
STATUTORY INSTRUMENTS

1993 No. 1061 (S.150)

BANKS AND BANKING

The Banking Appeal Tribunal (Scottish Appeals) Amendment Regulations 1993

<i>Made</i>	- - - -	<i>6th April 1993</i>
<i>Laid before Parliament</i>		<i>15th April 1993</i>
<i>Coming into force</i>	- -	<i>4th May 1993</i>

The Lord Advocate, in exercise of the powers conferred on him by section 30(3) and (4) of the Banking Act 1987((1)) and of all other powers enabling him in that behalf, and after consultation with the Council on Tribunals, which has consulted its Scottish Committee under section 8(3) of the Tribunals and Inquiries Act 1992((2)), hereby makes the following Regulations:

Citation, commencement and interpretation

1.—(1) These Regulations may be cited as the Banking Appeal Tribunal (Scottish Appeals) Amendment Regulations 1993 and shall come into force on 4th May 1993.

(2) In these Regulations “the principal Regulations” means the Banking Appeal Tribunal (Scottish Appeals) Regulations 1987((3)).

Amendment of principal Regulations

2.—(1) The principal Regulations shall be amended in accordance with the following paragraphs.

(2) In regulation 2(1), after the definition of “the Bank” there shall be inserted:—

““the Banking Coordination Regulations” means the Banking Coordination (Second Council Directive) Regulations 1992((4));”.

(3) For regulation 4, there shall be substituted the following:—

“4. An appeal shall be brought by sending a notice of appeal to the secretary of the Banking Appeal Tribunal (Scottish Appeals), 15-19 Bedford Avenue, London WC1B 3AS not later than—

(1) 1987 c. 22; section 30(3) and (4) was amended by the Tribunals and Inquiries Act 1992 (c. 53), Schedule 4, Part I.
(2) 1992 c. 53.
(3) S.I. 1987/1336.
(4) S.I. 1992/3218.

- (a) in the case of an appeal against the decision of the Bank (or any finding relating thereto) to revoke authorisation, 10 days from the date on which the Bank serves notice in writing on the appellant of its decision; or
 - (b) in the case of an appeal against the decision of the Bank to impose or vary a restriction on an institution's authorisation as a matter of urgency, 28 days from the date on which the Bank imposes or varies the restriction by written notice to the institution under section 14(2) of the Act or 10 days from the date on which the Bank gives written notice to the institution under section 14(7) of the Act of its decision under section 14(6) of the Act, whichever is the later; or
 - (c) in the case of appeal against the decision of the Bank to give a direction to an institution, 28 days from the date on which the Bank gives the direction by notice in writing under section 20(1) of the Act or 10 days from the date on which the Bank gives written notice to the institution under section 20(2)(b) of the Act confirming its decision, whichever is the later; or
 - (d) in any other case, 28 days from the date on which the Bank serves notice in writing on the appellant of its decision.”.
- (4) In regulation 5(1), for paragraphs (b) and (c) there shall be substituted the following:–
- “(b) his address or where the appellant is an institution–
 - (i) which has its registered or principal office in the United Kingdom, the address of that office; or
 - (ii) which has its principal place of business in another member State, the address of that place of business;
 - (c) the address, if different from that referred to in sub-paragraph (b) to which applications, notices and other documents in connection with the appeal should be sent to the appellant–
 - (i) within the United Kingdom; or
 - (ii) within the member State where the appellant has its principal place of business.”.
- (5) In regulation 8(1), for the words “an appeal under section 27 (other than an appeal under section 27(2)(a))” there shall be substituted the words “an appeal other than an appeal under section 27(2)(a)”.
- (6) In regulation 10(1), for sub-paragraphs (i) and (ii) there shall be substituted the following:–
- “(a) not earlier than 5 days after the date on which the notice is sent; and
 - (b) not earlier than 21 days and not later than 35 days after the date of receipt by the secretary of the notice of appeal unless the chairman otherwise directs on the ground that he considers that the preliminary hearing should be held as a matter of urgency.”.
- (7) In regulation 11(1), for the words “On an application under section 27(5) of the Act for the suspension” there shall be substituted the words “On an application for the suspension under section 27(5) of the Act”.
- (8) In regulation 13(1)(c), for the words “commercially sensitive information” to the end there shall be substituted the words “information which relates to a person who is not a party to the appeal and which is commercially sensitive or was communicated or obtained in confidence”.
- (9) Regulation 16(5) shall be omitted.
- (10) In regulation 20(1)(c), the word “Division” shall be inserted after the words “Banking Supervision”.
- (11) For regulation 22(1), there shall be substituted the following:–

