

BERMUDA STATUTORY INSTRUMENT

BR 53/1982

**COMPANIES (APPEALS TO THE SUPREME COURT) RULES
1982**

*[made under section 62 of the Supreme Court Act 1905 [title 8 item 1] and
brought into operation on 1 July 1983]*

ARRANGEMENT OF RULES

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SCHEDULE

Citation

- 1 These Rules may be cited as the Companies (Appeals to the Supreme Court) Rules 1982 *[commencement omitted]*.

Interpretation

- 2 (1) In these Rules—

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"the Act" means the Companies Act 1981 [*title 17 item 5*];

"appellant" means—

- (a) a local company whose licence to carry on business in Bermuda is revoked under section 114B(4) of the Act;
- (b) an exempted company whose licence to carry on business with a person inside Bermuda or a business prohibited by section 129(2) of the Act is revoked by virtue of section 129A(3) of the Act;
- (c) an overseas company whose permit to carry on business is revoked under section 139 of the Act,

as the case may be;

"the Court" means the Supreme Court;

"notice of appeal" means the notice in writing of an appeal—

- (a) given in pursuance of an appeal to the Court under section 141(1) of the Act;
- (b) specified in section 276A(2) of the Act;

"witness" means a deponent to an affidavit filed pursuant to rule 6 and required to attend for cross-examination pursuant to rule 7.

(2) Any reference in these Rules to the Attorney-General includes any barrister and attorney appearing on behalf of the Attorney-General.

Grounds of appeal

3 Every notice of appeal shall contain the grounds of appeal and, at the hearing of the appeal no grounds other than those set out in the notice of appeal shall be argued, except with the leave of the Court.

Filing of copy notice of appeal

4 (1) Within 48 hours after the service of a notice of appeal on the Attorney-General, the appellant shall file a copy of such notice in the Registry, and the Registrar shall forthwith bring the copy notice before a Judge of the Court.

(2) The Judge shall then fix a date, convenient to the Court, and not earlier than three weeks nor later than one month after the copy notice has been filed in the Registry pursuant to paragraph (1), for the hearing of the appeal, and the Registrar shall notify the appellant and the Attorney-General of the date so fixed.

Statement of facts

5 In every appeal, the appellant and the Attorney-General shall agree upon such of the facts as are not in dispute, and the appellant shall, not less than seven days before the date fixed for the hearing of the appeal, file at the Registry, in duplicate, a statement of the agreed facts signed by or on behalf of both parties to the appeal.

Disputed facts

6 Where there is, in any appeal, a dispute as to any fact or facts, and either party to the appeal desires to adduce in support of his case any evidence of any such fact or facts, he shall, not less than 14 days before the date fixed for the hearing of the appeal, file at the Registry—

- (a) a statement in duplicate of the facts which he alleges supported by an affidavit or affidavits; and
- (b) serve the other party to the appeal with a copy of the statement and the affidavit or affidavits in support.

Procedure at hearing of appeal

7 At the hearing of any appeal—

- (i) the appellant shall be represented by counsel;
- (ii) the Court may, either of its own motion, or on the application of either party, require the deponent to any affidavit filed pursuant to rule 6 to attend to be cross-examined on the contents of his affidavit, and may adjourn the hearing of the appeal in order to secure the attendance of any such deponent;
- (iii)(a) First, counsel for the appellant shall make his submission to the Court and call his witnesses;
- (b) Second, the Attorney-General shall make his submissions to the Court and call his witnesses; and
- (c) Third, counsel for the appellant and the Attorney-general, if either so desires, shall be entitled to make a closing address, and if both so desire, the order of such addresses shall be in the discretion of the Judge hearing the appeal.

Costs

8 The costs of any appeal shall be in the discretion of the Court.

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Abandonment of appeal

9 An appellant who wishes to abandon his appeal may do so by serving upon the Attorney-General and filing in the Registry a notice of abandonment of the appeal.

Fees Schedule

10 The fees set out in the Schedule to these Rules shall be payable in respect of every appeal.

Order 63 of RSC 1952 not to apply

11 [*omitted as spent*]

SCHEDULE

(Rule 10)

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| On filing a notice of appeal in the Registry | \$ 5.00 |
| On filing a statement of agreed facts | 2.00 |
| On filing an affidavit in support where there is a dispute as to facts | 2.00 |
| On hearing of an appeal per day or part of a day | 75.00 |
| On filing a notice of abandonment of an appeal | No fee |