

## APPEAL BOARD

### THE RULES

#### Appeals to Appeal Board

#### *(Rule 39 of the Muslim Marriage and Divorce Rules)*

**39.—**(1) This rule shall apply to all appeals to the Appeal Board under section 55 of the Act (Administration of Muslim Law Act) except for the matters specified in the Second Schedule.

(2) An appeal to the Appeal Board shall be commenced by filing with the Chief Executive a notice of appeal in Form 47 addressed to the Appeal Board, accompanied by the relevant fees specified in the Third Schedule, within 30 days from the date of the decision or order of the Court, Kadi or Naib Kadi, as the case may be.

(3) An appellant shall serve a copy of his notice of appeal on each respondent to the appeal within 3 days of filing the notice of appeal with the Chief Executive.

(4) The Chief Executive shall cause a copy of the notice of appeal to be served as soon as possible on the Court, Kadi or Naib Kadi, as the case may be.

(5) On receiving the copy of the notice of appeal, the president of the Court, the Kadi or Naib Kadi, as the case may be, shall prepare and sign a copy of the grounds of his decision or order and forward the copy of the grounds of his decision or order to the Chief Executive who shall then serve on the appellant a notice to collect.

(6) Upon payment of the relevant fee specified in the Third Schedule, the appellant shall collect the copy of the grounds of the decision or order referred to in paragraph (5) together with a copy of the notes of the proceedings and any other document (including exhibits) used by the Court, Kadi or Naib Kadi, as the case may be, in the first instance.

(7) Within 21 days after the service of the notice to collect on the appellant referred to in paragraph (5), the appellant shall, if he desires to proceed with the appeal file with the Chief Executive a petition of appeal in quadruplicate in Form 48.

(8) The appellant shall serve on every respondent to the appeal a copy of the petition of appeal, a copy of the grounds of the decision or order and all other documents received by him from the Chief Executive under paragraph (6), within 3 days of filing the petition of appeal with the Chief Executive.

(9) Every petition of appeal shall be signed by the appellant or his solicitor and shall contain —

- (a) the grounds of appeal; and

- (b) a concise statement of the particulars of the matters of law or fact relating to each ground of appeal,

and, subject to rule 42, the appellant shall not be permitted at the hearing of the appeal to rely on any ground of appeal other than those specified in the petition of appeal.

(10) If a petition of appeal is not filed within the time specified in paragraph (7), the appeal shall be deemed to have been withdrawn.

(11) A respondent to an appeal may give notice to the Appeal Board through the Chief Executive, and to every other party involved in the appeal that he intends to seek a variation of the decision or order appealed from, and such notice shall operate as a cross-appeal.

(12) The notice given by the respondent referred to in paragraph (11) shall be —

- (a) in Form 49; and
- (b) filed with the Chief Executive in quadruplicate within 14 days of service of the petition of appeal by the appellant,

and a copy of the notice shall be served by the respondent on the appellant within 3 days of filing with the Chief Executive.

(13) Subject to rule 42, a respondent who has filed and served a notice under paragraph (12) shall not raise any matter not specified in the notice.

(14) Within 21 days of the filing of the petition of appeal referred to in paragraph (7), the appellant shall file with the Chief Executive 4 copies of the record of appeal, and serve a copy of the record of appeal on every respondent to the appeal.

(15) The record of appeal shall consist of a copy of —

- (a) the notice of appeal, petition of appeal and the notice (if any);
- (b) the grounds of the decision or order, the notes of proceedings and any other document referred to in paragraph (6); and
- (c) the case statement, Memorandum of Defence and any other document relating to the cause of action in the first instance.

(16) If a record of appeal is not filed within the time specified in paragraph (14), the appeal shall be deemed to have been withdrawn.

(17) An application for leave to appeal to the Appeal Board under section 55(1)(g) or (2) of the Act shall be made by way of motion in Form 50 supported by an affidavit made by the applicant setting out the reasons why leave should be granted.

(18) The application and affidavit referred to in paragraph (17) shall be —

- (a) filed with the Chief Executive;
- (b) accompanied by the relevant fee specified in the Third Schedule; and
- (c) served on every other party to which the application relates within 3 days of filing with the Chief Executive.

