

No. 443.

THE COMPENSATION (DEFENCE) GENERAL TRIBUNAL  
RULES, 1940.

In exercise of the powers vested in it by the Compensation (Defence) Law, 1940, the General Claims Tribunal, with the concurrence of the Governor, hereby makes the following rules:—

SHORT TITLE.

1. These rules may be cited as the Compensation (Defence) General Tribunal Rules, 1940.

INTERPRETATION.

2. In these rules, unless the context otherwise requires, the following expressions have the meanings hereby assigned to them respectively, that is to say:—

“The Law” means the Compensation (Defence) Law, 1940.

“The Tribunal” means the General Tribunal constituted under the Law.

“The Registrar” means the officer appointed by the Tribunal to carry out the duties of Registrar of the Tribunal under these rules.

“Reference” means proceedings for the determination of a dispute or claim which has been referred to the Tribunal under these rules.

“The Authority” means the Authority which is concerned with the settlement of the dispute or claim which is the subject of a reference.

NOTIFICATION AND PRESENTATION OF CLAIMS FOR COMPENSATION.

3.—(a) Where a dispute as to whether any compensation is payable under the Law, or as to the amount of any compensation so payable, has arisen and has not been settled by agreement, the person claiming compensation (hereinafter referred to as “the Claimant”) shall furnish the Authority with a statement (hereinafter referred to as the “Statement of Claim”) together with five copies thereof, setting out clearly all reasonable particulars of his claim, of the facts relied upon by the Claimant in support thereof as well as the amount of compensation claimed by him, showing so far as is practicable the amount claimed under the several provisions of the Law, and, further, stating as fully as possible the grounds on which the amount (if any) offered to the Claimant by the Authority by way of compensation was not accepted.

(b) The Authority shall, after receipt of the statement of claim, notify the Tribunal of the claim in manner provided by this rule, and upon such notification the dispute shall be a dispute referred to the Tribunal for determination under the Law.

(c) Notification of the claim shall be given by filing with the Registrar an application in Form A of the Schedule to these rules (together with five copies thereof), signed by the party making the application (hereinafter referred to as “the Applicant”) or the Applicant’s agent.

(d) There shall be filed with the application (i) five copies of the Notice of Claim previously sent by the Claimant to the prescribed authority in accordance with section 13 of the Law, (ii) five copies of the Claimant’s Statement of Claim, and (iii) a statement by the Authority (hereinafter referred to as the “Statement of Defence”), together with five copies thereof, containing the answer of the Authority to the claim and setting out clearly which of the particulars contained in the Claimant’s Statement of Claim are admitted and which are disputed, the amount of compensation (if any) which is admitted by the Authority to be payable, showing to what items in the Statement of Claim such compensation relates, the sum attributable to each item and how such sum is arrived at, and, further, stating as fully as possible the grounds relied upon by the Authority in support of the amount (if any) offered to the Claimant by way of compensation.

(e) When an application has been filed pursuant to clause (c) the Registrar shall send by post or otherwise notice thereof to the Claimant named in the application as the other party to the dispute, together with a copy of the Application and of the Statement of Defence filed under clause (d).

NOTIFICATION AND PRESENTATION OF CLAIMS FOR APPORTIONMENT  
OF COMPENSATION.

4.—(a) Where a claim for the apportionment of compensation under section 15 of the Law has been made and has not been settled by agreement, the person who has made the claim (in this rule referred to as “the Hirer”) or the person who was the owner of the property immediately before the requisition or acquisition (in this rule referred to as “the Owner”) or the Authority may notify the Tribunal of the claim for apportionment in manner provided by this rule and upon such notification the claim shall be referred to the Tribunal for determination under the Law.

(b) Notification of the claim for apportionment shall be given by filing with the Registrar an application (with five copies thereof) in Form B of the Schedule to these rules, signed by the party making the application (hereinafter referred to as “the Applicant”) or the Applicant’s agent.

(c) Where the Authority is the Applicant there shall be filed with the application six copies of the Notice of Claim given under section 15 of the Law and a statement (with five copies thereof) setting out the following matters :—

- (i) Particulars of any claim for compensation made by the Owner. Where Notice of Claim has been given under section 13 of the Law a copy of such Notice will be attached to the statement.
- (ii) Any payment made or agreed to be made to the Owner in settlement of such claim.
- (iii) If not settled, the position with regard to such claim.
- (iv) If a dispute as to such claim has been referred to the Tribunal, the title and number of the reference.
- (v) Any observations upon the claim for apportionment which the Authority may deem proper.

