

LABOUR RULES (SABAH) 2009

IN exercise of the powers conferred by subsection 130O (2) of the Labour Ordinance of Sabah [*Sabah Cap. 67*], the Minister after consultation with the State Authority makes the following rules:

Citation

1. These rules may be cited as the Labour Rules (Sabah) 2009.

Interpretation

2. In these Rules, unless the context otherwise requires –

“electronic form” includes created, recorded, transmitted or stored in digital form or in any other intangible form by electronic, magnetic or optical means, or by means of guided or unguided electromagnetic energy, or by any other means that has capabilities for creation, recoding, transmission or storage similar to those means and “electronically” has a corresponding meaning;

“Register” means a book or separate cards or forms kept by every employer containing the information relating to his employees including information kept in an electronic form as required under these Rules and includes a register required to be maintained under the Internal security (Registration of Labour) Regulations 1960 [*L.N. 1971/1960*].

Register

3. The Register kept by every employer under section 58 of the Ordinance shall contain the following groups of particulars regarding each employee:

(a) personal details –

(i) name;

- (ii) sex;
 - (iii) age and date of birth;
 - (iv) National registration Identification Card Number (for resident employee);
 - (v) Passport or Immigration Pass Number and a date of expiry (for non-resident employee);
 - (vi) reference number and expiry date of Licence to Employ Non-Resident Employee;
 - (vii) occupation or job title;
 - (viii) permanent home address;
 - (ix) name and address of next-of-kin;
 - (x) date of commencing employment;
 - (xi) date of leaving employment;
 - (xii) amount of termination or lay-off benefits paid and the date of such payment;
 - (xiii) the method of computing the termination or lay-off benefits payments; and
 - (xiv) insurance policy number or Social Security Organization (SOCSO) number;
- (b) details of terms and conditions of employment –
- (i) name of employee and National Registration Identification Card Number/Passport Number;
 - (ii) occupation or job title;
 - (iii) wages rates (excluding other allowances);
 - (iv) other allowances payable and rates;

- (v) rates for overtime work;
 - (vi) other benefits (including approved amenity or approved service or any approved incentive payment scheme);
 - (vii) agreed normal hours of work per day;
 - (viii) agreed period of notice for termination of employment or wages in lieu;
 - (ix) number of days of holiday entitlement and annual leave with pay;
 - (x) duration of wage period; and
 - (xi) age of retirement;
- (c) details of wages and allowances earned during each wage period –
- (i) where pay is calculated by reference to time, that is by the hour, day, week or month –
 - (A) rate of pay;
 - (B) total number of days of normal hours of work done during each wage period;
 - (C) total amount of wages for normal hours of work during each wage period;
 - (D) rate of pay per hour for overtime work;
 - (E) total number of hours of overtime work done during each wage period; and
 - (F) total amount of overtime wages earned during each wage period;
 - (ii) where pay is calculated by reference to work done, that is by piece, volume or task of work –

- (A) rate of pay per piece, volume or task of work during normal hours of work;
 - (B) total number of piece, volume or task of work done during normal hours of work in each wage period;
 - (C) total amount of wages earned during normal hours of work in each wage period;
 - (D) rate of pay per piece, volume or task of work done exceeding normal hours of work per day;
 - (E) total number of piece, volume or task of work done, exceeding normal hours of work in each wage period; and
 - (F) total amount of overtime wages earned exceeding normal hours of work in each wage period;
- (iii) total number of work days or total number of piece, volume or task of work done on rest days and holidays with pay during each wage period;
 - (iv) amount of wages paid in lieu of annual leave with pay in each wage period;
 - (v) details of other allowances payable during each wage period;
 - (vi) total amount of wages and allowances earned during each wage period under subparagraph (i) to (v);
 - (vii) details of advances made during each wage period;
 - (viii) details of deductions made during each wage period;
 - (ix) balance of wages and allowances payable at end of wage period;
 - (x) details of holidays, annual and sick leave with pay granted during each wage period;
 - (xi) date of payment; and

- (xii) signature of employee,

and the particulars under paragraph (c) shall be brought up-to-date in the Register not later than the sixth day after the end of each wage period in respect of which the particulars relate.

Keeping of Register

4. (1) Every employer shall maintain separate Registers in the national language for resident and non-resident employees under his employment.

(2) Such Register shall be kept in the office within the place of employment unless otherwise permitted by the Director and shall be made available for inspection by the Director as and when required.

Employer to make available Register for examination

5. (1) Every employer shall make the Register available for examination by every employee employed by him –

- (a) in a place within the place of employment which every employee can access for a period sufficient to allow such examination by every employee for not more than twice in each wage period; or
- (b) in any other manner which the Director may approve.

