ANTIGUA AND BARBUDA



EASTERN CARIBBEAN SUPREME COURT CIVIL PROCEDURE (AMENDMENT) RULES 2013

STATUTORY INSTRUMENT

2014, No. 5

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The Chief Justice and two other judges of the Supreme Court, being the authority empowered by section 17 of the Supreme Court Order 1967, [Cap. 422A] to make Rules regulating the practice and procedure of the Court of Appeal and the High Court, have made the following amendments to the Eastern Caribbean Supreme Court Civil Procedure Rules 2000 –

1. Citation: These Rules may be cited as the **EASTERN CARIBBEAN SUPREME COURT CIVIL PROCEDURE (AMENDMENT) RULES 2013.**

2. Amended Rules in the Schedule: The amended Rules in the Schedule hereto are the amendments for the time being to the Eastern Caribbean Supreme Court Civil Procedure Rules 2000 which govern civil procedure in the Eastern Caribbean Supreme Court.

3. Reference to the Amended Rules: It shall not be necessary to include the Schedule to the amended Rules in the annual volume of the laws of a Member State or Territory of the Eastern Caribbean Supreme Court, but a reference may be made thereto in such volume and shall be sufficient.

4. Commencement: These amended Rules shall come into effect on 1st February 2014.

SCHEDULE (Rule 2)

Eastern Caribbean Supreme Court Civil Procedure (Amendment) Rules 2013.

Made this 18th day of December 2013.

Hon. Dame Janice M. Pereira
Chief Justice

Davidson K. Baptiste
Justice of Appeal

Francis Belle
High Court Judge

EASTERN CARIBBEAN SUPREME COURT CIVIL PROCEDURE (AMENDMENT) RULES 2013

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RULES

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EASTERN CARIBBEAN SUPREME COURT CIVIL PROCEDURE (AMENDMENT) RULES 2013

STATUTORY INSTRUMENTS

2014, No. 5

In exercise of the powers conferred pursuant to section 17 of the Supreme Court Order 1967, the Chief Justice and two other Judges of the Supreme Court make these Rules—

1. Citation

These Rules may be cited as the Eastern Caribbean Supreme Court Civil Procedure (Amendment) Rules 2013.

2. Commencement

These Rules shall come into effect on the 1st of February 2014.

3. Interpretation

In these Rules "the principal Rules" means the Eastern Caribbean Supreme Court Civil Procedure Rules 2000 published by the Caribbean Law Publishing Company Ltd.

4. Amendment of Rule 7.3

Rule 7.3 of the principal Rules is amended by repealing paragraph (5) and substituting the following paragraph—

"(5) A claim form may be served out of the jurisdiction if a claim is made to enforce any judgment or arbitral award which was made by a foreign court or tribunal and is amenable to be enforced at common law."

5. Amendment of Part 61

Part 61 of the principal Rules is repealed and substituted by the following Part—

"PART 61

APPEALS TO THE COURT BY WAY OF CASE STATED

Contents of this Part

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Scope of this Part

61.1 (1) An appeal by case stated is an appeal to a superior court on the basis of a set of facts specified by the inferior court for the superior court to make a decision on the application of the law to those facts.

(2) This Part deals with the way in which the Court determines—

(a) (i) an appeal which lies to the court by way of case stated; or

(ii) a question of law brought by way of case stated;

referred to it, by a minister, magistrate, judge of a tribunal, a tribunal or other person; or

(b) an application for an order directing a minister, magistrate, judge of a tribunal, tribunal, arbitrator or other person to refer a question of law to the court by way of case stated, where under any enactment the High Court or the Court of Appeal has power to determine such matters.

(3) In this Part—

"**case**" includes a special case;

"**clerk to the tribunal**" means the clerk, secretary or other person responsible for the administration of the tribunal;

"**court**" means the High Court or the Court of Appeal as required by the particular enactment;

"**enactment**" includes the Constitution of the relevant Member State or Territory; and

"**tribunal**" means in relation to—

(a) proceedings brought under the Constitution – a court other than the High Court, the Court of Appeal or a court martial;

(b) any other proceedings – any tribunal other than a court of law constituted by or under any enactment.

Application for order to state a case

61.2 (1) An application for an order requiring a minister, magistrate, judge of a tribunal, tribunal, arbitrator or other person to—

(a) state a case for the decision of the court, or

(b) refer a question of law to the court by way of case stated;

must be made to the court which would be the appeal court if the case were stated.

(2) An application—

(a) to the High Court shall be made by a fixed date claim in Form 2 and must—

(i) identify the question of law upon which it is sought to have a case stated;

(ii) set out any reasons given by the minister, magistrate, judge of a tribunal, tribunal, arbitrator or other person for the failure or refusal to state a case; and

(iii) state the grounds of the application.

