.

1.—(1) Upon reaching the terms of settlement and before the execution of same, the parties shall have two (2) working days to peruse the terms of settlement drawn up in order to ensure that the terms reflect the agreement reached during the ADR sessions.

(2) Notwithstanding rule 1(1) of this Order parties or their counsel, if any, may be allowed to execute the terms of settlement immediately after perusing same.

Execution of Terms of Settlement.

2.—(1) After confirmation of the terms of amicable settlement, the parties or their counsel if any shall execute the terms of amicable settlement in the presence of each other and the ADR Officer in attendance.

(2) Where Counsel to any of the parties refuses to execute the terms of settlement contrary to the willingness and instructions of his or her client to do

so, the party shall be at liberty to execute the terms of settlement without his or her counsel's signature and such execution of the terms of settlement shall remain valid.

(3) Where the terms of settlement are executed in line with sub-rule (2) of this rule the Court may allow the parties to adopt the terms of settlement to be entered as the judgment of the Court.

MADE at Abuja this 7th day of April, 2015.

HON. JUSTICE B.A. ADEJUMO, OFR
MCTAIB, GFSMN, CFLAR, FCIARB, FNIS
President
National Industrial Court of Nigeria