(2) Where the Register is kept in electronic form, the employer shall make available for inspection by the Director –

- (a) an updated print out of the Register; and
- (b) an updated monthly print out of the details of wages specified in paragraph 3 (c).

Registers to be kept under section 94A of the Ordinance

6. Every employer shall keep a Register under section 94A of the Ordinance in the form set out in the First Schedule.

Employer to furnish certified copy of collective agreement

7. Every employer shall furnish his employee with a certified copy of the collective agreement currently in force and applicable to the employee in the place of employment or display permanently, the copy of the collective agreement at a conspicuous place accessible to the employee.

Employer to furnish particulars under paragraph 3 (c)

8. Every employer shall furnish in writing to every employee employed by him the particulars relating to wages and other allowances earned during each wage period as specified in paragraph 3 (c) on or before the date of payment of wages.

Fees

9. The fees to be paid for copies of notes of evidence recorded under Chapter IIA of the Ordinance shall be as set out in the Second Schedule.

Forms

10. The forms prescribed in the Third Schedule, with such variation as the circumstances of each case require may be used for the respective purposes mentioned.

Repeal

11. The Labour Rules [G.N. 353/1936] and Labour (Register of Workers) Rules 1959 [G.N.S. 81/1959] are repealed.

FIRST SCHEDULE

[Rule 6]

REGISTER OF MATERNITY LEAVE AND ALLOWANCES

[Section 94A of the Labour Ordinance of Sabah]

Serial Number of Claim

Place of employment

PART A

(To be completed in respect of a female employee about to leave her employment who reports that she knows or has reason to believe that she will be confined within a period of four months from the date on which she leaves her employment-section 87)

1. Name
2. National Registration Identification Card Number
3. Future address
4. Date of leaving employment
5. Date of notifying pregnancy
6. Expected date of confinement
7. Name, National Registration Identification Card Number and address of nominee (if any) appointed to receive maternity allowance under section 90
.....
.....
8. Number of days employed during the months preceding her departure from employment -
 - First
 - Second
 - Third
 - Fourth
 - Fifth
 - Sixth
 - Seventh
 - Eighth
 - Ninth

PART B

(To be completed in respect of maternity leave and allowance under section 83)

1. Name
2. National Registration Identification Card Number
3. Name, National Registration Identification Card Number and address of nominee (if any)
.....
.....
4. Date of notifying commencement of maternity leave
5. Date on which employee commenced maternity leave
6. Number of days employed during months preceding confinement -
 First
- Second
- Third
- Fourth
- Fifth
- Sixth
- Seventh
- Eighth
- Ninth
7. Date of confinement
8. Date of notifying confinement
9. Date on which work was resumed (or date of leaving the employment or date of death)
.....
10. Number of consecutive days employee was on maternity leave -
 (i) Before confinement
- (ii) After confinement
11. Ordinary rate of pay of employee per day
12. Amount of maternity allowance and date of payment -
 (i) Before confinement RM
- (ii) After confinement RM

13. If maternity allowance is not paid or not paid in full, state the reasons -

.....
.....

I confirm that the above particulars are correct.

.....
Signature of Employer

I confirm that the amount stated above have been paid to me.

.....
*Signature of Employee/
Nominee*

SECOND SCHEDULE

[Rule 9]

Fee

<i>Item</i>	<i>Amount (RM)</i>
Folio comprising hundred words (every figure to count as a word)	1.00
Part folio	0.50
Extra copies of folio ordered with originals	0.25

THIRD SCHEDULE

[Rule 10]

FORM A

DEFENDANT SUMMONS

[Paragraph 7F (c) of the Labour Ordinance of Sabah]

Director of Labour Summons Case No.:

BETWEEN

..... Complainant

AND

..... Defendant

The above-named defendant
residing (or having his place of business or employed) at

You are summoned to appear at
at a.m./p.m./ on the day of 20.....
to answer a complaint made against you by the above-named complainant, that: (set out
particulars of complaint)

Take notice that you may bring to the hearing of the above complaint such witnesses as
you may wish to call on your behalf and that you may apply to the Director for summonses to
such persons to appear and give evidence.

In default of your appearance, the complaint may be heard and decided in your absence;
and that you will be bound by such decision and such decision may be enforced against you
pursuant to paragraph 7F (h) and (i) of the Ordinance.

If you fail to comply with this summons as provided under section 7O, by virtue of section 130B of the Ordinance, you may be prosecuted for an offence under Chapter X of the Penal Code and punishable thereunder.

Dated this day of 20.....

.....
Director of Labour

FORM B

SUMMONS

[Paragraph 7F (d), (e) and (f) of the Labour Ordinance of Sabah]

Director of Labour Summons Case No.:

BETWEEN

..... Complainant

AND

..... Defendant

To residing (or having his place of business or employed) at

WHEREAS, has complained against, and whereas I have reason to believe –

- (1) that you have knowledge of the matters in issue and/or can give relevant evidence;
- (2) that your financial interests are likely to be affected by a decision which I might give.