“**22.**—(1) Where in making its decision the Bank made a finding that a person is not a fit and proper person to hold the particular position which he holds or is to hold or imposed a requirement that a person be removed as a director, controller or manager of the institution and both the institution and the person concerned appeal against the decision, or where the institution appeals against the decision and the person concerned appeals against the finding, the chairman may at the preliminary hearing or at some other time direct that the appeals shall be consolidated:

Provided that the chairman shall not make such a direction without giving all parties concerned an opportunity to show cause why such a direction should not be made.”.

(12) In the Schedule to the principal Regulations there shall be added the following paragraphs:—

“**6.** In the case of an appeal against a decision of the Bank to impose a prohibition or a restriction under regulation 9 or 10 of the Banking Coordination Regulations and pursuant to Schedule 3 to the Regulations—

- (a) a copy of any notice served under paragraph 2(2) of Schedule 3 thereof;
- (b) a copy of any written representations made in accordance with paragraph 2(5) of Schedule 3 thereof;
- (c) a copy of any notice served under paragraph 2(7) of Schedule 3 thereof; and
- (d) a copy of any written representations made in accordance with paragraph 2(11) of Schedule 3 thereof.

7. In the case of an appeal against a refusal by the Bank to give a notice as required under regulation 22 of the Banking Coordination Regulations under paragraph 3(1) or (2) or paragraph 6(1) of Schedule 6 to the Regulations, a copy of any notification of refusal to give such a notice under paragraph 4(6)(b) or paragraph 6(5)(b) of Schedule 6 thereof respectively.

8. In the case of an appeal against a decision of the Bank to impose a restriction under regulation 23 of the Banking Coordination Regulations and pursuant to Schedule 7 to the Regulations—

- (a) a copy of any notice served under paragraph 2(1) of Schedule 7 thereof;
- (b) a copy of any written representations made in accordance with paragraph 2(4) of Schedule 7 thereof; (c) a copy of any notice served under paragraph 2(6) of Schedule 7 thereof; and
- (d) a copy of any written representations made in accordance with paragraph 2(10) of Schedule 7 thereof.”.

Lord Advocate’s Chambers
6th April 1993

Rodger of Earlsferry
Lord Advocate

Status: This is the original version (as it was originally made). This item of legislation is currently only available in its original format.

EXPLANATORY NOTE

(This note is not part of the Regulations)

These Regulations amend the Banking Appeal Tribunal (Scottish Appeals) Regulations 1987. The major amendments are as follows:–

- (a) the time limit for lodging an appeal is extended, in cases where the Bank of England has to serve notice confirming its decision, to 10 days from the date on which the Bank serves that notice;
- (b) in cases of urgency the chairman can direct that a preliminary hearing should be held less than 21 days after receipt of the notice of appeal;
- (c) the chairman of the tribunal is now required to take into account, when making directions on recovery of evidence, the need to protect information relating to a person not a party to an appeal which is commercially sensitive or was communicated or obtained in confidence (previously he was only required to take into account whether the material was commercially sensitive);
- (d) the provisions on consolidation of appeals are amended to provide for cases where an institution appeals against a decision of the Bank and an individual appeals against a finding by the Bank; and
- (e) procedural effect is given to the extension of the rights of appeal under section 27 of the Banking Act 1987 by the Banking Coordination (Second Council Directive) Regulations 1992 (S.I.1992/3218) to decisions of the Bank under those Regulations to impose prohibitions or restrictions on the activities of European credit institutions in the UK, to refuse to give notices to UK credit institutions or financial institutions which are their UK subsidiaries to enable them to carry on activities in other EC member States and to impose prohibitions or restrictions on the activities which financial institutions, being UK subsidiaries of UK credit institutions, may carry on in the UK.