



VIRGIN ISLANDS

LABOUR CODE, 2010 (No. 4 of 2010)

LABOUR ARBITRATION TRIBUNAL

HOW TO APPLY TO BE AN ACCREDITED LABOUR ARBITRATOR

24 September 2020

A. SPECIALLY EXEMPT APPLICATIONS

This applies to the following persons:

- (a) Approved Persons under any Financial Services Legislation
- (b) Retired Directors or Senior Managers of any Local Bank, Trust Company, Company Management Company or Insurance Company
- (c) Members or Fellows of the Chartered Institute of Arbitrators

These persons only need to provide the following documents.

- (1) a cover letter addressed to the Secretary to the Tribunal;
- (2) a curriculum vitae;
- (3) a notarized copy of an up-to-date approval by the FSC, or evidence of retirement as a director or senior manager, or certificate of membership or fellowship from the Chartered Institute of Arbitrators; and
- (4) a notarized copy of any one of the following documents:
 - (i) a BVI birth certificate;
 - (ii) a BVI passport;
 - (iii) a BVI believer's card;
 - (iv) a BVI resident's card;
 - (v) a BVI Work Permit Exemption Card, along with other evidence of residence in the BVI for at least the past 10 years; or
 - (vi) a BVI Work Permit Card, along with other evidence of residence in the BVI for at least the past 10 years.

B. REGULAR APPLICATIONS

Any person who does not fall into any specially exempt category as above must provide the following documents:

- (1) a cover letter addressed to the Secretary to the Tribunal;
- (2) a curriculum vitae;
- (3) an original or notarized police certificate from each jurisdiction where that person resided over the past 10 years;
- (4) a bank reference letter from each bank (or other financial institution) addressed to the Secretary to the Tribunal for which the applicant has had a financial relationship within the past 12 months;
- (5) a professional reference letter addressed to the Secretary to the Tribunal; and
- (6) a notarized copy of any of the following documents:
 - (i) a BVI birth certificate;

- (ii) a BVI passport;
- (iii) a BVI believer's card;
- (iv) a BVI resident's card;
- (v) a BVI Work Permit Exemption Card, along with other evidence of residence in the BVI for at least the past 10 years; or
- (vi) a BVI Work Permit Card, along with other evidence of residence in the BVI for at least the past 10 years.

If a person is a **Non-Belonger** or has not been resident in the BVI for at least 10 years then they must provide one of the following additional notarized documents:

- (vii) Letters Patent as one of Her Majesty's Queen's Counsels; or
- (viii) An affidavit or statutory declaration outlining the special qualification or expertise which that person possesses which is not otherwise available in the BVI

C. APPLICATIONS BY SPECIALLY RECOGNIZED ORGANIZATIONS

Any one of the following organizations may apply on behalf of any two (2) persons who provides all the documents under SECTION A or B above, except the cover letter which must be provided by the organization:

- (a) the BVI Chamber of Commerce and Hotel Association;**
- (b) the BVI Teacher's Union;**
- (c) the Civil Service Association; and**
- (d) the BVI Christian Council.**

When any of the above organizations are filing an application, the cover letter must be accompanied by a notarized copy of an up-to-date certificate issued under the Non-Profit Organisations Act, 2012 (No. 10 of 2012). One of the 2 persons must be from a sister island, and one of them must be a male person and the other a female person.

The following organizations may apply on behalf of any one (1) person who provides all the documents under SECTION A or B above, except the cover letter which must be provided by the organization:

- (a) the BVI Islamic Society;**
- (b) the Association of Jamaican Residents in the BVI;**
- (c) the Dominican Republic Association in the BVI;**
- (d) the Guyanese Association of the BVI;**
- (e) the St. Vincent and the Grenadines Association of the BVI; and**
- (f) any political party with at least two (2) seats in the House of Assembly.**

When any of the above organizations are filing an application, the cover letter must be accompanied by a notarized copy of an up-to-date certificate issued under the Non-Profit Organisations Act, 2012 (No. 10 of 2012).

D. THE APPLICATION PROCESS

1. A person who has a complaint before the Tribunal either as a Complainant or a Respondent, will need to recommend a member of the Tribunal to be appointed by the Minister. Only persons who are approved to be on the Roster of Accredited Labour Arbitrators can be recommended for appointment.
2. The Complainant or the Respondent will receive either a Notice of Case Management Hearing, some other notice, or an Order of the Tribunal, requiring them to file a Form of Consent.

3. The Form of Consent must be signed by a person on the Roster of Accredited Labour Arbitrators, or if that person is not yet on the Roster of Accredited Labour Arbitrators, then that person must file an application providing all the documents under SECTION A or B above.
4. The Form of Consent and the application should be sent to the Secretary to the Tribunal by the date required either in accordance with the Notice of Case Management Hearing, some other notice, or the Order of the Tribunal.
5. The person signing the Form of Consent cannot charge any fee for their service or any expense unless the agreement for those fees is attached with the Form of Consent.
6. If the Form of Consent or the application cannot be submitted by the date provided then either the Complainant or the Respondent must file an interlocutory application, supported by an affidavit or a statutory declaration, to request an extension of time. If that application is not opposed, or if it is opposed but neither party requests a hearing, then the Tribunal will consider the interlocutory application without a hearing and issue an Order.
7. The Form of Consent and the application to be entered on the Roster of Accredited Labour Arbitrators can be filed electronically by sending it by e-mail to: LAT@gov.vg.
8. Once the Form of Consent and any fee agreement is received by the Secretary to the Tribunal a copy of it will be sent to the other parties.
9. Once the application to be entered on the Roster of Accredited Labour Arbitrators is received by the Secretary to the Tribunal it will then be considered by the Chairman within 60 days, unless there is an Order of the Tribunal stating that it is a proper case for an expedited application. If the applicant would like the Tribunal to consider the application urgently then they must provide an affidavit or a statutory declaration outlining why the application should be treated as an expedited application. If the Chairman considers that the application should be considered on an expedited basis then it will be considered within 7 days.
10. Once the Chairman approves the application, the Secretary to the Tribunal will enter the details of the applicant on the Roster of Accredited Labour Arbitrators and inform the applicant. That person will then be an Accredited Labour Arbitrator and may be appointed by the Minister to serve on any panel to determine the outcome of any labour dispute.
11. If the Chairman refuses the application, the Secretary to the Tribunal will send a notice to the applicant which will have attached the reasons for the refusal. The decision of the Tribunal is final. The notice from the Secretary may also include further instructions as to when a party may be required to file another Form of Consent.
12. There is no fee associated with the application, and a person will continue on the Roster of Accredited Labour Arbitrators until they apply to be removed (in the case of a person who is appointed based on an application by a specially recognized organization, that organization may apply for removal), or they are a non-belonger who was appointed for a specific case, they will be removed after that case is completed. Additionally, the Chairperson may suspend, cancel or revoke any appointment if that person no longer meets the requirements for being an Accredited Labour Arbitrator.

NOTE: Instead of notarized documents to be provided to the Tribunal, an affidavit exhibiting the documents would be required, and the affidavit may be sworn before the Secretary to the Tribunal or any Commissioner for Oaths in the British Virgin Islands or an overseas notary public.