



BERMUDA

EMPLOYMENT ACT (APPEAL) RULES 2014

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The Chief Justice, in exercise of the powers conferred by section 44O of the Employment Act 2000 and section 62 of the Supreme Court Act 1905, makes the following Rules:

Citation

- 1 These Rules may be cited as the Employment Act (Appeal) Rules 2014.

Interpretation

- 2 In these Rules, unless it is otherwise expressly provided or required by the context--

“Act” means the Employment Act 2000;

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“appeal” includes an application for an extension of time within which to appeal;

“appellant” means a person appealing from a decision of the Employment and Labour Relations Tribunal under section 44O of the Act and includes his legal or other representative;

“Chairman” means the Chairman or Deputy Chairman of the Tribunal;

“the Court” means the Supreme Court;

“record” means the aggregate of documents relating to an appeal and includes any pleadings, the documents produced in evidence, the notes of evidence and the decision appealed against proper to be laid before the Court on the hearing of the appeal, and such documents may be in electronic or hard copy form;

“Registrar” means Registrar of the Court and includes the Assistant Registrar and any officer of the Court exercising functions analogous to those of the Registrar;

“Registry” means the Registry of the Court;

“respondent” means any person who was a party to the proceedings before the Tribunal, other than the appellant, and includes any successor employer;

“Rules” means these Rules and includes the Forms in the Schedule to these Rules;

“Tribunal” means the Employment and Labour Relations Tribunal established under section 44B of the Act.

*[Rule 2 definitions "Tribunal" and "appellant" amended by 2021 : 7 s.100 & Sch. 8 effective 1 June 2021]*

### Notice of appeal

3 (1) A notice of appeal shall be in Form 1 of the Schedule or as near thereto as circumstances admit.

(2) The notice of appeal shall be signed by the appellant or his representative and shall—

- (a) set forth specifically and concisely the grounds of appeal and clearly state each error on a point of law complained of;
- (b) state whether the whole or part only of the determination or order of the Tribunal is complained of; and where part only is complained of specify such part;
- (c) state the specific nature of the relief sought;
- (d) state the names and addresses of the respondents;
- (e) be endorsed with the address for service of the appellant.

(3) The Notice of appeal shall be delivered to the Registry within twenty-one days after receipt of notification of the determination or order, or such longer period as the Court may allow.

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(4) A copy of the notice of appeal shall be served by the appellant on each respondent and the Tribunal.

(5) An appellant may apply to the Court in Form 2 of the Schedule to extend the period within which to lodge a notice of appeal.

(6) The Court may give leave for the appellant to amend his grounds of appeal at any time on such terms as to costs or otherwise as to the Court may appear just.

(7) Except with the leave of the Court no grounds, other than those stated in the notice of appeal or any amended notice, may be relied upon by the appellant at the hearing; but the Court may amend the grounds so stated on such terms as it thinks just to ensure the determination on the merits of the real question in controversy between the parties.

(8) No ground which is vague or general in terms or which discloses no reasonable ground of appeal shall be permitted except the general ground that the determination or order is against the weight of the evidence, and any ground of appeal or any part thereof which is not permitted under this Rule may be struck out by the Court of its own motion or on application by the respondent.

### Record

4 (1) The Chairman or Deputy Chairman shall compile the record and forward it to the Registrar within 14 days of the date of service of the notice of appeal on the Tribunal, or within such longer period as the Court may allow.

(2) The Court shall have power to supplement the record by such other evidence or statement of what occurred before the Tribunal which the Court may deem sufficient.

(3) The power under paragraph (2) shall only be exercised where--

- (a) the supplementary material is sought to be adduced by consent of all parties affected by it; or
- (b) it appears to the Court that the record is so deficient that a fair hearing of the appeal is impossible.

### Notice of hearing

5 (1) After transmission of the record to the Registrar pursuant to rule 4, the Registrar shall, on the application of the appellant, enter the appeal, fix a day for the hearing of the appeal and give to the parties not less than seven days notice of the date on which the appeal will be heard.

(2) Notwithstanding paragraph (1), the parties may accept such shorter period of notice as may be mutually agreed.

### Control by Supreme Court

6 After an appeal has been entered by the Registrar and until it has been finally disposed of, the Court shall be seized of the whole of the proceedings as between the parties thereto and every application therein shall be made to the Court and not to the Tribunal.

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### Judgment

7 (1) The judgment of the Court upon an appeal shall be pronounced in open court either on the hearing of the appeal or at any subsequent time of which notice shall be given by the Registrar to the parties to the appeal and to the Tribunal.

(2) Every judgment of the Court shall be embodied in an order.

### Costs

8 (1) Where the costs of an appeal are allowed they may either be ordered to be taxed or be summarily assessed at the time when judgment is given.

(2) Where the costs are ordered to be taxed pursuant to paragraph (1), the provisions of Order 62 of the Rules of the Supreme Court 1985 apply *mutatis mutandis*.

### Court fees

9 The fees prescribed in Part I of the Schedule to Order 62 of the Rules of the Supreme Court 1985 apply to appeals under the Act.

### Application of Supreme Court Rules

10 The Rules of the Supreme Court 1985 shall apply *mutatis mutandis* in respect of matters not expressly provided for in these Rules, in so far as those Rules are not inconsistent with the provisions of the Act or these Rules.

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SCHEDULE

FORMS

FORM 1

(rule 3(1))

NOTICE OF APPEAL

BETWEEN:

[blank]

Appellant

-and-

[blank]

Respondent

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NOTICE OF APPEAL

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TAKE NOTICE that the appellant being dissatisfied with—

(a)\* the whole of the [determination\*] [order\*];

(b)\* the part of the [determination\*] [order\*] more particularly stated in paragraph 1 below, of the Employment and Labour Relations Tribunal dated the [blank] day of [blank] 20 [blank] doth hereby appeal to the Supreme Court upon the grounds set out in paragraph 2 and will at the hearing of the appeal seek the relief set out in paragraph 3;

AND the appellant further states that the names and addresses of the respondents are those set out in paragraph 4.

1 Part of the [determination\*] [order\*] of the Tribunal complained of—

(a)

(b)

(c)

2 Grounds of appeal—

(a)

(b)

(c)

3 Relief sought from the Court—

(a)

(b)

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- (c)
- 4 Names and addresses of Respondents—
  - (a)
  - (b)
  - (c)

DATED THIS [blank] day of [blank] 20 [blank].

Appellant or his legal or other representative  
whose address for service is—

[\* Delete as applicable]

FORM 2

(rule 3(5))

APPLICATION FOR EXTENSION OF TIME TO APPEAL

BETWEEN:

[blank]

Appellant

-and-

[blank]

Respondent

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APPLICATION FOR EXTENSION OF TIME TO APPEAL

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LET C.D. of [blank] attend before the Judge in Chambers (or the Registrar) at the Supreme Court in Hamilton, Bermuda, on the [blank] day of [blank] 20 [blank] at [blank] o'clock, on the hearing of an application by the appellant for an extension of time within which to lodge a notice of appeal against the [determination\*] [order\*] of the Employment and Labour Relations Tribunal dated the [blank] day of [blank] 20 [blank].

DATED this [blank] day of [blank] 20 [blank].

This application was taken out by—

- (a)\* the appellant;
- (b)\* the [attorney\*] [representative\*] for the said appellant whose address is—

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*[\* Delete as applicable]*

*[Schedule Forms 1 and 2 amended by 2021 : 7 s.100 Sch. 8 effective 1 June 2021]*

Made this 7th day of January 2014

Chief Justice

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*[Amended by:*

2021 : 7]