

FEDERAL SUBSIDIARY LEGISLATION

[P.U. (A) 190/1994]

LEGAL PROFESSION (DISCIPLINARY PROCEEDINGS) (APPEAL) RULES 1994

Publication Date: 19 May 1994

IN exercise of the powers conferred by section 103F of the Legal Profession Act 1976 [Act 166], the Disciplinary Board makes the following rules:

1. These rules may be cited as the Legal Profession (**Disciplinary Proceedings**) (**Appeal**) **Rules 1994**.

2. In these Rules, unless the context otherwise requires—

“advocate and solicitor concerned” means the advocate and solicitor or pupil against whom a complaint or an order has been made under the Act;

“complaint” means a written complaint concerning the misconduct of an advocate and solicitor or a pupil;

“Director” means the Director of the Complaints Secretariat appointed under section 98 of the Act.

3. (1) An appeal under section 103E(1) of the Act shall be brought by filing an originating motion substantially in Form 9 of the Rules of the High Court 1980 [*P.U. (A) 50/1980*].

[(1) Subs. PU(A) 193/2007:r.2]

(1A) The party who appeals is known as “appellant” and the party against whom the appeal is made is known as “respondent”.

[(1A) Ins. PU(A) 193/2007:r.2]

(2) An appellant may appeal against the whole or any part of an order or a decision and the originating motion shall state whether the appeal is against the whole or part only, and if so, shall specify the part of the order or decision appealed against.

[(2) Am. PU(A) 193/2007:r.2]

(3) A copy of the originating motion and affidavit shall be sent by personal service, courier or registered post to the respondent, the Director and the Bar Council within

seven days from the date of the filing of the originating motion.

[(3) Subs. PU(A) 193/2007:r.2]

4. (1) Within seven days from the date of filing of originating motion, the appellant shall pay to the Director a sum of five hundred ringgit as the deposit for obtaining copy of documents referred in subrule (4).
- (2) The deposit referred to in subrule (1) is non-refundable.
- (3) Subrule (1) is not applicable if the appellant is the Bar Council, any court includes the Industrial Court and a Syariah Court, Judge, Session Court Judge, Magistrate or the Attorney General.
- (4) Within three weeks from the date of receipt of the deposit made under subrule (1), the Director shall supply to the appellant the certified copies of the following documents:
 - (a) application or complaint made under section 99 of the Act and all documents which support the application or complaint;
 - (b) written explanation made under subparagraphs 100(1)(b)(ii) and 103B(4)(b)(i) of the Act;
 - (c) record of proceeding before the Disciplinary Committee under section 103B of the Act;
 - (d) report that contains findings and recommendations of the Disciplinary Committee under section 103C of the Act; and
 - (e) order made by the Disciplinary Board under section 103D of the Act.
- (5) No document will be supplied if the appellant did not pay the deposit referred to in subrule (1).

[4. Subs. PU(A) 193/2007:r.3]

5. (1) Within six weeks of the receipt of the documents specified under subrule 4(4), the appellant shall file an affidavit which contains the appeal record in the High Court.

[(1) Am. PU(A) 193/2007:r.4]

- (2) A copy of the affidavit which contains the appeal record shall be served by personal service, courier or registered post to the respondent, the Director and the Bar Council.

[(2) Subs. PU(A) 193/2007:r.4]

6. (1) An appellant may withdraw his appeal at any time before his appeal is called on for hearing by filing a notice of withdrawal of the appeal in the High Court.

- (2) A copy of the notice of withdrawal of appeal shall be served on the respondent, the Director and the Bar Council.

(3) *(Deleted by PU(A) 193/2007:r.5)*

(4) *(Deleted by PU(A) 193/2007:r.5)*

(5) *(Deleted by PU(A) 193/2007:r.5)*

7. *(Deleted by PU(A) 193/2007:r.6)*

8. The Director shall keep and maintain an Appeals Register which shall contain the following particulars:

- (a) the date of receipt of the originating motion;

[(a) Am. PU(A) 193/2007:r.7]

- (b) the date of the decision of the High Court, Court of Appeal or Federal Court, whichever is applicable; and

[(b) Subs. PU(A) 193/2007:r.7]

(c) *(Deleted by PU(A) 193/2007:r.7)*

(d) *(Deleted by PU(A) 193/2007:r.7)*

(e) *(Deleted by PU(A) 193/2007:r.7)*

- (f) where the appeal is withdrawn, the date of withdrawal.

9. Any notice or document required to be served under these Rules may be served on the appellant or the respondent or on their respective solicitors by sending it by prepaid registered post to the last known address of the appellant, the respondent or their respective solicitors, as the case may be.

10. Where no provision is made under these Rules, the procedure and practice in the Rules of the High Court 1980 [*P.U. (A) 50/80*] shall apply.
11. Any appeal under subsection 103E(5) of the Act shall be made in accordance with Court of Judicature Act 1964 [Act 91], the Rules of the Court of Appeal 1994 [P.U. (A) 524/1994] and the Rules of the Federal Court 1995 [P.U. (A) 376/1995].

[Am. PU(A) 193/2007:r.8]

Made 7th May 1994

[DB/R/1/94; PN. (PU²) 314/VI.]

TAN SRI DATO' HAJI MOHD. EUSOFF BIN CHIN

Chairman

Disciplinary board

LIST OF AMENDMENTS

Amending law	Short title	In force from
PU(A) 193/2007	Legal Profession Disciplinary Proceedings) (Appeals) (Amendment) Rules 2007	25 May 2007