(b) to the Court of Appeal shall be made by a notice of appeal in Form 23 and must—

(i) identify the question of law upon which it is sought to have a case stated;

(ii) set out any reasons given by the minister, magistrate, judge of a tribunal, tribunal, arbitrator or other person for the failure or refusal to state a case; and

(iii) state the grounds of the application.

(3) The application notice must be filed at the court and served on—

(a) the minister, magistrate, judge of a tribunal, tribunal, arbitrator or other person as the case may be; and

(b) every party to the proceedings to which the application relates;

within 14 days after the appellant receives notice of the failure or refusal of his request to state a case.

(4) The court office must fix a date for a hearing of the application and endorse on the claim form the date, time and place of that hearing.

(5) The applicant must file at the court office a copy of the proceedings to which the application relates not less than 7 days before the date fixed for the hearing.

Persons on whom claim form must be served

61.3 The claimant must serve the claim form—

(a) if the application relates to a claim brought under the relevant Constitution on—

(i) the Attorney General;

(ii) the clerk to the tribunal; and

(iii) every other party to the proceedings to which the application relates;

(b) in any other claim on—

(i) the clerk to the tribunal;

(ii) the minister or other person whose decision is questioned; and

(iii) every other party to the proceedings to which the application relates.

- Rule 6.9 deals with service on the Attorney General
- Rule 59.2 deals with service on the Crown or State.

Time within which claim form must be served

61.4 The claimant must serve the claim form within 14 days of the date on which notice of refusal to state a case was given to the claimant.

Signing and service of case

61.5 (1) A case stated by a tribunal must be signed by the magistrate, judge, chairman or president of the tribunal.

(2) A case stated by any other person must be signed by that person.

(3) A claim brought under the Constitution must be served on the Attorney General and all parties to which the claim relates.

(4) Any claim other than in paragraph (3) must be served on—

(a) the party whose application it is to state the case;

(b) the party who requested the case stated; and

(c) all parties to which the case relates.

How to commence proceedings in the High Court to determine a case

61.6 (1) Proceedings to determine a case must be commenced by filing a fixed date claim in Form 2 at the court office.

(2) The fixed date claim form may be issued by—

(a) A minister, magistrate, judge of a tribunal, tribunal, arbitrator or other person entitled by any enactment to state a case or to refer a question of law by way of case stated to the court; or

(b) Any other party to the claim to which the case relates.

(3) The claim form must have the case stated annexed.

(4) Where an application has been granted under rule 61.2, the fixed date claim filed for that application may be deemed to have commenced proceedings and the claimant must—

(a) file the case stated at the court office within 14 days of receipt of the case stated by the minister, magistrate, judge of a tribunal, tribunal, arbitrator or other person entitled by any enactment to state a case or to refer a question of law by way of case stated to the court; and

(b) within 7 days serve a notice of filing on the persons set out in Rule 61.5(3).

(5) The claim form or a statement of claim issued and served with it must set out the claimant's contentions on the question of law to which the claim relates.

(6) The contentions may be in the form of a skeleton argument.

(7) The court office must fix a date, time and place for the determination of a case.

(8) The claim must be served on the persons set out in rule 61.5(3).

(9) It must be served within 14 days after the service of the case stated.

How to commence proceedings in the Court of Appeal to determine a case

61.7(1) Proceedings to determine a case must be commenced by filing a notice of appeal in Form 23 at the court office.

(2) The notice of appeal may be issued by—

(a) A minister, magistrate, judge of a tribunal, tribunal, arbitrator or other person entitled by any enactment to state a case or to refer a question of law by way of case stated to the court; or

(b) Any other party to the claim to which the case relates.

(3) Where an application has been granted under rule 61.2, the notice of appeal filed for that application may be deemed to have commenced proceedings and the claimant must—

(a) file the case stated at the court office within 14 days of receipt of the case stated by the minister, magistrate, judge of a tribunal, tribunal, arbitrator or other person entitled by any enactment to state a case or to refer a question of law by way of case stated to the court; and

(b) within 7 days serve a notice of filing on the persons set out in Rule 61.5(3).

(4) The case stated must be annexed to the notice of appeal and must set out the appellant's contentions on the question of law to which the case relates.

(5) The contentions may be in the form of a skeleton argument.

(6) The court office must fix a date, time and place for the determination of a case.

(7) The notice of appeal must be served on the persons set out in rule 61.5(3).

(8) It must be served within 14 days after the service of the case stated.

Determination of case

61.8 (1) Not less than 7 days before the date fixed to determine the case, the claimant must file a copy of the proceedings to which the case relates.

(2) The court may amend the case or order it to be returned to the person or tribunal stating the case for amendment.

(3) The court may draw inferences of fact from the facts stated in the case.

(4) A minister is entitled to be heard on any case stated by that minister.

Time within which case must be stated

61.9 Where a minister, magistrate, judge of a tribunal, tribunal, arbitrator or other person has received a request or is expected to state a case, this must be done within 14 days of either the request or the date of the decision."