

CARIBBEAN COMMUNITY ADMINISTRATIVE TRIBUNAL



RULES OF PROCEDURE 2020

**THE CARIBBEAN COMMUNITY
ADMINISTRATIVE TRIBUNAL
RULES OF PROCEDURE 2020**

In exercise of the powers conferred on the Members of the Caribbean Community Administrative Tribunal pursuant to Article VIII of the Statute of the Caribbean Community Administrative Tribunal. The Caribbean Community Administrative Tribunal Rules of Procedure 2020 are hereby made on this 17th day of February 2020.

**THE CARIBBEAN COMMUNITY ADMINISTRATIVE TRIBUNAL
RULES OF PROCEDURE 2020**

adopted on February 17, 2020

I. ORGANISATION

**ARTICLE I
PRESIDENCY OF THE TRIBUNAL**

1. There shall be a President of the Tribunal, who shall be chosen in accordance with Article VI of the Statute of the Caribbean Community Administrative Tribunal (‘the Statute’).
2. The President shall direct the proceedings of the Tribunal and represent it in all administrative matters.
3. If the President is unable to act, the next most senior Member shall serve as President of the Tribunal.

**ARTICLE II
REGISTRY**

The Tribunal shall have a Registry led by a Registrar. The Registrar and the officials of the Registry will be appointed by the Regional Judicial and Legal Services Commission.

**ARTICLE III
SESSIONS**

1. The Tribunal shall hold sessions whenever warranted.
2. The Tribunal hearing a Complaint may be convened in panels of three (3) Members empanelled by the President. Unless the President decides otherwise, he or she shall be a Member of the panel and shall preside over the proceedings.
3. The President after consultation with the other Members shall set and may amend the dates of each session of the Tribunal and shall invite Members to attend for such period as the President determines.

**ARTICLE IV
RECUSAL**

1. A Member of the Tribunal shall recuse himself or herself:
 - a. in cases involving persons with whom the Member has a personal, familial or professional connection; or
 - b. in cases concerning which he/she has previously been called upon in another capacity, including as advisor, representative, expert or witness; or
 - c. if there exist other circumstances such as to make the Member's participation inappropriate.
2. Any Member who recuses himself or herself shall immediately inform the President of the Tribunal in writing.
3. Any party to a case may request the recusal of a Member of the Tribunal in writing for any of the causes stated above. The Application for recusal shall be filed as soon as the party concerned becomes aware of the existence of the cause.
4. The Tribunal shall examine the submissions in camera and make a final decision as to the recusal of the Member involved. The Member involved shall not participate in these deliberations.

II. PROCEDURE

**ARTICLE V
ADMISSIBILITY OF COMPLAINTS**

2. A Complaint shall be admissible only in the following cases:
 - a. the cause of action arose after the establishment of the Tribunal and after the date on which the eligible institution became subject to the jurisdiction of the Tribunal;
 - b. the Complainant has exhausted all remedies available within the eligible institution; and
 - c. The Complaint is filed within ninety (90) days after:
 - (i) receipt of notice that the relief asked for or recommended will not be granted; or

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- (ii) receipt of notice that the relief asked for or recommended will be granted, if such relief shall not have been granted within thirty (30) days after receipt of such notice.

3. The Tribunal may extend the time for the filing of a Complaint in exceptional circumstances where the interests of justice so require. Any such extension of time shall not exceed a further sixty (60) days. No such extension shall apply to a decision (or a failure to take a decision) which pre-dated the date on which the eligible institution became subject to the jurisdiction of the Tribunal.

4. Where the eligible institution fails to take a decision upon receipt of a claim by a staff member within sixty (60) days of the notification of the claim to it, the staff member may file a Complaint with the Tribunal and his or her Complaint shall be treated in the same manner as a Complainant who had exhausted all remedies available within the eligible institution. The period of ninety (90) days shall run from the expiration of the sixty (60) days allowed for the taking of a decision by the eligible institution.

5. For the purpose of determining whether the time limits in this Article have been complied with, the Tribunal shall take into account the date of filing of the Complaint at the Registry.

