

No. 95

**THE HUMAN RIGHTS ORDINANCE 2004**

(Ordinance 9 of 2004)

**RULES MADE UNDER SECTIONS 4(2), 7, 9(2), 11 AND 16**

In exercise of the powers vested in him by sections 4(2), 7, 9(2), 11 and 16 of the Human Rights Ordinance 2004<sup>(a)</sup>, the Administrator, with the advice and approval of the Senior Judge, hereby makes the following Rules:—

**Citation**

1. These Rules may be cited as the Human Rights Rules 2004.

**Application**

2. The provisions of any existing rules of procedure of any court or tribunal shall have effect subject to the provisions of these Rules.

**Interpretation**

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

“commencement form” means the form by virtue of which a party commences his action, whether such form is prescribed under the Civil Procedure Rules or elsewhere;

“the Ordinance” means the Human Rights Ordinance 2004.

**Citation of Authorities**

4. (1)—If it is necessary for a party to give evidence at a hearing of an authority referred to in section 4 of the Ordinance –

- (a) the authority to be cited should be an authoritative and complete report; and
- (b) the party must give to the court and any other party a list of the authorities he intends to cite and copies of the reports not less than three days before the hearing.

(2) Copies of the complete original texts issued by the European Court and Commission either paper based or from the Court’s judgment database (HUDOC), which is available on the Internet, may be used.

**Proceedings under the Ordinance**

5. A party who seeks to rely on any provision or right arising under the Ordinance or seeks a remedy available under that Ordinance shall, in his commencement form—

- (a) give precise details of the Convention right which it is alleged has been infringed and details of the alleged infringement;
- (b) specify the relief sought;
- (c) state if the relief sought includes a declaration of incompatibility or damages in respect of a judicial act to

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(a) Ordinance 9 of 2004

which section 11(3) of the Ordinance applies;

- (d) where the relief sought includes a declaration of incompatibility, give precise details of the legislative provision which is alleged to be incompatible and details of the alleged incompatibility;
- (e) where the proceedings are based on a finding of unlawfulness by another court or tribunal, give details of the finding; and
- (f) where the proceedings are based on a judicial act which is alleged to have infringed a Convention right of the party as provided for by section 11 of the Ordinance, give details of the judicial act complained of and the court or tribunal which is alleged to have made it.

*Notice to the Attorney General and Legal Adviser in a claim for a declaration of incompatibility*

**6. (1)**—Where a party has included in his commencement form —

- (a) a claim for a declaration of incompatibility, or
- (b) an issue for the court to decide which may lead to the court considering making a declaration,

then the court may at any time consider whether a notice should be given to the Attorney General and Legal Adviser as required by the Ordinance and give directions for the content and service of the notice.

(2) Where a party amends his commencement form to include any matter referred to in paragraph (1), then the court will consider whether a notice should be given to the Attorney General and Legal Adviser as required by the Ordinance and give directions for the content and service of the notice.

**7. (1)** The court may not make a declaration of incompatibility unless 21 days notice in writing of its intention to do so, or such other period of notice as the court directs, has been given to the Attorney General and Legal Adviser.

(2) Unless the court orders otherwise, the Attorney General and Legal Adviser shall, if he wishes to be joined, give notice in writing within the said period of 21 days, or within the period directed by the court, of his intention to be joined as a party to the court and to every other party.

**Claim in respect of judicial act**

**8. (1)**—Where a claim is made under the Ordinance for damages in respect of a judicial act notice in writing must be given to the Attorney General and Legal Adviser.

(2) Where notice has been given as provided for in paragraph (1) above and the Attorney General and Legal Adviser has not applied in writing to be joined as a party within 21 days, or such other period as the court directs, after the notice is served, the court may join the Attorney General and Legal Adviser as a party.

**Allocation of cases to levels of judiciary**

**9. (1)**—A claim under section 9(1)(a) of the Ordinance in respect

of a judicial act may be brought only in the Senior Judge's Court and shall be dealt with by a Deputy Senior Judge acting alone.

(2) Any other claim under section 9(1)(a) of the Ordinance shall be brought in the Judge's court:

Provided, that if the Senior Judge does not consent to the Judge's court dealing with such a claim, it shall be transferred to the Senior Judge's court where it shall be dealt with by a Deputy Senior Judge acting alone.

(3) A claim for a declaration of incompatibility shall be brought in the Judge's Court:

Provided, that if the Senior Judge does not consent to the Judge's court dealing with such a claim, it shall be transferred to the Senior Judge's court where it shall be dealt with by a Deputy Senior Judge acting alone.

(4) An Associate Judge may not try any claim to which this rule applies.

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Dated this 29th day of June 2004.

By the Administrator's Command,

P. D. Draycott,

Chief Officer,

Sovereign Base Areas.

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