

BERMUDA STATUTORY INSTRUMENT

SR&O 16/1972

**RENT INCREASES (DOMESTIC PREMISES) CONTROL RULES
1972**

[made under section 35 of the Rent Increases (Domestic Premises) Control Act 1971 [repealed] and brought into operation on 29 April 1972]

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Interpretation

- 1 In these Rules, unless the context otherwise requires—
"the Act" means the Rent Increases (Domestic Premises) Control Act 1971;

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"appeal" and "application" mean an appeal or application, as the case may be, to the court under the provisions of the Act;

"Form" means form prescribed in the First Schedule.

Court of summary jurisdiction

2 These Rules shall apply in relation to appeals in and applications to a court of summary jurisdiction under the Act.

Time limit for giving notice of appeal

3 (1) Notice of appeal under the provisions of section 17 of the Act shall be given within fourteen days of the service of the Commissioner's certificate under the provisions of subsection (3) of section 15 of the Act on the person intending to appeal.

(2) Notice of appeal under the provisions of subsection (2) of section 35 of the Act shall be given within fourteen days of the day upon which the person intending to appeal became aware of the determination against which appeal is to be made.

Written notice of appeal or application

4 Every person appealing or making application to the court under the Act shall file with the court a written notice of appeal, or application, as the case may be, together with as many copies thereof as there are respondents.

Forms

5 (1) The Forms set out in the First Schedule shall be used for the purposes of the Act and these Rules with such variations as the circumstances of the case may require.

(2) The following are the forms set out in the First Schedule—

- (a) Form 1, being the form of application to the court under section 4(6) of the Act;
- (b) Form 2, being the form of application to the court under section 9(3) of the Act;
- (c) Form 3, being the form of appeal to the court under section 17 of the Act;
- (d) Form 4, being the form of appeal to the court under section 35(2) of the Act;
- (e) Form 5, being notice of hearing given by the court

under rule 6;

(f) Form 6, being the form of a warrant to evict.

Service

6 Upon receipt of any application or appeal the court shall cause a copy thereof to be served upon the Commissioner and upon the respondent together with a Notice of Hearing in Form 5.

Parties and joinder

7 (1) Notwithstanding the provisions of rule 6, the court may, either prior to or at the hearing of an application or appeal direct that a copy of the application or appeal shall be served upon any person who, in the opinion of the court, may be affected by the result of the proceedings.

(2) Any person who, in the opinion of the court, may be affected by the result of the proceedings may on application by him at any time prior to the final disposal of the matter be joined, with the leave of the court, as a party to the proceedings.

Enlargement of time

8 Where any time is fixed under these Rules for the doing of any set in connection with an application or appeal to the court, such time may be enlarged or abridged by consent of all parties or by the court on the application in writing of my party to the proceedings.

Copies of letters for court

9 Upon receipt of a copy of an application or appeal and Notice of Hearing in accordance with the provisions of rule 6 the Commissioner shall as soon as practicable forward to the court a copy of any letters, notices, and other documents relevant to the determination, of the matters in issue including, if he thinks fit, such reasons for any decision given by him and any comment on the matter in question as he may consider appropriate.

Application for directions

10 At any time prior to the date of the hearing application may be made in writing to the court for directions relating to any matter incidental to the hearing of the application or appeal, and upon such application the court may make such order as it thinks fit.

Statement of agreed facts

11 In every appeal and application the appellant and respondent agree upon such of the facts as are not in dispute, and the appellant

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shall, not less than seven days before the date fixed for the hearing of the appeal or application, file at the court, in duplicate, a statement of the agreed facts signed by or on behalf of both parties to the appeal or application.

Dispute of facts

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

- (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 or application with a copy of the statement and the affidavit or affidavits in support.

Notice to produce documents

13 (1) Any party to an appeal or application may at any time not later than fourteen days before the date of the hearing give to the other party a notice in writing to produce at the hearing any document in his possession.

(2) If any party to an appeal or application to whom such notice has been given under sub-rule (1) does not comply therewith, secondary evidence of the contents of such documents may be given by or on behalf of the party who gave the notice.

Admission to facts and documents

14 (1) Any party to an appeal or application may at any time not later than fourteen days before the date of the hearing give to the other party notice in writing to admit any fact or document.

(2) If the party to an appeal or application to whom such notice is given does not make the required admission within four days after receiving the notice he shall pay the costs of proving such fact or document, whatever the result of the appeal or application, unless the court otherwise orders.