ARTICLE VI REPRESENTATION

1. The Complainant may –
 - a. plead his/her own case; or
 - b. appoint for the purpose, an agent who shall be a serving or former official of an Institution which has recognised the Tribunal's jurisdiction; or
 - c. retain qualified legal counsel in a Member State of one of those Institutions.
2. The Defendant Institution's agent may be –
 - a. one of its own serving or former officials; or
 - b. a serving or former official of another Institution which has recognised the Tribunal's jurisdiction; or
 - c. a retained qualified legal counsel in a Member State of one of those Institutions.
3. Any agent or qualified legal counsel shall provide written authorisation in the form prescribed in Annex D.

**ARTICLE VII
COMPLAINTS**

1. A Complaint filed against an eligible Institution and any communication relating to such Complaint shall be addressed to the President through the Registrar.

2. The Complainant or the Complainant's agent or legal counsel shall:

- a. complete and sign the Complaint form prescribed in Annex A to these Rules;
- b. set out a clear statement of the facts of the case together with the original, or a certified copy, or transcript, of any item of evidence relied upon in support;
- c. supply electronically or in hard copy the Complaint form certified by the signature of the Complainant, the statement of facts and any attached item of evidence in support certified by the Complainant or, the Complainant's agent or legal counsel signature, to be true.

3. If the Complaint does not meet the requirements of these Rules, the Registrar shall request that the Complainant rectify the deficiency within thirty (30) days and may, where appropriate, return the documents for that purpose. If rectified within the period stipulated, the Complaint shall be deemed to have been filed on the original date. If not rectified, the Complaint shall be deemed as not having been filed.

4. If satisfied that the Complaint meets the requirements of these Rules, the Registrar shall forward the Complaint within seven (7) days to the Defendant Institution.

5. A Complainant who wishes his or her name not appear in the documents that the Tribunal publishes may request anonymity at the time when the Complaint is filed with the Tribunal or at any time before the case is listed for decision by the Tribunal. Immediately thereafter, the request for anonymity shall be transmitted to the Defendant Institution for comment within a period of time determined by the Tribunal.

**ARTICLE VIII
DEFECTIVE COMPLAINTS**

If the Tribunal considers a Complaint to be devoid of merit, the Tribunal may either dismiss it summarily as defective or order that the defect be rectified in accordance with Article VII (2) of these Rules.

**ARTICLE IX
PRELIMINARY OBJECTIONS**

1. Any preliminary objection by the Defendant Institution to the jurisdiction of the Tribunal or to the admissibility of the Complaint for which a decision is sought before any further proceedings on the hearing of the Complaint take place, shall be sent to the Registrar within fourteen (14) days of the receipt of the Complaint by the Defendant Institution.

2. The preliminary objection shall set out the facts and the law upon which the objection is based and the Registrar shall transmit the objection to the other party and set a date and time for the hearing of the objection.

3. The Tribunal may order that the objection be heard at the hearing of the Complaint.

**ARTICLE X
RESPONSE TO COMPLAINTS**

1. The Defendant Institution shall file with the Registrar its Response to any Complaint within thirty (30) days of the date of receipt of the Complaint.

2. The Defendant Institution shall:

- a. complete and sign the Response form prescribed in Annex B to these Rules;
- b. attach to its Response the original or a certified copy or transcript of any item of evidence relied upon in support; and
- c. send to the Registrar an electronic or hard copy of its Response together with any attached item of evidence and certify them by the signature of its agent or legal counsel to be true.

3. If the Defendant Institution files no Response or takes no other steps within the time limit, the written pleadings shall close.

**ARTICLE XI
REPLY**

1. If satisfied that the Response of the Defendant Institution meets the requirements of these Rules, the Registrar shall forward the Response to the Complainant or to their agent, who may file a Reply within thirty (30) days of the date of receipt.

2. If no Reply is filed within the time limit, the written pleadings shall close.

3. The Reply shall not include any new complaint and shall not change the disputed issues.

ARTICLE XII CASE MANAGEMENT

1. The Tribunal shall rule on an application by either party for a stay of proceedings or for the adjournment of a listed case to a later session.

2. The Complainant may request the Tribunal to order the production of documents in the possession of the Defendant Institution that the Complainant has been unable to access, or has been denied access.

