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STATUTORY INSTRUMENTS

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**2015 No. 1648**

**The Competition Appeal Tribunal Rules 2015**

**PART 4**

**CLAIMS UNDER SECTION 47A OF THE 1998 ACT**

**SUMMARY DISPOSAL**

**Power to strike out**

**41.**—(1) The Tribunal may, of its own initiative or on the application of a party, after giving the parties an opportunity to be heard, strike out in whole or in part a claim at any stage of the proceedings if—

- (a) it considers that the Tribunal has no jurisdiction to hear or determine the claim;
- (b) it considers that there are no reasonable grounds for making the claim;
- (c) it is satisfied that the claimant has habitually and persistently and without any reasonable ground—
  - (i) instituted vexatious proceedings, whether against the same person or different persons; or
  - (ii) made vexatious applications in any proceedings; or
- (d) the claimant fails to comply with any rule, practice direction issued under rule 115, or any order or direction of the Tribunal.

(2) When the Tribunal strikes out a claim it may make any other consequential order it considers appropriate.

**Default judgment**

**42.**—(1) The Tribunal may of its own initiative or on the application of a party give default judgment without a hearing of the claim where—

- (a) the defendant has not filed an acknowledgment of service;
- (b) the defendant has not filed a defence to the claim or any part of the claim; or
- (c) a counterclaim has been made under rule 39 and a defence to the counterclaim has not been filed,

and, in any of those cases, the relevant time for filing has expired.

(2) A default judgment may not be given if the defendant has made an application—

- (a) disputing the Tribunal's jurisdiction under rule 34;
- (b) to have the claim struck out under rule 41; or
- (c) for summary judgment under rule 43,

and that application has not been disposed of.

(3) Where the claim form has been served on the defendant in accordance with the directions of the Registrar, the claimant may not obtain default judgment unless the claimant has complied with any directions concerning proof of service.

(4) A default judgment given under this rule shall be—

- (a) such judgment as it appears to the Tribunal that the claimant is entitled to on the claim form;
- (b) for an amount to be decided by the Tribunal as to damages, costs and interest or for such other relief to be decided by the Tribunal in accordance with any directions it may give for the determination of those matters.

(5) A default judgment may be given against one of two or more defendants and the claimant may proceed against the other defendants.

(6) The Tribunal may only give a default judgment against one of two or more defendants in accordance with paragraph (5) if it is satisfied that the claim against that defendant can be dealt with separately from the claim against the other defendants.

(7) The Tribunal shall set aside a default judgment if the judgment was wrongly entered because any of the conditions set out in paragraph (1) were not satisfied.

(8) In any other case, the Tribunal may set aside or vary a default judgment (and attach any conditions it may think fit) if—

- (a) the defendant has a real prospect of defending the claim; or
- (b) it appears to the Tribunal that there is some other good reason why—
  - (i) the judgment should be set aside or varied; or
  - (ii) the defendant should be allowed to defend the claim;

(9) In considering whether to set aside or vary a default judgment under paragraph (8)(b), the matters to which the Tribunal shall have regard include whether the person seeking to set aside the judgment made an application to do so promptly.

(10) Where—

- (a) the claimant claimed a remedy in addition to damages;
- (b) the claimant has abandoned its claim for that remedy in order to apply for default judgment; and
- (c) the default judgment is set aside,

the abandoned claim is restored when the default judgment is set aside.

### **Summary judgment**

**43.**—(1) The Tribunal may of its own initiative or on the application of a party, after giving the parties an opportunity to be heard, give summary judgment against a claimant or defendant on the whole of a claim or on a particular issue if—

- (a) it considers that—
  - (i) the claimant has no real prospect of succeeding on the claim or issue; or
  - (ii) the defendant has no real prospect of successfully defending the claim or issue; and
- (b) there is no other compelling reason why the case or issue should be disposed of at a substantive hearing.

(2) The Tribunal may give any directions it considers appropriate for dealing with an application under this rule.

(3) Upon giving summary judgment, the Tribunal may make any consequential order it considers appropriate.

**Withdrawal of the claim**

**44.**—(1) The claimant may withdraw its claim only—

- (a) with the consent of the defendant; or
  - (b) with the permission of the Tribunal or, if no Tribunal has been constituted, the President.
- (2) Where a claim is withdrawn, the Tribunal may make any consequential order it thinks fit.