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**Royal Government of Bhutan  
MINISTRY OF LABOUR AND HUMAN RESOURCES**



DoL/LRD/02/2012-13 922

April 9, 2013

To : The Regional Director,  
Regional Employment and Labour Office  
Phuntsholing/Gelephu/Samdru jongkhar/Trashigang

From : Chief Labour Administrator, Ministry of Labour and Human Resources

As authorized by Section 24 of the Labour and Employment Act, 2007 I hereby delegate to the Regional Directors, Regional Employment and Labour Offices the authority to mediate and negotiate any labour dispute that arises under the respective RELOs.

Prior to registering any dispute, it must be ascertained that the complainant has completed the internal grievance procedure and has exhausted all means to address his or her grievances other than referring to the court of law. If foreign workers are involved the case should be routed through the Foreign Workers Recruitment Agents.

At the time of mediation, it must be ensured that both the parties are present or represented by an authorized representative(s). If resolved, the mediation must be recorded in a mediation agreement, a sample of which has been attached for reference. If the dispute remains unresolved, the dispute must be forwarded to the Chief Labour Administrator for resolution along with a justified report of its non-resolution. However, the parties must be given the option to either allow the case to be forwarded to the CLA or refer the case to the Court of Law by them.

The Department of Labour is hereby instructed to provide all technical assistance to build the capacity of the regional offices to enable them to perform the task diligently. An officer from each RELO should be identified as the focal person.

RELOs must deal with the cases in strict confidentiality and any information in the form of documentary or recordings must not be made public without the written consent of the disputing parties.

A Guideline on Dispute Resolution Procedure is attached. Kindly note that other than mediation, appointment of conciliators and arbitrators are prerogatives of the CLA unless any of the RELO officials are appointed as conciliators or arbitrators.

  
CHIEF LABOUR ADMINISTRATOR

## **GUIDELINE ON DISPUTE RESOLUTION PROCEDURE**

### **1. Receipt and registration of Complaint**

At time of receipt of complaint, the following must be considered:

- a) That the complaint is submitted in writing by the complainant himself/herself, authorized representative or a person of interest;
- b) Ensure that the complainant has, other than referring the matter to the court, exhausted all means to address his/her grievance such as application of internal grievance procedure. If not, the case may not be registered and the complainant may be asked to complete the internal grievance procedure first;
- c) Accept only written complaint that is duly endorsed with proper name and address of both the complainant and the accused;
- d) Upon completion of the above formalities, register the case in a data base system where a number is assigned to each case being registered along with the date of receipt of the complaint;
- e) Attest a copy of the citizenship identity card of the complainant with the complaint letter. The copy of the citizenship identity card of the accused/defendant may be obtained from the accused prior to conducting the mediation.

### **2. Explanation letter**

Thoroughly study the facts of the case and send a letter to the accused asking his/her explanation against the allegations made along with a copy of the complaint letter for his/her reference with a dead line not exceeding three working days within which he /she is required to respond.

### **3. Mediation**

Upon receipt of the defense response, the justifications given or any counter allegations given must be thoroughly studied and verified and if required, seek supporting documents to corroborate the justifications made. Fix a date and summon both the parties or their authorized representative ( authorization letter must be produced) for mediation. Let each party briefly summarize their point of view, without comment or interruption by the other party. During the process of mediation, it is the responsibility of the mediator to control the situation if the parties behave unruly and get argumentative and abusive against each other and remind the parties of the need for a certain level of decorum to enable the smooth process of mediation. Upon the successful completion of mediation, a mediation agreement must be drawn up between the parties, a copy of which must be given to both the parties. It must be explained to the parties that the outcome of the mediation is normally binding but they still have the choice, if not satisfied with the outcome, to jointly appoint a conciliator in whom they share a mutual trust and confidence within 4 calendar days or appeal to the CLA for appointment of a conciliator if they do not agree on a joint conciliator.



#### **4. Reporting**

Report to the CLA within 7 working days on the facts of the dispute and whether it has been resolved or not. If resolved, then a report on the terms of the resolution must be submitted and if unresolved, a reasoned report on account of the failure to resolve the dispute must be submitted to the CLA .

#### **5. Appointment of conciliator**

In the event the parties disagree on a jointly appointed conciliator, the parties may advise the CLA for appointment of two conciliators whereby the CLA may immediately appoint two conciliators. The conciliator may or may not be a labour relations officer and if the conciliator is not a labour relations officer, he shall be assisted by a labour relations officer. The conciliator shall after four days of conciliation, report to the CLA on how the dispute has been resolved along with a record of the agreement reached and signed by the parties indicating their free acceptance of the agreement. If the dispute has not been resolved, a report stating why the dispute was not resolved must be submitted to the CLA.

#### **6. Certification of Record of Agreement by the CLA**

The record of agreement is binding on the parties if the agreement has been certified by the CLA as being in compliance with the Act. If in the opinion of the CLA, finds the agreement not in compliance with the Act and is therefore not enforceable, the conciliators shall be advised to amend the agreement to comply with the Act whereby the parties must amend the agreement within 3 working days and resubmit the agreement for certification, However, if the parties disagree to amend the agreement, the parties shall notify the CLA in writing of that failure.

#### **7. Settlement by Court or Arbitration**

In the case of a rights dispute, the CLA shall direct the parties to the Court of Law but in the case of an interest dispute, they will be directed to take the dispute to an arbitrator appointed by the Ministry. The decision of the arbitrator shall be binding on both parties.

#### **8. Appeal against Arbitrator**

Any party that is aggrieved by the decision of the arbitrator may appeal to the Court of Law.

#### **9. Recordings**

Prior permission of the parties must be sought if all or any of the proceedings of the mediation, conciliation and arbitration are or is to be recorded.

**Note:** It may be noted here that ~~the~~ whole procedure for mediation is hereby decentralized to the RELOs ~~while~~ the procedure on appointment of conciliators and arbitrators is retained with the CLA