(19) A party who has been served with an application under paragraph (18)(c) shall, if he wishes to be heard on the application, file with the Chief Executive an affidavit-in-reply within 21 days of being served with the application, and serve the affidavit-in-reply on the applicant within 3 days of filing with the Chief Executive.

(20) No further affidavit or affidavit-in-reply shall be filed with the Chief Executive without the leave of the Appeal Board.

(21) Notwithstanding anything in this rule, the Appeal Board may, if it thinks fit, extend the time required for the doing of any act under this rule.

(22) An application for leave to extend the time for the doing of any act under this rule shall be made by way of motion in Form 50 and paragraphs (17) to (20) shall apply, with the necessary modifications, to such application.

#### **Appeals on certain matters**

#### ***[Rule 40 of the Muslim Marriage and Divorce Rules]***

**40.—**(1) This rule shall apply to appeals to the Appeal Board under section 55 of the Act on the matters specified in the Second Schedule.

(2) An appeal under this rule shall be commenced by filing with the Chief Executive a notice of appeal in Form 51 addressed to the Appeal Board, accompanied by the relevant fee specified in the Third Schedule.

(3) The Chief Executive shall cause a copy of the notice of appeal filed with him under paragraph (2) to be served as soon as possible on the Court.

(4) The notice of appeal referred to in paragraph (2) shall be filed not later than 14 days from the date of the order of the Court and the appellant shall serve a copy of the notice of appeal on every respondent to the appeal within 3 days of filing the notice of appeal with the Chief Executive.

(5) Upon receipt of the notice of appeal, the Court shall prepare and sign a copy of the grounds of its order and forward the copy of the grounds of its order to the Chief Executive who shall then serve on the appellant a notice to collect.

(6) Upon payment of the relevant fee specified in the Third Schedule, the appellant shall collect the copy of the grounds of the order referred to in paragraph (5) together with a copy of the notes of the proceedings and any other document (including exhibits) used by the Court in the first instance.

(7) The appellant shall serve on every respondent to the appeal a copy of the grounds of the order of the Court and all other documents received by the appellant under paragraph (6) within 3 days of receiving them from the Chief Executive.

(8) An appeal under this rule shall be heard by way of rehearing.

(9) Notwithstanding paragraph (4), the Appeal Board may extend the time required for the filing of a notice of appeal under this rule.

(10) An application for leave to extend the time for the filing of a notice of appeal under this rule shall be made by way of motion in Form 50 and rule 39(17) to (20) shall apply, with the necessary modifications, to such application.

### **Hearing of appeals**

#### ***[Rule 41 of the Muslim Marriage and Divorce Rules]***

**41.**—(1) Upon receipt by the Chief Executive of —

- (a) the record of appeal under rule 39(14);
- (b) the notice of appeal under rule 40(2); or
- (c) the notice of motion referred to in rule 39(17) or (22), 40(10) or 42(1),

the President of the Majlis shall constitute an Appeal Board to hear the appeal in the manner provided in section 55 of the Act.

(2) The Appeal Board shall fix a date for the hearing of the appeal and shall notify the parties to the appeal of the date and the place for the appeal to be heard.

(3) The Appeal Board may make any order as to costs as it thinks fit.

(4) Where an appeal is deemed to be withdrawn under rule 39(10) or (16), the Chief Executive shall inform every respondent to the appeal or his solicitor of the withdrawal and shall refund to the appellant such amounts of the fees paid by the appellant as may be appropriate.

(5) Notwithstanding rules 39 and 40, the Appeal Board may, upon an application made by any party at the hearing of an appeal, including an application made orally, waive any of the requirements of rule 39 or 40 if the Appeal Board thinks that it is just and expedient to do so.

(6) An order made by the Appeal Board under these Rules shall be in Form 52.

**Further evidence**

***[Rule 42 of the Muslim Marriage and Divorce Rules]***

**42.—**(1) If a party to an appeal desires to —

- (a) adduce further evidence on any question of fact at the hearing of the appeal; or
- (b) rely on any ground other than that specified in the petition of appeal or the notice given by the respondent, as the case may be,

that party shall make an application for leave to do so by way of motion in Form 50.

(2) Rule 39(17) to (20) shall apply, with the necessary modifications, to an application made under paragraph (1).