

Subsidiary Legislation made under s. 88.

Employment Tribunal (Appeals) Rules 2005

LN.2005/039

Commencement **17.3.2005**

Amending enactments	Relevant current provisions	Commencement date
Act. 2016-20	rr. 1-2, 4, Schs	13.10.2016

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Title.

1. These rules may be cited as the Employment Tribunal (Appeals) Rules 2005.

Interpretation.

2. In these rules—

“court” means the Supreme Court;

“judge” means the Chief Justice or any judge of the Supreme Court;

“Registrar” means Registrar of the Supreme Court;

“Tribunal” means the Employment Tribunal established pursuant to section 12 of the Act.

Notice of appeal.

3.(1) Any person (“the appellant”) wishing to appeal to the court against a decision of the Tribunal shall, within 21 days of the decision, file with the Registrar a notice of appeal in substantially the form set out in Schedule 1 which shall be signed by or on behalf of the appellant.

(2) Every notice of appeal shall state whether it is intended to appeal against the whole or part only of the decision and, where it is intended to appeal against part only of the decision, shall specify that part.

(3) The notice of appeal shall state the point or points of law on which the decision of the court is sought.

(4) The notice of appeal shall state the address for service of the appellant and the names and addresses of all persons served or to be served with copies.

(5) The appellant shall before or within 7 days of filing the notice of appeal serve a copy on the other parties (“the respondents”) to the proceedings before the Tribunal and to the Secretary to the Tribunal.

Record of appeal.

4. The appellant shall within 60 days of filing the notice of appeal file with the Registrar, and shall within that period deliver a copy to every respondent, the record of appeal containing a copy of the decision of the Tribunal under rule 14 of the Employment Tribunal Rules, together

with copies of any representations made or evidence given under rules 12 and 13 of those Rules, provided that—

- (a) where two or more parties are represented by one solicitor it shall be sufficient to send one copy of the record of appeal to that solicitor; and
- (b) the Registrar may dispense with copies of the representations or evidence if he considers that such copies are unnecessary for the purpose of deciding the point or points of law raised in the appeal.

Memorandum of appeal.

5.(1) The appellant shall within 10 days of filing the record of appeal lodge with the Registrar in duplicate a memorandum of appeal which shall be substantially in the form set out in Schedule 2, and shall within that period serve copies on all persons who were served with the notice of appeal.

(2) The memorandum of appeal shall set forth concisely and under distinct heads, numbered consecutively, without argument or narrative, the point or points of law on which the decision of the court is sought specifying the point or points which the appellant says have been wrongly decided and the nature of the order which he seeks from the court.

(3) Subject to rule 8, if a memorandum of appeal is not lodged and served with the time prescribed by sub-rule (1) the appeal shall be deemed to have been withdrawn.

Notice of cross-appeal.

6.(1) A respondent who desires at the hearing of the appeal to contend either—

- (a) that the decision appealed against or any part of it should be varied or reversed, either in any event or in the event of the appeal being allowed in whole or in part; or
- (b) that the decision appealed against should be affirmed on grounds other than or additional to those relied on by the Tribunal,

shall, within 10 days of receiving the record of appeal, lodge in duplicate with the Registrar and within that period serve copies on every other party to the appeal, a notice of cross-appeal substantially in the form set out in Schedule 3 signed by or on behalf of the respondent lodging such notice.

(2) The notice of cross-appeal shall specify the grounds of the respondent's contention and, where appropriate, the nature of the order which he seeks from the court.

Addition of parties.

7.(1) At any stage of the appeal the judge may direct that a copy of the proceedings be served on any person, whether a party to the original proceedings or not, whom it appears proper to make a party to the appeal.

(2) If a party served in accordance with sub-rule (1) wishes to be heard in the appeal he shall, within 10 days of receiving a copy of the proceedings, lodge in duplicate with the Registrar and within that period serve on all other parties copies of a notice substantially conforming to a notice of cross-appeal in accordance with rule 6.

Setting down and notice of hearing.

8. On receipt of the memorandum of appeal the Registrar shall fix a date and time for the hearing of the appeal and shall give notice in writing to each of the parties.

Hearing of the appeal.

9.(1) No evidence shall be admitted at the hearing of the appeal except with the permission of the court.