(d) When an application has been filed pursuant to clause (b) the Registrar shall send notice thereof by post or otherwise to the other parties named in the application together with a copy of the Application and, in cases to which clause (c) applies, a copy of the Notice of Claim given under section 15 of the Law and of the statement filed under that clause.

(e) In cases to which clause (c) does not apply the Authority shall, within fourteen days after the receipt of notice of the application, file with the Registrar five copies of the Notice of Claim given under section 15 of the Law together with a statement (with four copies thereof) setting out the matters prescribed by clause (c). The Authority shall at the same time send a copy of the Notice of Claim and of the statement to the other parties named in the application.

(f) The Owner shall within fourteen days after the receipt of copies of the Notice of Claim and statement under clause (c) or clause (e) file with the Registrar a statement (with four copies thereof) containing his answer to the claim for apportionment and setting out :—

- (i) which of the particulars contained in the Notice of Claim are disputed ;
- (ii) whether he admits that part of the compensation payable to him should be apportioned to the Hirer and, if so, what part and how such apportionment is arrived at ;
- (iii) any further matters or grounds affecting the claim for apportionment on which he proposes to rely.

The Owner shall at the same time send a copy of the statement to the other parties named in the application.

#### ADDRESS FOR SERVICE.

5. Every party to a reference shall furnish to the Registrar and to the other parties an address within the Colony to which communications relating to the reference may be sent to the party. In the case of the Applicant the address shall be stated in the application. Other parties shall furnish the address by post as soon as they receive notice of the application.

#### PARTICULARS.

6. The Tribunal may, of its own motion or upon application by any party, order a further and better statement of the nature of any claim or answer to claim, or further and better particulars of any matter contained in any notice of claim, statement of claim, statement of defence or other written proceeding filed under these rules, upon such terms as to costs or otherwise as may be just. Five copies of any statement or particulars supplied pursuant to a request or order under this rule shall be filed with the Registrar and copies sent to the other parties to the reference.

#### AMENDMENT.

7. The Tribunal may by order made at any stage of the reference allow any party to amend his Notice of Claim or any statement or other written proceeding filed under these rules, in such manner and on such terms as may be just.

#### CHANGE OF PARTIES.

8. The Tribunal may at any stage of the reference either with or without the application of any party, or on the application of a person seeking to be added as a party, and on such terms as may be just, order that any person improperly joined as a party be discharged from the reference, or that any person having an interest in the reference whose presence before the Tribunal may be necessary in order to enable the Tribunal effectually and completely to determine any question raised in the reference be added as a party :

Provided that no person shall be added as a party except with his written consent thereto which shall be filed with the Registrar.

Where such an order has been made the Tribunal may give such directions as to the filing of any further or amended Notice of Claim, statement or other written proceeding and the service thereof and as to the subsequent course of the reference as the Tribunal may think proper. Notice of an order discharging or adding a party under this rule shall be sent to such party by the Registrar.

## DATE AND PLACE OF HEARING.

9.—(a) As soon as may be after the filing of the statement containing the answer of the Authority or of the Owner (as the case may be) under rule 3 or rule 4, the Registrar shall communicate with the parties to the reference for the purpose of fixing an agreed date and place for hearing. If the parties fail to agree on a date and place satisfactory to the Tribunal, the Tribunal shall fix the date and place and the Registrar shall communicate the same to the parties.

(b) When any dispute or claim which has been referred to the Tribunal is settled by agreement between the parties the Applicant shall give immediate notice thereof to the Registrar.

## NOTICE TO ADMIT DOCUMENTS.

10.—(a) Any party may by notice in writing at any time not later than fourteen days before the hearing call upon any other party to admit any document specified in the notice, saving all just exceptions, and if the other party desires to challenge the authenticity of the document he shall within six days after receipt of such notice give notice that he does not admit the document and requires it to be proved at the hearing.

(b) If such other party omits to give notice of non-admission within the time prescribed in clause (a), he shall be deemed to have admitted the document unless the Tribunal otherwise orders.

(c) Where a party gives notice of non-admission under clause (a) and the document is proved at the hearing, the costs of proving the document shall be paid by the party who has given notice of non-admission unless the Tribunal otherwise orders.

## NOTICE TO ADMIT FACTS.

11.—(a) Any party may by notice in writing at any time not later than fourteen days before the hearing call on any other party to admit, for the purposes of the reference only, any specific fact or facts specified in the notice, and if the other party desires to dispute any fact so specified he shall within six days after receipt of such notice give notice that he does not admit the fact.