Hearing

15 At the hearing of any appeal or application—

- (a) the appellant or applicant may be represented by counsel;
- (b) 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 12 to attend to be cross-examined on the contents of his affidavit, and may adjourn the hearing of the appeal or application in order to secure the attendance of any deponent;
- (c) the court may, either of its own motion, or on the application of either party, receive the evidence of any person who has expert knowledge or experience of the matters in dispute or who can otherwise assist the court in the matter.

Default of appearance

16 Where any respondent to an appeal or application does not appear at the time and place set down for the hearing, the court may, on being satisfied that notice of such time and place was served on him proceed to hear and determine the appeal or application.

Costs

17 The court may make such order as to costs as it shall think fit, which costs shall be on the scale of costs applicable to proceedings before the court under the provisions of the Magistrates Act 1948 [*title 8 item 15*].

Abandonment

18 An appellant or applicant who wishes to abandon his appeal may do so by filing with the court a notice of abandonment.

Service of notices

19 Service of any notice or other document required to be served for the purposes of these Rules may be served in the manner set out in section 34 of the Act or, where any person is for the purposes of the appeal or application represented by counsel, then by delivery of such document or notice to the chambers of such counsel.

Fees

20 The fees set out in the Second Schedule shall be payable in respect of every appeal or application.

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Warrant to evict

21 Where an order for possession under section 9 of the Act is not obeyed by the specified date, upon proof of service of the order the landlord shall be entitled, without further order, to sue out a warrant directing the Provost Marshal General to evict the tenant from the premises.

FORM 1
IN THE MAGISTRATES' COURT

RENT INCREASES (DOMESTIC PREMISES)
CONTROL RULES 1972 [s.4(6)]

Rent Increases Application No. of 19

[blank] Applicant
[blank] Respondent

I, [blank] (name)
of [blank] (address)
being the landlord/tenant or principal tenant/sub-tenant [Delete
whichever is not applicable] of [blank] (full description of premises) and
having [blank] (name) of [blank] (address) as the landlord/tenant or prin-
cipal tenant/sub-tenant [Delete whichever is not applicable] of such
premises, claim that there is/not a domestic tenancy in existence within
the meaning of section 4.

The Commissioner has/not issued a certificate (copy of which is attached
hereto), and I now apply for a review/determination and an order
declaring that the tenancy is/not a domestic one.

Date [blank]

[blank]

Signature of Applicant or his counsel

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Form 5
IN THE MAGISTRATES' COURT

RENT INCREASES (DOMESTIC PREMISES) CONTROL RULES 1972 [R.
6]

Rent Increases Application No. of 19

[*blank*] Applicant

vs.

[*blank*] Respondent

Notice is hereby given that the application/appeal, a copy of which is served on you together with this notice, will be heard at [*blank*] o'clock in the fore/afternoon [Delete whichever is not applicable] on the [*blank*] day of [*blank*] 19 [*blank*], at the Magistrates' Court, Hamilton, and that you may appear in person or be represented by counsel; in the event, however, of your failing to appear personally or by your legal representative the court may proceed to hear and determine the application/appeal [*Delete whichever is not applicable*].

Date [*blank*]

[*blank*]

Magistrate

Form 6

IN THE MAGISTRATES' COURT RENT INCREASES (DOMESTIC
PREMISES) CONTROL RULES 1972

Rent Increases Application No. [blank] of 19 [blank]

Warrant to Evict

TO: THE PROVOST MARSHAL GENERAL

WHEREAS on the [blank] day of [blank] 19 [blank], it was adjudged that the applicant was entitled to possession of [blank] (*describe the land as set out in the court order*) and it was ordered that the respondent should give the applicant possession of the said land on the [blank] day of [blank] 19 [blank]

AND WHEREAS the respondent has not obeyed the said order:

YOU ARE THEREFORE required to give possession of the said land to the applicant.

Dated this [blank] day of [blank] 19 [blank]

[blank]
Magistrate

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SECOND SCHEDULE

1	Filing of application or notice of appeal:	\$5.00
2	Notice of withdrawal or settlement:	no fee
3	On filing a statement of agreed facts:	\$1.00
4	On filing an affidavit in support where there is a dispute as to facts:	\$1.00
5	On the hearing of an application or appeal per day or part of a day:	\$30.00
6	Application for directions under rule 10:	\$3.00
7	Filing of any notice or document not hereinbefore referred to:	\$1.00

[Amended by
SR&O 85/1975]