
STATUTORY INSTRUMENTS

1987 No. 1336

**The Banking Appeal Tribunal
(Scottish Appeals) Regulations 1987**

Evidence and procedure

13.—(1) For the purposes of the appeal the chairman may, on the application of a party to the appeal or on his own motion, by direction given at the preliminary hearing or by notice in writing require the appellant, the Bank or any other person, at a time and place stated in the notice, to attend and give evidence or produce any document in that person's custody or under his control which relates to any matter in question at the hearing; provided that—

- (a) no person other than the appellant or the Bank shall be required, in obedience to such direction or notice, to attend and give evidence or to produce any such document unless the necessary expenses of his attendance are paid or tendered to him; and
- (b) no person shall be compelled to give any evidence or produce any document which he could not be compelled to give or produce if the hearing were a proceeding in a court of law in Scotland; and
- (c) in exercising the power conferred by this paragraph the chairman shall take into account, in particular, the need to protect commercially sensitive information relating to a person that is not a party to the appeal.

(2) Except where the chairman otherwise directs, a witness shall not be obliged to attend and give evidence or produce any document in obedience to a direction or notice issued by the chairman unless that direction or notice has been served on him not less than 5 days before the day appointed for the hearing.

(3) The chairman may set aside any direction or notice under this regulation on the application of the person to whom the direction or notice was addressed but shall not do so without first notifying any person who applied for the direction or notice and considering any representations made by that person.

(4) The secretary shall supply a copy of any document obtained under this regulation to any party to the appeal if that party does not already have a copy of the document and it shall be a condition of such supply that the information so supplied shall be used only for the purposes of the appeal.

(5) The hearing shall be in private unless, at a preliminary hearing or at any other time, the chairman directs that the hearing or any part of it shall be in public, but nothing in this paragraph shall prevent a member of the Council on Tribunals or its Scottish Committee from attending the hearing, and (with the consent of the parties to the appeal) any deliberations of the Tribunal, in his capacity as such.

(6) The appellant and the Bank may appear at the hearing and may be represented by counsel or solicitor or by any other person.

(7) At the hearing the appellant and the Bank shall each be entitled to make an opening statement, to call witnesses to give evidence, to cross examine witnesses called by the other party and to make a final statement.

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(8) In the case of an appeal under section 27(2) of the Act, the institution concerned shall be entitled to be heard, notwithstanding that the hearing is in private, and may be represented by counsel or solicitor or by any other person.

(9) The Tribunal may require any witness to give evidence on oath or affirmation which may be administered for that purpose by the chairman.

(10) Subject to paragraph (1), evidence may be admitted by the Tribunal whether or not it would be admissible in a court of law.

(11) If the appellant or the Bank or, in the case of an appeal under section 27(2) of the Act, the institution concerned shall fail to appear or be represented at the time and place fixed for the hearing, the Tribunal may proceed with the hearing or adjourn it to a later date; and if it proceeds with the hearing, it shall take into consideration any written representations which may have been submitted by either party and, in the case of an appeal under section 27(2) of the Act, the institution concerned whether in accordance with any provision contained in these Regulations or otherwise.

(12) The Tribunal may from time to time adjourn the hearing and, if the date, time and place of the adjourned hearing are announced before the adjournment, no further notice shall be required.