



BERMUDA

HUMAN RIGHTS (APPEALS) RULES 2018

BR 42 / 2018

TABLE OF CONTENTS

1	Citation
2	Interpretation
3	Notice of appeal
4	Record
5	Notice of hearing
6	Control by Supreme Court
7	Powers of Court on appeal
8	Judgment
9	Costs
10	Court fees
11	Application of Supreme Court Rules
12	Commencement
	SCHEDULE
	FORM 1
	Notice of Appeal
	FORM 2
	Application for Extension of Time for Appealing

The Chief Justice, in exercise of the power conferred by section 21(5) of the Human Rights Act 1981, makes the following Rules:

Citation

- 1 These Rules may be cited as the Human Rights (Appeals) Rules 2018.

## HUMAN RIGHTS (APPEALS) RULES 2018

---

### Interpretation

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

“the Act” means the Human Rights Act 1981;

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

“appellant” means a person appealing under section 21 of the Act against an order of the Tribunal, and includes his legal or other representative;

“Chairman” means the Chairman of the Tribunal;

“the Court” means the Supreme Court;

“Executive Officer” has the meaning given under section 2 of the Act;

“Judge” means a judge of the Supreme Court;

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

“Registrar” means Registrar of the Supreme 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, other than the appellant, who was a party to the proceedings before the Tribunal as provided in section 21(2) of the Act;

“Rules” means these Rules and includes the Forms appended to these Rules;

“Tribunal” means the Tribunal established under section 17A of the Act.

### 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 and shall—

- (a) set forth specifically and concisely the grounds of appeal and clearly state each error, on the point of law or fact or both, complained of;
- (b) state whether the whole or part only of the order of the Tribunal is complained of (in the latter case specifying such part);
- (c) state the specific nature of the relief sought;
- (d) state the names and addresses of the respondent(s);
- (e) be endorsed with the address for service of the appellant.

## HUMAN RIGHTS (APPEALS) RULES 2018

---

(3) The notice of appeal shall be delivered to the Registry within 21 days after receipt of notification of the order, or within such longer period as the Court may allow.

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

(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) 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.

(7) No ground which is vague or general in terms or which discloses no reasonable ground of appeal shall be permitted save the general ground that the 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 a respondent.

### Record

4 (1) The Chairman shall compile the record and forward it to the Registrar within 21 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;

(b) it appears to the Court that the record should be supplemented to ensure the fair hearing of the appeal.

(4) For the avoidance of doubt, nothing in the present rule shall exclude or limit the Court's existing jurisdiction apart from these Rules to admit fresh evidence on appeal.

### Notice of hearing

5 (1) After transmission of the record to the Registrar pursuant to rule 4, the Registrar shall enter the appeal, fix a day for the hearing of the appeal, and give to the parties, the Tribunal and the Executive Officer 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.

(3) The Executive Officer may exercise his right under section 21(2) of the Act to be heard on any appeal by notifying the Registrar and the parties to the appeal, in writing, not less than two days before the date of the hearing.

## HUMAN RIGHTS (APPEALS) RULES 2018

---

### 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.

### Powers of Court on appeal

7 (1) In addition to the powers conferred in the foregoing rules, the Court when hearing an appeal shall have the powers set out in this rule.

(2) The Court shall have power to draw any inferences of fact which might have been drawn in the proceedings out of which the appeal arose.

(3) The Court may give any judgment or decision, or make any order which ought to have been made by the Tribunal, and make such further or other order as the case may require, or may remit the matter with the opinion of the Court for rehearing and determination by the Tribunal.

(4) The Court may, in special circumstances, order that such security shall be given for the costs of the appeal as may be just.

### Judgment

8 (1) The judgment of the Court upon an appeal shall, unless the Court directs otherwise, 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, the Tribunal and the Executive Officer.

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

### Costs

9 (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

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

### Application of Supreme Court Rules

11 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 they are not inconsistent with the provisions of the Act or these Rules.

### Commencement

12 These Rules come into operation on 1 June 2018.

HUMAN RIGHTS (APPEALS) RULES 2018

---

SCHEDULE

(rule 3(1))

FORM 1

NOTICE OF APPEAL

BETWEEN

[BLANK]

Appellant

and

[BLANK]

Respondent

NOTICE OF APPEAL

TAKE NOTICE that the Appellant being dissatisfied with the whole order/that part of the order more particularly stated in paragraph 2\* of the Tribunal dated the [blank] day of [blank] 20 [blank] doth hereby appeal to the Supreme Court upon the grounds set out in paragraph 3 and will at the hearing of the appeal seek the relief set out in paragraph 4.

AND the Appellant further states that the name and address of the respondent(s) are those set out in paragraph 5.

2 Part of order complained of:

3 Grounds of appeal:

(a)

(b)

(c)

4 Relief sought from the Supreme Court:

5 Respondent(s) name and address:

(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

HUMAN RIGHTS (APPEALS) RULES 2018

---

FORM 2

(rule 3(5))

APPLICATION FOR EXTENSION OF TIME FOR APPEALING

BETWEEN

[BLANK]

Appellant

and

[BLANK]

Respondent

SUMMONS

Let C. D. of [blank] attend before the Judge in Chambers (or the Registrar) at the Supreme Court in Hamilton, Bermuda, on [blank] day, the [blank] day of [blank] 20 [blank] at [blank] o'clock, on the hearing of an application by the Appellant for an Order that:

[blank]

Dated the [blank] day of [blank] 20 [blank]

This summons was taken out by [blank] of [blank] the Appellant/attorney/representative\* for the said Appellant whose address is [blank]

\* Delete as applicable

Made this 17th day of May 2018

Chief Justice  
The Supreme Court of Bermuda

[Operative Date: 01 June 2018]