3. The Tribunal may, on its own motion or on the application of either party, order the submission of a further written statement or document and may set the time limit for such submission.

4. The Tribunal may, on its own motion or on the application of either party, order such measures it deems fit, including the appearance of the parties before it, the hearing of expert and other witnesses.

5. In an appropriate case, the Tribunal may by letters rogatory or any other appropriate means request legal assistance.

6. In dealing with applications, the Tribunal shall proceed as expeditiously as the circumstances permit.

7. The Tribunal may, with the consent of the parties, dispose of a Complaint on the basis of the written documents submitted, without the need for an oral hearing.

8. The Tribunal or, between sessions the President may abridge or extend the time limits set in accordance with these Rules, save for where not permitted by the Rules or Statute.

9. The Tribunal shall decide whether oral proceedings are warranted and shall so decide if the interests of justice appear to require the calling of witnesses. Any party making or responding to an application, or entitled under Article XVII of these Rules to intervene, may make representations in this regard.

10. An application by either party for hearings shall identify any witness whom that party wants the Tribunal to hear and the issues which the party wants the witness to address.

11. When the President considers the pleadings to be closed and all other case management directions have been complied with, the President shall instruct the Registrar to list the case for hearing.

12. The Registrar shall inform the parties at least twenty-one (21) days before the hearing of a complaint.

ARTICLE XIII INTERIM RELIEF

1. The filing of a Complaint shall not have the automatic effect of suspending the execution of any decision contested.

2. The Tribunal, at the request of the Complainant and having heard the response of the Defendant Institution within a time period prescribed by the President of the Tribunal, may decide to suspend the decision contested.

3. The suspension shall be on such conditions as the Tribunal may deem appropriate, pending the final determination of a Complaint, in a case in which the execution of the decision is shown to be likely to result in irreparable damage to the Complainant that cannot otherwise be redressed, and the Complainant has offered substantial evidence that supports the application.

III. OTHER MATTERS

ARTICLE XIV ORAL HEARINGS

1. Any oral proceedings shall be held in public, unless the Tribunal decides that the interests of justice require that they be held in private.

2. A witness statement shall be filed for any witness allowed.

3. The Tribunal shall determine the conduct of any hearings.

4. Hearings shall include oral submissions by the parties and may, with leave from the Tribunal, include oral testimony by any witness. The Tribunal may authorise the taking of oral testimony through video conferencing, teleconferencing and any similar electronic means.

5. A witness shall make the following declaration before giving evidence:

“I solemnly declare that I shall speak the truth, the whole truth and nothing but the truth.”

6. An expert witness shall make the same declaration as any other witness and shall then make the following further declaration:

“I solemnly declare that I shall give evidence to the best of my knowledge and belief.”

ARTICLE XV EVIDENCE

1. All relevant evidence shall be admissible unless it is unnecessary because it relates to facts that have not been controverted or would be redundant in light of other evidence already produced.

2. At any time during a case, the Tribunal may decide whether any additional evidence is needed and may order the production of documents or such other evidence as it deems necessary.

3. The Tribunal may exclude evidence which it considers irrelevant or lacking in probative value. The Tribunal may also limit oral testimony as it deems appropriate.

4. The Tribunal may at the request of either party or on its own motion impose measures to preserve the confidentiality of evidence where warranted by security interests or in exceptional circumstances.

ARTICLE XVI JUDGMENTS

1. In its determination of rights and obligations under the contract of employment or in respect of claims of discrimination, the Tribunal shall apply the principles of international administrative law to the exclusion of the national laws of individual staff members or host countries and its decisions shall be consistent with the principles of fundamental human rights.

2. The Tribunal shall take all its decisions by consensus or, if consensus cannot be achieved, by majority vote.

3. The Tribunal shall state the reasons for its judgment. The judgment shall be communicated in writing to the Defendant Institution and to the Complainant.

4. Concurring and dissenting opinions will be set out in the judgment.

5. Subject to Articles XII and XIV of the Statute, the judgment of the Tribunal shall be final and binding on the parties and shall not be subject to appeal.