You are summoned to appear at
at a.m./p.m. on the day of 20.....
to give evidence on behalf of the complainant/defendant and/or as may be required by the
Director.

In default of your appearance, the complaint may be heard and decided in your absence
notwithstanding that your interest might be prejudicially affected.

If you fail to comply with this summons as provided under section 7O, by virtue of section
130B of the Ordinance you may be prosecuted for an offence under Chapter X of the Penal
Code and punishable thereunder.

Dated this day of 20.....

.....
Director of Labour

FORM C

ORDER

[Section 7A of the Labour Ordinance of Sabah]

Director of Labour Summons Case No.:

BETWEEN

..... Complainant

AND

..... Defendant

WHEREAS the complaint in the above case was heard and decided at
..... on the day of in

the year, the Director of Labour makes the following order, that:

.....
.....

Dated this day of 20.....

.....
Director of Labour

It is certified that a sum of RM in full/partial settlement
of this Order has been paid in this Office.

Dated this day of 20.....

.....
Director of Labour

FORM D

ORDER

[Section 7C of the Labour Ordinance of Sabah]

Director of Labour Summons Case No.:

BETWEEN

..... Complainant

AND

..... Defendant

WHEREAS the complaint in the above case was heard and decided at
..... on the day of in

the year, the Director of Labour makes the following order, that:

.....
.....

Dated this day of 20.....

.....
Director of Labour

It is certified that a sum of RM in full/partial settlement
of this Order has been paid in this Office.

Dated this day of 20.....

.....
Director of Labour

FORM E

SUMMONS

[Section 71 of the Labour Ordinance of Sabah]

Director of Labour Summons Case No.:

BETWEEN

..... Complainant

AND

..... Defendant

To residing (or having
his place of business or employed at

WHEREAS I have inquired into the above complaint and have made an order dated the day of in the year that shall pay to me on behalf of the sum of RM; and

WHEREAS I have reason to believe that there exist between (Defendant) and yourself a contract in the course of the performance of which (Complainant) performed the work in respect of which the said Order dated day of in the year was made; and that money is owed by you to (Defendant) under the said contract.

You are summoned to appear before me at at a.m./p.m. on day of in the year to answer such questions as I may put to you.

In default of your appearance, the complaint may be heard and decided in your absence notwithstanding that your interest might be prejudicially affected.

If you fail to comply with this summons as provided under section 7O, by virtue of section 130B of the Ordinance you may be prosecuted for an offence under Chapter X of the Penal Code and punishable thereunder.

Dated this day of 20.....

.....
Director of Labour

FORM F

PROHIBITORY ORDER

[section 7I of the Labour Ordinance of Sabah]

Director of Labour Summons Case No.:

BETWEEN

..... Complainant

AND

..... Defendant

To residing (or having his place of business or employed) at

WHEREAS I have enquired into the above claim and have made an order under the provision of section 7A of the Ordinance that shall pay to the sum of RM; and

WHEREAS after the enquiry I am satisfied that there exist between (Defendant) and yourself a contract in the course of the performance of which (Complainant) performed the work in respect of which the said Order dated day of in the year was made; and

WHEREAS you have admitted to me (in writing)* that the sum of RM is owing by you under such contract to the said

NOW I ORDER you to pay the said sum of RM to me on behalf of the said

Dated this day of 20.....

.....
Director of Labour

It is certified that a sum of RM in full/partial settlement of this Order has been paid in this Office.

Dated this day of 20....

.....
Director of Labour

* Delete where inapplicable

FORM G

SUMMONS

[Subsection 6 (3) of the Labour Ordinance of Sabah]

Director of Labour Summons Case No.:

To residing (or having his place)
of business or employed) at

WHEREAS I Director of Labour –

- (i) have reasonable grounds for suspecting that an offence under the Ordinance has been committed;
- (ii) wish to enquire into the following matter/a dispute as to the following matter* dealt with under the Ordinance (set out particulars of the matter):

.....
.....

- (iii) Have received a complaint of the following breach of the provisions of the Ordinance (set out particulars of the breach):

.....
.....
..... ; and

WHEREAS I have reason to believe that you can give information respecting such offence/the subject matter of such enquiry/complaint;

You are summoned to appear at
at a.m./p.m. on the day of in the
year to give evidence.

In default of your appearance, the complaint may be heard and decided in your absence notwithstanding that your interest might be prejudicially affected.

If you fail to comply with this summons as provided under section 6 (1), by virtue of

section 130B of the Ordinance you may be prosecuted for an offence under Chapter X of the Penal Code and punishable thereunder.

Dated this day of 20.....

.....

Director of Labour

* Delete where inapplicable

Sabah LawNet