(b) If such other party omits to give notice of non-admission within the time prescribed in clause (a) he shall be deemed to have admitted the fact unless the Tribunal otherwise orders.

(c) Where a party gives notice of non-admission under clause (a) and the fact is proved at the hearing, the costs of proving that fact shall be paid by the party who has given notice of non-admission unless the Tribunal otherwise orders.

(d) Any admission made in pursuance of a notice under clause (a) is to be deemed to be made only for the purposes of the particular reference and not as an admission to be used against the party on any other occasion or in favour of any person other than the party giving the notice.

(e) The Tribunal may at any time allow any party to amend or withdraw any admission made under this rule on such terms as may be just.

## EVIDENCE GIVEN BY AFFIDAVIT OR BEFORE AN EXAMINER.

12. The Tribunal may at any stage of the reference order that any particular fact or facts may be proved by affidavit, or that the affidavit of any witness may be read at the hearing on such conditions as the Tribunal may think reasonable, or that any witness whose attendance at the hearing ought for some sufficient cause to be dispensed with, be examined on oath before a person to be nominated in the order: provided that where it appears to the Tribunal that any party reasonably desires the production of a witness for cross examination and that such witness can be produced, an order shall not be made authorizing the evidence of such witness to be given by affidavit.

## PROOF OF PARTICULAR FACTS.

13. The Tribunal may at any stage of the reference order that evidence of any particular fact or facts, to be specified in the order, shall be given at the hearing by statement on oath of information and belief, or by production of documents or entries in books, or by copies of documents or entries or otherwise as the Tribunal may direct.

## MATTER NOT ADMISSIBLE UNDER THE LAW OF EVIDENCE.

14. The Tribunal may if in any particular case it thinks it right so to do take into consideration any matter which it considers relevant to the subject of the inquiry before it, notwithstanding that the matter is not admissible in evidence under the law relating to evidence.

## EXPERT WITNESSES.

15. The Tribunal may if in any particular case it thinks fit so to do order that no more than a specified number of expert witnesses may be called.

## ORDERS TO ATTEND AND GIVE EVIDENCE AND TO PRODUCE DOCUMENTS.

16.—(a) An order directing any person to attend and give evidence or to produce documents shall be in Form C of the Schedule to the Rules with such variations as circumstances may require.

(b) The party desiring such an order shall make application therefor by letter addressed to the Registrar and enclosing a draft of the order desired. Each draft shall contain the name of one witness only. If the order is made by the Tribunal

the draft shall be dated and signed by the Registrar as the order of the Tribunal and returned by him to the party applying for the same.

(c) The party shall cause the order to be served on the witness personally a reasonable time before the hearing.

(d) There shall be paid or tendered to the witness at the time of service a sum reasonably sufficient to cover his expenses in travelling to and from the place of hearing.

#### ASSESSORS.

17. Hearings with assessors shall take place in such manner and upon such terms as the Tribunal shall direct.

#### REPORT OF EXPERT.

18. An expert report pursuant to section 12 (1) (e) of the Law may be obtained by the Tribunal either before the hearing or in the course of the hearing and pending an adjournment thereof. A copy of the report shall be sent by the Registrar to each party to the reference before the hearing or the adjourned hearing as the case may be.

#### ADJOURNMENTS AND SEPARATE HEARINGS.

19. The Tribunal if it thinks it expedient in the interests of justice so to do may postpone or adjourn the hearing for such time and to such place and upon such terms, if any, as it thinks fit, or may order that different questions arising in the reference be heard at such different times or in such order or at such different places as the circumstances of the case may require.

#### RIGHT OF AUDIENCE.

20. In any proceedings before the Tribunal any of the following persons may address the Tribunal, namely:—

(a) Any party to the reference;

(b) Any advocate retained by or on behalf of any party;

(c) Any other person allowed by leave of the Tribunal to appear instead of any party.

#### AWARD.

21. The decision of the Tribunal in the reference (in these rules referred to as "the award") shall be in writing and signed by the members of the Tribunal before whom the hearing took place. A copy of the award certified by the Registrar shall be sent by him to each of the parties to the reference.

#### COSTS.

22. The award may direct to and by what party or parties the costs or any part of the costs of the reference shall be paid, and may either assess the sum to be paid or direct in what manner and by whom such sum is to be assessed.