6. In a Complaint where the Tribunal has held oral proceedings, the Tribunal may decide, if it considers that the circumstances require it, that its judgment shall be delivered at an open sitting by a Member of the panel which heard the case.

7. The Tribunal may, of its own motion or at the request of a party, correct any clerical, typographical, computational or any other errors of a similar nature discovered in a judgment within thirty (30) days of such judgment.

8. After a judgment has been rendered, a party may apply within thirty (30) days to the Tribunal requesting an interpretation of the operative provisions of the judgment.

9. The application shall be admissible only if it states, with sufficient particularity, in what respect the operative provisions of the judgment appear obscure or incomplete.

10. The Tribunal shall, after giving the other party or parties, a reasonable opportunity to present its or their views on the matter, decide whether to admit the application for interpretation. If the application is admitted, the Tribunal shall issue its interpretation which shall thereupon become part of the original judgment.

ARTICLE XVII INTERVENTION BY PERSONS NOT PARTY TO THE CASE

1. Any person or institution to whom the Tribunal is open under Article II of its Statute may intervene in a Complaint on the grounds that the ruling which the Tribunal is to make may affect that person or institution. Such an intervention may be made by application in the form prescribed in Annex C.

2. The Tribunal or, between sessions, the President may instruct the Registrar to give notice of a Complaint to any third party if it appears that such third party may be affected by the result of any ruling.

3. An application to intervene shall be filed at the Registry before the hearing of the Complaint.

ARTICLE XVIII AMICUS CURIAE

The Tribunal may, at its discretion, permit any person or persons, including the duly authorised representatives of the Staff Association of an Institution, to communicate views to the Tribunal as *amicus curiae*. The Tribunal may permit an *amicus curiae* access to the

pleadings of the parties and shall enable the parties to submit timely observations on an *amicus* brief.

IV. APPLICATIONS FOR REVIEW

ARTICLE XIX APPLICATION FOR LEAVE TO REVIEW

1. A party to a case in which judgment has been delivered may with the leave of the Review Committee appeal to the Review Committee on the ground that the Tribunal has exceeded or failed to exercise its jurisdiction, or has erred on a question of fact or law or both.

2. An application for leave shall be made within a period of sixty (60) days after the judgment was delivered.

3. The Review Committee shall grant leave to appeal only in exceptional cases in the interest of justice or the international functioning of the eligible CARICOM Institutions.

4. An application for leave shall be made pursuant, *mutatis mutandis*, to the original jurisdiction rules of the Caribbean Court of Justice.

5. An application for leave shall not automatically operate to suspend the execution of the judgment.

V. MISCELLANEOUS

ARTICLE XX FILING & SERVICE

1. A document shall be submitted for filing by the method described in this rule or any other electronic means approved by or under these Rules.

2. Service of documents can be via electronic mail, by facsimile, hard copy or via registered mail.

Filing by facsimile

3. In addition to satisfying any conditions contained herein, a party filing any document by facsimile transmission shall include a cover page stating-

- (i) the name, address, telephone number and facsimile number of the sender;

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- (ii) the facsimile number of the sender to which documents may be sent and email address;
 - (iii) the date and time of transmission;
 - (iv) the total number of pages transmitted, including the cover page; and
 - (v) the name and telephone number of a person to contact if problems occur in transmission.

4. Where a document is sent by facsimile transmission, the original shall be submitted promptly to the Registry.

5. The Registrar shall send an acknowledgement of receipt to the sender as soon as practicable after receiving a document filed by facsimile.

Electronic submission of documents

6. A document may be submitted for filing electronically by using the Tribunal's electronic mail at ccat@caricom.org.

7. Documents submitted electronically shall not be password protected and shall be prepared electronically using Microsoft Word or OpenOffice or any other word processor in .doc, .docx, .txt, .rtf or .pdf formats.

8. Where the document is not a text document, the document shall be scanned using an image resolution of 300 dots per inch.

