

THE ACCESS TO INFORMATION ACT

The Access to Information (Appeal Tribunal)
Rules, 2005

In exercise of the powers conferred upon the Appeal Tribunal by paragraph 12 of the Second Schedule to the Access to Information Act the following Rules are hereby made:-

- Citation. 1. These Rules may be cited as the Access to Information (Appeal Tribunal) Rules, 2005.
- Interpretation. 2. In these Rules -
- "Appeal Tribunal" means the Tribunal constituted under the Second Schedule to the Act;
- "notice of hearing" means the notice of hearing under rule 6;
- "party" means any person appealing a decision of a public authority in relation to an application for access to information and the public authority whose decision is being appealed.
- Notice of appeal. 3. - (1) An appeal pursuant to section 32 of the Act shall be commenced by notice of appeal in writing addressed to the chairman of the Appeal Tribunal in the form set out as Form 1 in the Schedule.
- Schedule. Form 1. (2) The notice of appeal shall be lodged with the Appeal Tribunal -
- (a) within sixty days after the date of notification to the appellant of the relevant decision or of the decision taken on an internal review; or

(b) where no notification has been given within the period required by the Act, within sixty days after the expiration of that period.

(3) The date of appeal shall be the date when the notice of appeal is lodged with the Appeal Tribunal.

Acknowledgement
of notice
of appeal.

4. Upon receipt of a notice of appeal, the Appeal Tribunal shall -

- (a) cause a receipt in acknowledgement thereof to be issued to the appellant;
- (b) cause to be issued to the public authority whose decision is being appealed copies of the notice of appeal and any supporting documents lodged by the appellant.

Additional
information.

5. The Appeal Tribunal may, before fixing a date for the hearing of an appeal, require the parties to supply such additional information or documents relating to the appeal, as it thinks fit.

Notice of
hearing.

6. - (1) The Appeal Tribunal -

- (a) may fix a date, time and place for the hearing of an appeal; and
- (b) shall cause to be served a notice of hearing, informing the parties and any attorney-at-law representing a party of the date, time and place so fixed and of the list of documents required under rule 7.

(2) A notice of hearing shall be served not less than fourteen days before the date fixed for the hearing of the appeal (hereinafter called the hearing date).

List of

7. - (1) A notice of hearing shall require each

documents
for hearing.

party to provide to the Appeal Tribunal and to every other party a list of all documents on which the party proposes to rely.

(2) The lists shall, unless otherwise ordered by the Appeal Tribunal, be provided by the parties at least ten days before the date fixed for the hearing.

Inspection
of documents.

8. - (1) Each party may inspect the documents included in the list provided by any other party.

(2) A copy of any document included in the list of a party shall, on the application of the party requiring it, be provided to that party by the other within three days after the receipt of the request.

Proceedings
in absence
of parties.

9. The Appeal Tribunal may on the hearing date, upon proof of service of the notice of hearing, proceed to hear and determine the appeal notwithstanding that any or all of the parties fail to appear at the hearing.

Application
for recon-
sideration.

10. - (1) Where the Appeal Tribunal has proceeded in the absence of any or all of the parties, a party may, within one month from the pronouncement of the findings and order, apply to the Appeal Tribunal for a reconsideration of the matter upon giving notice to every other party.

(2) The Appeal Tribunal, after reviewing an application before it, and in any case where it is satisfied that the matter should be reconsidered, may -

- (a) make any decision which had been or could have been made on the original application;

(b) grant the application upon such terms as to costs or otherwise, as it thinks fit, so, however, that the Tribunal shall not nullify a certificate issued under section 23.

(3) Upon the reconsideration of an appeal, the Appeal Tribunal may amend, vary, add to or reverse its findings or order made on or in relation to the hearing.

Appearance
before
Tribunal.
Hearing of
appeal.

11. Each party shall be entitled to appear before the Appeal Tribunal in person and may be accompanied and represented by an attorney-at-law.

12. At the hearing of the appeal, the Appeal Tribunal shall enquire into the grounds of appeal and may -

(a) hear evidence from the parties and any witness; and

(b) seek the advice of any person who, in the opinion of the Appeal Tribunal, is able to assist the Appeal Tribunal in its deliberations.

Proceedings on
evidence by
affidavit.

13. - (1) Subject to paragraphs (2) and (3), the Appeal Tribunal may, in its discretion, either as to the whole case or as to any particular fact or facts, proceed and act upon evidence given by affidavit.

(2) Unless the Appeal Tribunal is satisfied that -

(a) the affidavit is purely formal; and

(b) requiring the attendance of the deponent is made with the sole object of causing delay,

any party may require the attendance upon subpoena of any person who has sworn an affidavit in the matter for the purpose of giving oral evidence.

(3) Where evidence is to be given by affidavit, the affidavit shall be delivered to the Appeal Tribunal not later than ten days before the hearing date.

(4) Where a party's evidence is to be given orally at the hearing of the appeal, notice of such evidence shall be given by the party to the Appeal Tribunal not later than ten days before the hearing date.

Subpoena.
Schedule.
Forms 2
and 3.

14. A subpoena issued under Rule 13 shall be in the form set out as Form 2 or in the form set out as Form 3 in the Schedule, as may be appropriate in the particular circumstances, with such variations as the case may require.

Adjournment
of pro-
ceedings.

15. - (1) Subject to paragraph (2), the Appeal Tribunal may, before the conclusion of its hearing -

(a) adjourn the proceedings; and

(b) set another date for continuation.

(2) The Appeal Tribunal may of its own motion or upon the application of any party, adjourn the hearing upon such terms as to costs, or otherwise, as appear just to the Appeal Tribunal.

Appeal
Tribunal's
decision to
be in writing.

