

**BERMUDA STATUTORY INSTRUMENT**

**SR&O 79/1975**

**HOTEL LICENSING (APPEALS) RULES 1975**

*[made under section 18 of the Hotels (Licensing and Control) Act 1969 [title 17 item 2] and brought into operation on 27 September 1975]*

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SCHEDULE

## **HOTEL LICENSING (APPEALS) RULES 1975**

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### **Interpretation**

1 In these Rules unless the context otherwise requires —

"the Act" means the Hotels (Licensing and Control) Act 1969 [*title 17 item 2*];

"Chairman" means the Chairman of the Tribunal.

### **Practice and procedure of Tribunal**

2 The general procedure and practice of the Tribunal shall, save as is specifically provided for by the Act or these Rules be that prevailing in the Magistrates' Court in civil cases in so far as the same is applicable and if any matter should arise which is not contemplated by either such practice and procedure or these Rules the Tribunal shall give instructions regarding the course to be pursued, which instructions shall be binding on the parties.

### **Notice of appeal**

3 Every appeal under section 18 of the Act shall be commenced by service upon the Director of a notice of appeal in Form 1 of the Schedule.

### **Appellant's case**

4 (1) A notice of appeal shall be accompanied by a supplementary statement setting out —

- (a) the grounds of appeal;
- (b) all the facts which the appellant considers material and relevant to the determination of the appeal; and
- (c) the appellant's contentions in law based upon such facts,

and such statement shall be called "the appellant's case".

(2) Service of notice of appeal may be effected by personal delivery to the office of the Director between the hours of 9.00 a.m and 4.30 p.m. on any day other than a Saturday or public holiday or by prepaid registered post addressed to the Director.

### **Agreed case**

5 (1) If the statement of facts in the appellant's case is admitted by the Director to be sufficient and correct, he shall within thirty days of the service of the appellant's case draw up and submit to the appellant a document embodying —

- (a) the admitted statement of facts;
- (b) the contentions in law of the appellant; and
- (c) the contentions in law of the Director,

and such document shall be called "an agreed case" and shall be signed by or on behalf of both parties to the appeal.

(2) The agreed case together with all supporting and relevant documents shall be transmitted by the Director to the Chairman in triplicate, within fourteen days of submitting the agreed case to the appellant in terms of this regulation.

(3) The arguments on appeal and the decision of the Tribunal shall be confined to the facts admitted in the agreed case.

**Director of Tourism's case**

6 (1) If the Director does not admit the statement of facts in the appellant's case to be correct or sufficient or if he does not come to an agreement with the appellant on a statement of facts, he shall within thirty days of the receipt of the appellant's case serve upon the appellant a statement setting out —

- (a) those facts he admits as correct and those he denies;
- (b) all other facts which he considers relevant and material to the determination of the appeal;
- (c) his contentions in law,

and such statement shall be called "the Director's case".

(2) Service of the Director's case on the appellant may be effected by personal delivery to the address for service of the appellant specified in Form 1 or by prepaid registered post addressed to the appellant at such address.

**Procedure where facts in dispute**

7 If the appellant and the Director do not agree the statement of facts, the Director shall transmit to the Chairman, in triplicate, the appellant's case and the Director's case within ten days of the service of the Director's case upon the appellant.

**Transmission of documents**

8 The Director shall transmit to the Chairman, together with the agreed case or with the appellant's case and the Director's case, a statement of the Act [*sic*] or certified copy of the decision or order, of the Minister in respect of which the appellant is aggrieved, together with all supporting and relevant documents.

**Hearing date**

9 Upon receipt of the documents mentioned in rule 8 the Chairman shall fix a date for the hearing of the appeal and shall notify

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the appellant and the Director thereof in Form 2 of the Schedule not less than fourteen days prior to the date of the hearing.

### **Application for directions**

10 At any time prior to the date of the hearing application may be made in writing to the Chairman for directions relating to any matter incidental to the hearing of the appeal, and upon such application, the Chairman may make such order as he thinks fit.

### **Notice to produce documents**

11 (1) Any party to an appeal may at any time not later than seven days before the date of the hearing give to the other party notice in writing to produce at the hearing any document in his possession or power.

(2) If any party to an appeal to whom such notice has been given under paragraph (1) does not comply therewith, secondary evidence of the contents of such document may be given by or on behalf of the party who gave the notice.

### **Procedure at hearing**

12 (1) At the hearing of any appeal —

- (a) each party may be represented by counsel;
- (b) any fact or facts may be proved by affidavit, but the Tribunal may, either of its own motion or on the application of any party, require the deponent to any affidavit admitted as evidence to attend to be cross-examined thereon and may adjourn the hearing in order to secure the attendance of any deponent;
- (c) the Tribunal may, either of its own motion or on the application of any party, receive the evidence of any person who has expert knowledge or experience concerning matters in dispute or who can otherwise assist the Tribunal in the matter.

### **Default of appearance**

13 (1) Where any appellant to an appeal does not appear either in person or by a duly authorized representative at the time and place appointed for the hearing then the Tribunal, upon the request of the Director and upon proof that notice of hearing has been given to the appellant, may, subject to paragraph (2), proceed to hear and determine the appeal or may dismiss the appeal.

(2) If any question of law arises the Tribunal may, before giving its decision, call upon the Director for argument in support of the act, decision or order of the Minister.

**Abandonment**

14 An appellant who wishes to abandon his appeal may do so by filing with the Tribunal a notice of abandonment.

**Enlargement of time**

15 Where any time is fixed under these Rules for the doing of any act in connection with an appeal to the Tribunal, such time may be enlarged or abridged by consent of all parties or by the Tribunal for good cause shown on the application of any party.

**Hearing fees**

16 The appellant shall pay to the Accountant General a fee of fifty dollars for each day or part of a day on which an appeal is heard by the Tribunal.

**Commencement**

17 *[omitted]*

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**SCHEDULE** Rule 4

Form 1

Government of Bermuda

**HOTELS (LICENSING AND CONTROL) ACT 1969**

Notice of Appeal

To the Director of Tourism.

TAKE NOTICE THAT I/we <sup>(1)</sup> of <sup>(2)</sup> appeal against the act/decision/order of the Minister whereby <sup>(3)</sup>

I enclose herewith a statement of the appellant's case in accordance with Rule 4 of the Hotel Licensing (Appeals) Rules 1975.

Dated this [blank] day of [blank] 19 [blank]

.....  
Signature of appellant or his agent  
or legal representative

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<sup>(1)</sup> Full name of the appellant.

<sup>(2)</sup> Address for service of appellant.

<sup>(3)</sup> Brief details of the act/decision/order appealed against.

