

ADVOCATES (DISCIPLINARY PROCEEDINGS) (APPEAL)
RULES 2018
(G.N.S 8 of 2018)

In exercise of the powers conferred by subsection 12I(1) of the Advocates Ordinance (*Cap. 2*), the Disciplinary Board makes the following rules:

Citation and commencement

1. (1) These rules may be cited as the Advocates (Disciplinary Proceedings) (Appeal) Rules 2018.

(2) These Rules are deemed to have come into operation on 2 February 2018.

Interpretation

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

“advocate” means the advocate or pupil against whom a complaint or an order has been made under the Ordinance;

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

“Ordinance” means the Advocates Ordinance (*Cap.2*);

“Secretary” means the Secretary of the Disciplinary Board appointed under subsection 12A(9) of the Ordinance.

Filing of appeal

3. (1) An appeal under subsection 12H(1) of the Ordinance shall be brought by filing an originating summons substantially in Form 5 of the Rules of Court 2012.

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

(3) An appellant may appeal against the whole or any part of an order or a decision and the originating summons 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.

(4) A copy of the originating summons and affidavit shall be sent by personal service, courier or registered post to the respondent, the Secretary and the Law Society within seven days from the date of the filing of the originating summons.

Record of appeal

4. (1) Within seven days from the date of filing of originating summons, the appellant shall pay to the Secretary 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 Law Society, any court including the Industrial Court and a Syariah Court, Judge, Sessions Court Judge, Magistrate, Federal Attorney-General or the State Attorney-General.

(4) Within three weeks from the date of receipt of the deposit made under subrule(1), the Secretary shall supply to the appellant the certified copies of the following documents:

(a) application or complaint made under subsection 12C(1) of the Ordinance and all documents which support the application or complaint;

- (b) written explanation made under subparagraph 12D(1)(b)(i) of the Ordinance
 - (c) record of proceedings before the Disciplinary Board under subsection 12G(1) of the Ordinance and rule 12 of the Advocates (Disciplinary Proceedings) (Procedure) Rules 2018;
 - (d) report that contains findings and recommendations of the Disciplinary Board under subsection 12G(1) of the Ordinance; and
 - (e) order made by the Disciplinary Board under section 12G of the Ordinance.
- (5) No document will be supplied if the appellant did not pay the deposit referred to in subrule (1).

Filing of appeal record

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.

(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 Secretary and the Law Society.

Withdrawal of appeal

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 Secretary and the Law society.

Appeals Register

7. The Secretary shall keep and maintain an Appeals Register which shall contain the following particulars:

- (a) the date of receipt of the originating summons;
- (b) the date of the decision of the High Court, Court of Appeal or Federal Court, whichever is applicable; and
- (c) where the appeal is withdrawn, the date of withdrawal

Service of notices and other documents

8. 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 or by such other means as may be determined by the Disciplinary Board to the last known address of the appellant, the respondent or their respective solicitors, as the case may be.

Application of Rules of Court 2012

9. Where no provision is made under these Rules, the procedure and practice in the Rules of Court 2012 shall apply.

Appeals against decisions of High Court

10. Any appeal under subsection 12H(2) and subsection 12H(3) of the Ordinance shall be made in accordance with the Courts of Judicature Act 1964, the Rules of the Court of Appeal 1994 and the Rules of the Federal Court 1995, as the case may be.