9. Documents submitted through electronic mail shall comply with the following requirements-

- a. the aggregate size of a document cannot exceed 100 megabytes for one submission;
- b. where the aggregate size of a document exceeds 100 megabytes, the document shall be divided into multiple smaller documents not exceeding 100 megabytes each. Thereafter, each document shall be submitted as one part of the whole, e.g. "part 1 of 3", "part 2 of 3", "part 3 of 3" and so on;
- c. exhibits shall be submitted separately from the corresponding principal document;
- d. each exhibit shall be marked with a concise description of the document e.g. "Cheque dated the 1st January 2015"; and
- e. each document shall be uploaded with a name that corresponds with the document type and the name should not contain special characters (characters other than numerals or letters of the alphabet).

10. Documents submitted using electronic mail outside business hours (8:00 am to 4:00 pm Mondays to Fridays) or on a public holiday, or any other period during which the Registry is closed, will be deemed filed as soon as the Registry is next open.

11. All other Rules relating to holidays and computation of time apply to electronic mail filed documents.

12. A document submitted using electronic mail that complies with these Rules shall be filed.

13. A document submitted for filing that does not comply with these Rules shall be returned to the filing party along with a notice of the reason(s) for non-acceptance and may be amended and resubmitted for filing.

14. An electronic mail confirmation of filing will be sent to the email that sent the document to confirm that the document submitted has been filed and the date and time of filing.

15. Service of documents can be via electronic mail, by facsimile, hard copy, or via registered mail.

16. Whenever the Defendant Institution is to be notified, it shall suffice for the notice to be delivered to the offices of the appropriate Legal Department, to a responsible official of that Department or to the Corporate Secretary.

17. Notifications given to the representative or to the legal counsel of a party shall be regarded as having been given to the party itself.

18. A party that receives a document that is served electronically and is unable to view or download the document must promptly notify the serving party and the Registrar and the serving party shall take all reasonable steps to ensure that the document can be viewed and downloaded.

19. A document served at an electronic service address is considered served on the date and time that it is sent.

ARTICLE XXI COSTS

The Tribunal may make an order for costs as it deems fit.

ARTICLE XXII PROVISIONAL ORDERS

The President in consultation with the Members of the Tribunal may between sessions make provisional orders, without prejudice to the ultimate ruling by the Tribunal on the party's rights, on an application by either party.

ARTICLE XXIII
MATTERS NOT SPECIFICALLY PROVIDED FOR

The Tribunal shall, in exercise of the powers vested in it by Articles III (1) and VIII of the Statute, deal with any matter for which these Rules do not expressly provide.

ARTICLE XXIV
AMENDMENT OF RULES

These Rules may be amended with the affirmative vote of at least three of the Members of the Tribunal.

ARTICLE XXV
CALCULATION OF TIME LIMITS

1. A period of time by which any act is required to be done shall be determined in accordance with these Rules.
2. A period of time expressed as a number of days shall be computed as clear days.
3. In this Article “clear days” does not include -
 - a. the day on which a period begins or ends; and
 - b. if the end of a period is defined by reference to an event, the day on which that event occurs or should occur.
4. Where the period within which an act must be done at the Registry -
 - a. is seven (7) days or less, Saturday, Sunday or any other day on which the Registry is closed shall not be counted;
 - b. ends on a day on which the Registry is closed, the act shall be deemed to have been done in time if done before close of business on the next day on which the Registry is open.
5. Where an act is required to be done somewhere other than in the Registry, and the period within which the act is required to be done ends on a Saturday, Sunday or public holiday, the time for doing that act shall be deemed to end at 4 p.m. on the next business day in the country in which it is to be done.
6. Any time limit prescribed under these Rule may be extended for good and substantial reasons.

ARTICLE XXVI
ENTRY INTO FORCE

These Rules shall come into force on the 17th day of February 2020.

Made by the President and Members of the Caribbean Community Administrative Tribunal this 17th day of February 2020

/s/ Patterson Cheltenham

**Mr Patterson K H Cheltenham QC
President**

/s/ Lisa Shoman

**Ms Lisa S Shoman SC
Member**

/s/ J Emile Ferdinand

**Mr J Emile Ferdinand QC
Member**

/s/ Dancia Penn

**Mrs Ruth Dancia Penn QC
Member**

/s/ Westmin James

**Mr Westmin R A James
Member**

ANNEXES