16. The Appeal Tribunal's decision shall be in writing and shall be sent to the parties not later than twenty-one days after the decision.

Appeals to be
heard in
public.

17. Unless it otherwise decides, the Appeal Tribunal shall conduct its hearing in public and ensure that its decisions are published in the

Gazette or in a daily newspaper circulating in Jamaica.

Notes of proceedings.

18. - (1) Notes of all proceedings shall be taken by the Appeal Tribunal and any party who has appeared in the proceedings shall be entitled to inspect the original or a copy thereof.

(2) Every party entitled to be heard upon an appeal against decision of the Appeal Tribunal shall be entitled to a copy of the notes of appeal on payment of such charges as may, from time to time, be prescribed under the Act for the reproduction of official documents.

Service of notice or documents.

19. - (1) Service of any notice or documents required by these Rules may be effected by personal delivery or by registered post addressed to the party concerned at his last known place of abode or business and proof that such a letter was so addressed and posted shall be proof of service.

(2) Any notice or document required to be given or signed by the Tribunal may be given or signed by an authorized officer or by any person duly authorized by the Appeal Tribunal.

Procedure and meetings.

20. The Appeal Tribunal shall meet at such times and places as it shall determine.

Power to extend time.

21. Notwithstanding anything to the contrary in these Rules, the Appeal Tribunal may extend the time for doing anything under these Rules.

Tribunal to retain affidavits.

22. - (1) All affidavits submitted to the Appeal Tribunal shall be filed and kept by the Appeal Tribunal.

(2) The Appeal Tribunal may order that any books, papers or other exhibits produced or used at

a hearing shall be retained by the Tribunal until the time for appealing the decision has expired and, if notice of appeal is given, until the appeal is heard or otherwise disposed of.

Consolidation
of appeals.

23. - (1) If it appears to the Appeal Tribunal that -

- (a) the facts of two or more appeals before it are similar;
- (b) it is convenient to the parties;
- (c) some common issue of law or fact arises in both or all of the appeals;
- (d) no prejudice will result from consolidating the appeals; and
- (e) the requisite notice is given,

the Appeal Tribunal may order that the appeals be consolidated.

(2) Subject to paragraph (1), the Appeal Tribunal shall give the parties an opportunity to show cause why any appeal should not be consolidated.

Frivolous
appeals.

24. - (1) Where, at any stage of the proceedings, an appeal is found to be unfounded and frivolous or vexatious, the Appeal Tribunal may dismiss the appeal forthwith.

(2) In making a decision under paragraph (1), the Appeal Tribunal shall consider the nature of any injustice or abuse of administrative process, including but not limited to the nature, content, language or subject matter of -

- (a) the request for access or the appeal;

- (b) any prior or contemporaneous requests or appeals by the party making the request or taking the appeal; and
- (c) other verbal and written communications to any agency or any official of any agency from the party making the request or taking the appeal.

Withdrawal of appeal.

25. The appellant, while an appeal is pending may, at any time, withdraw the appeal by forwarding to the Appeal Tribunal a notice of withdrawal signed by the appellant and the Appeal Tribunal shall forthwith inform every other party of the withdrawal.

SCHEDULE (Rules 3 and 14)

FORM 1

NOTICE OF APPEAL

(RULE 3(1))

IN THE MATTER OF THE ACCESS TO INFORMATION ACT

APPEAL NO. /20

BETWEEN.....APPELLANT
(insert name of appellant)

AND.....DEFENDANT
(insert name of public authority)

TO THE APPEAL TRIBUNAL:

TAKE NOTICE that
(full name of appellant, occupation, address)

appeals against the decision of [.....]
.....] contained in a decision
(insert name of public authority)

dated a copy of which is attached to
(insert date)

this Notice.

(1) The details of the decision appealed are:.....
.....
.....

(2) The Appellant challenges the following findings of fact and of law -

(i) Findings of fact: *(please indicate the nature of the original request for information and the decision, if known, and date of decisions of the public authority)*
.....
.....

(ii) Findings of law: *(Please indicate any legal basis for your appeal)*
.....
.....
.....

(3) The grounds of appeal are *(state why the public authority's decision should be reversed)*

- (i)
- (ii)
- (iii)
- (iv)

(4) List of relevant documents and correspondence to be used *(if any)*:

.....
.....
.....

(5) Number and names of witnesses *(if any)*:

.....
.....
.....

(6) Legal Representatives *(if any)*:
(indicate the name(s) and address(es) of the person(s) who will make representations on the appellant's behalf)

.....
.....
.....

(7) I request an early hearing: yes no

If yes, state reasons for request:
.....
.....
.....

(8) Set out any specific power which the Appeal Tribunal is being asked to exercise:.....

.....

.....
Chairman
Appeal Tribunal

The Offices of the Appeal Tribunal is situated at 5 South Odeon Avenue, Kingston 10 Jamaica W.I. telephone (876) 968-3166, 968-8282, Fax 906-4667. Please address all correspondence to the Appeal Tribunal to the Chairman.

FORM 3

ORDER TO PRODUCE DOCUMENTS

(Rule 14)

IN THE MATTER OF THE ACCESS TO INFORMATION ACT

APPEAL NO. /20

BETWEEN.....APPELLANT
(insert name of appellant)

AND.....DEFENDANT
(insert name of public authority)

TO:
(insert name and address of person)

WE COMMAND YOU to attend before the Appeal Tribunal constituted under section 32 of the Access to Information Act at
(insert location)
on the day of.....20..... at
(time)

o'clock in the fore/afternoon, and so from day to day until the Appeal in the above matter is heard, to give evidence on behalf of
.....
(name of applicant or respondent)

and also to bring with you and produce at the time and place named in this Notice the following documents: *(insert list of documents required as evidence)*

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.....
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