#### TIME.

23. The time appointed by these rules or fixed by any order for doing any act or taking any step in the reference may be enlarged by consent of the parties or may be enlarged or abridged by the Tribunal upon such terms (if any) as the justice of the case may require, and such enlargement may be ordered although the application for the same is not made until after the expiration of the time appointed or allowed.

#### USE OF POST.

24. Where by these rules any document is required to be filed or any communication is required to be made or any document transmitted by the Registrar or by any party the same may be done by sending the document or communication by registered post.

#### NON-COMPLIANCE WITH RULES.

25. Non-compliance with any of these rules shall not render any proceeding in the reference void unless the Tribunal shall so direct, but such proceeding may be set aside either wholly or in part as irregular, or amended, or otherwise dealt with in such manner and upon such terms as the Tribunal shall think fit.

C. COX, *Chairman*,

C. L. H. YOUNG,

M. SALAHI,

PAN. TSERIOTIS,

G. N. CHRYSSEAFINIS.

} *General Claims Tribunal.*

#### SCHEDULE.

Form A.—*Notification of Claim for Compensation.*

#### GENERAL TRIBUNAL.

IN THE MATTER OF THE COMPENSATION (DEFENCE) LAW, 1940; AND

IN THE MATTER OF A DISPUTE BETWEEN

(Name, address and description of Claimant)

Claimant

and

(Name of Authority)

Authority

NOTIFICATION OF CLAIM FOR COMPENSATION.

1. On the \_\_\_\_\_ notice of claim for compensation under section 13 of the above Law was given to the prescribed Authority by the Claimant in respect of (*indicate the nature and subject matter of the claim sufficiently to enable it to be identified*).

2. A dispute has arisen between the above parties as to whether compensation is payable under the Law in respect of the said claim or as to the amount of compensation so payable.

3. The said dispute has not been settled by agreement.

4. Application is hereby made by (*name of Authority*) for the determination of the dispute by the General Tribunal pursuant to the provisions of the Law.

Dated the \_\_\_\_\_ day of \_\_\_\_\_, 19\_\_\_\_  
(Signed)

To the REGISTRAR OF THE GENERAL TRIBUNAL.  
Address within the Colony to which communications relating to the reference may be sent to the Applicant :—  
.....

Form B.—*Notification of Claim for Apportionment of Compensation.*

GENERAL TRIBUNAL.

IN THE MATTER OF THE COMPENSATION (DEFENCE) LAW, 1940 ; AND  
IN THE MATTER OF A DISPUTE BETWEEN

(*Name, address and description of Hirer*)

Hirer

and

(*Name, address and description of Owner*)

Owner

and

(*Name of Authority*)

Authority

NOTIFICATION OF CLAIM FOR APPORTIONMENT OF COMPENSATION.

1. On the \_\_\_\_\_ the Hirer gave to the prescribed Authority under section 15 of the above Law notice of a claim to have apportioned to him part of the compensation payable to the Owner in respect of (*indicate the subject matter of the claim sufficiently to enable it to be identified*).

2. The said claim has not been settled by agreement.

3. Application is hereby made by (*name of Applicant*) for apportionment of the said compensation by the General Tribunal pursuant to the provisions of the Law.

Dated the \_\_\_\_\_ day of \_\_\_\_\_, 19\_\_\_\_  
(Signed)

To the REGISTRAR OF THE GENERAL TRIBUNAL.  
Address within the Colony to which communications relating to the reference may be sent to the Applicant :—  
.....

Form C.—*Order to Attend and Give Evidence and to Produce Documents.*

GENERAL TRIBUNAL.

IN THE MATTER OF THE COMPENSATION (DEFENCE) LAW, 1940 ; AND  
IN THE MATTER OF A REFERENCE PENDING BEFORE THE GENERAL TRIBUNAL TO WHICH THE FOLLOWING ARE PARTIES.

(*Names of Parties*)

ORDER TO ATTEND AND GIVE EVIDENCE AND TO PRODUCE DOCUMENTS.

To

of

You are hereby ordered to attend at \_\_\_\_\_ on the \_\_\_\_\_ day of \_\_\_\_\_, 19\_\_\_\_, at the hour of \_\_\_\_\_ in the \_\_\_\_\_ noon, and so from day to day until the hearing of the above reference, to give evidence therein \*(and also to bring with you and produce the several documents hereunder specified).

(*Insert list of documents required to be produced.*)

Dated the \_\_\_\_\_ day of \_\_\_\_\_, 19\_\_\_\_

Registrar.

This Order was made on the application of \_\_\_\_\_

\* Delete if not required.

(M.P. 1271/40.)