(2) At the hearing of the appeal no party shall without the permission of the court, and upon such terms if any as the court shall think fit, argue any ground other than those stated in the memorandum of appeal or the notice filed pursuant to rule 6 or rule 7(2).

Failure of parties to appear.

10.(1) If at the time fixed for hearing the appeal—

- (a) the appellant does not appear and is not represented, the court may dismiss the appeal and, if any other party appears or is represented, may proceed notwithstanding the absence of the appellant,
- (b) the appellant or his representative appears and any other party does not appear and is not represented the appeal may proceed notwithstanding the absence of that party,

unless in any case the court shall think fit to adjourn the hearing.

(2) Where an appeal has been heard pursuant to sub-rule (1) the party appearing shall serve the party who failed to appear with a copy of the court's judgment in the appeal within 7 days of such judgment being handed down.

(3) Where an appeal has been heard pursuant to sub-rule (1) the party who failed to appear may within 7 days of being served with a copy of the court's judgment apply to the court to set aside the judgment and restore the appeal or cross-appeal for hearing and the court may restore the appeal or cross-appeal on such terms as the court thinks fit.

Extension and abridgement of time.

11.(1) A judge may by order extend or abridge the time limited by these rules for doing any act whether before or after the expiration of such time limit and whether before or after the doing of the act.

(2) Sub-rule (1) shall apply to any appeal currently pending before the court and to any appeal filed after the commencement of these rules.

Matters not provided for.

12. In any matter not provided for by these rules the practice and procedure in an appeal from a Master to a judge shall be followed as nearly as may be.

Fees.

13. The fees shall be the same as in an appeal from a Master to a judge.

Revocation.

14. The Industrial Tribunal (Appeals) Rules are revoked.

SCHEDULE 1

Rule 3
Appeal No

IN THE MATTER OF AN APPEAL FROM THE EMPLOYMENT TRIBUNAL

BETWEEN:

Appellant

-and-

Respondent

NOTICE OF APPEAL

TAKE NOTICE that the appellant being dissatisfied with the decision of the Employment Tribunal given herein on the _____ day of _____ intends to appeal to the Supreme Court against the following part(s) of the decision of the Tribunal:-

on the following point(s) of law:-

Dated the _____ day of _____ 20____

.....
(Solicitors for the) Appellant

1932-16

Employment

2005/039

Employment Tribunal (Appeals) Rules 2005

To: The Registrar of the Supreme Court

And to: The Secretary to the Employment Tribunal

And to:

The address for service of the appellant is

Filed the day of 20 at the Supreme Court, Gibraltar.

Registrar.

SCHEDULE 2

Rule 5
Appeal No

IN THE MATTER OF AN APPEAL FROM THE EMPLOYMENT TRIBUNAL

BETWEEN:

-and-

Appellant

Respondent

MEMORANDUM OF APPEAL

The above-named appellant appeals to the Supreme Court of Gibraltar against the whole of the above-mentioned decision (or against such part of the said decision as decides that)
(set out details of what part of the decision is complained of) on the following grounds,
namely:–

and the appellant seeks the following order(s) from the court:–

Dated the day of 20

.....
(Solicitors for the) Appellant

1932-16

Employment

2005/039

Employment Tribunal (Appeals) Rules 2005

To: The Registrar of the Supreme Court

And to:

Filed on the day of 20 at the Supreme Court, Gibraltar.

Registrar.

Employment

1932-16

Employment Tribunal (Appeals) Rules 2005

2005/039

SCHEDULE 3

Rule 6
Appeal No

IN THE MATTER OF AN APPEAL FROM THE EMPLOYMENT TRIBUNAL

BETWEEN:

-and-

Appellant

Respondent

NOTICE OF CROSS-APPEAL

TAKE NOTICE that, on the hearing of this appeal CD, the respondent above named, will contend that the decision above mentioned ought to be varied to the extent and in the manner and on the grounds hereinafter set out, (or ought to be affirmed upon grounds other than those relied upon by the Tribunal) namely:—

and shall seek the following order(s) from the court:—

Dated this day of 20

.....

(Solicitor for the) Respondent

1932-16

Employment

2005/039

Employment Tribunal (Appeals) Rules 2005

To: The Registrar of the Supreme Court
And to:

The address for service of the respondent above named is

Filed the day of 20 at the Supreme Court, Gibraltar.

Registrar.

Dated

Signed