
STATUTORY INSTRUMENTS

2008 No. 221

The Charity Tribunal Rules 2008

PART 2

General matters in appeals and applications

Directions

- 3.—**(1) The Tribunal may at any time give directions to—
- (a) enable the parties to prepare for the hearing of the appeal or the application;
 - (b) assist the Tribunal to determine the issues; and
 - (c) ensure the just, expeditious and economical determination of the appeal or the application.
- (2) The Tribunal may give directions—
- (a) at the request of any party; or
 - (b) of its own initiative.
- (3) Where the Tribunal gives a direction of its own initiative, it may (but need not) give prior notice to the parties of its intention to do so.
- (4) Any request for directions must include the reasons for making that request.
- (5) A request for directions must be filed except where it is made during the course of a hearing.
- (6) The party making the request must at the same time send a copy of that request to any other party except where—
- (a) the request is accompanied by the written consent of all the parties;
 - (b) the request is made during a hearing; or
 - (c) the request is made under rule 15(2) (exceptions to disclosure).
- (7) Where the Tribunal instructs that an oral hearing is to be held to consider a request under this rule, the Tribunal must give the parties not less than 14 days notice of the hearing unless the parties consent to shorter notice.
- (8) Directions may be given in writing or orally at a hearing.
- (9) When a direction is given orally at a hearing the Tribunal must send a copy of the direction to any party as soon as may be practicable after the direction has been announced by the Tribunal.
- (10) When a direction is given under these Rules containing a requirement—
- (a) it must include a statement of the possible consequences, as set out in rule 6 (failure to comply), of a party's failure to comply with the requirement; and
 - (b) it may specify a time limit for complying with the requirement.
- (11) When a direction is given under these Rules which affects a party or a witness, that party or witness may apply to the Tribunal showing good cause why the direction should be varied or set aside.

(12) The Tribunal may, of the Tribunal's own initiative, vary or set aside any direction given under these Rules.

(13) The Tribunal must not vary or set aside a direction without first giving the party who requested the direction an opportunity to oppose that action.

Application for permission to make a late appeal or application

4. Where an appellant has made a request under rule 17(9) (appeal notice) to the Tribunal for a direction under rule 3 (directions) to allow an appeal or application to be made after the time limit for doing so has expired, the Tribunal must consider—

- (a) what steps (if any) the Commission has taken to notify or publicise the Commission's final decision;
- (b) when the appellant became aware of the Commission's final decision; and
- (c) when the appellant became aware of the right to make the appeal or application and of the time limit for making the appeal or application.

Powers of Tribunal to strike out etc.

5.—(1) The Tribunal may regulate its own procedure and may, if the Tribunal thinks fit order any appeal notice, response, response document, supplementary statement or representation to be struck out at any stage of the proceedings on the ground that it—

- (a) discloses no reasonable grounds for bringing or defending an appeal or an application;
- (b) is an abuse of the Tribunal's process; or
- (c) is likely to obstruct the just disposal of proceedings.

(2) Before making any order under paragraph (1), the Tribunal must provide an opportunity for the party against whom it is proposed that the order should be made, to make representations against the making of the order.

Failure to comply

6.—(1) The Tribunal may take any one or more of the steps in paragraph (2) in respect of a party, where that party has, without reasonable excuse, failed to comply—

- (a) with a direction given under these Rules; or
- (b) with a provision of these Rules.

(2) The steps referred to in paragraph (1) are—

- (a) where that party is an appellant, dismiss the whole or part of that appellant's appeal or application;
- (b) where that party is the Commission, strike out the whole or part of the response and, where appropriate, direct that the Commission be disqualified from participating in the appeal or application altogether.

(3) The Tribunal must not take any of the steps under this rule in respect of a party unless it has given that party an opportunity to make representations against the taking of any such steps.

Irregularities

7.—(1) Any irregularity that arises before the Tribunal has reached its decision, resulting from failure to comply with any provision of these Rules or of any direction of the Tribunal, will not of itself render the proceedings void.

(2) When any such irregularity comes to the attention of the Tribunal, the Tribunal may, and must if it considers that any person may have been prejudiced by the irregularity, give such directions as it thinks just to cure or waive the irregularity.

(3) Mistakes in any document recording a direction or decision, or errors arising in such a document from an accidental slip or omission, may be corrected by a certificate signed by the Tribunal.

Signature of documents

8. Any requirement in these Rules or in a direction of the Tribunal for a document to be signed by a person is satisfied, in the case of a document which is sent electronically in accordance with these Rules or with a direction of the Tribunal, by that person producing the name using a computer or other mechanical means.

Calculation of time

9. Where the time prescribed for doing any act under these Rules expires on a day, which is not a working day, the act is done on time if done on the next working day.

Sending of notices

10.—(1) Subject to paragraph (4) any document that is required to be sent under these Rules may only be sent—

- (a) by first class post or by personal delivery to the postal address given to that party as the address for service;
- (b) subject to paragraph (2) by document exchange, fax or email;
- (c) where no address for service has been provided, by post or by personal delivery to a party's registered office, principal place of business, head or main office or last known address.

(2) Documents may only be sent to any party by document exchange, fax or email if the intended recipient has informed the Tribunal and any other party in writing—

- (a) that the intended recipient is willing to accept service by document exchange, fax or email; and
- (b) of the box number at the document exchange, the fax number or the email address to which documents should be sent.

(3) If documents are sent by email in accordance with paragraph (2), the intended recipient may specify the format in which the documents must be sent.

(4) Any documents to be filed with the Tribunal must be sent—

- (a) by first class post to an address specified by the Tribunal; or
- (b) by such other method as the Tribunal may permit, including document exchange, fax or email.

(5) Where the Tribunal gives permission for documents to be filed using another method of service under paragraph (4)(b), the Tribunal may—

- (a) specify that the method may be used generally or only in relation to certain documents;
- (b) direct that the specified method is no longer available or substitute the specified method with another specified method; and
- (c) make such directions in relation to the use of a specified method as the Tribunal deems appropriate.

(6) Any document which is sent in accordance with this rule must, unless the contrary is proved, be regarded as having been received—

- (a) where it has been sent by first class post, the second working day after it was posted;
- (b) where it is left at the specified address for service, if it is left on a working day before 5pm, on that day; or in any other case the working day after the day it was left;
- (c) where it was sent by email or by fax, if it is transmitted on a working day before 5pm, on that day; or in any other case, on the working day after the day that it was transmitted; or
- (d) where it was sent by document exchange, the second working day after it was left at the document exchange.

(7) The Tribunal may direct that service of any documents under these Rules may be dispensed with and, in those circumstances, may make such consequential directions as the Tribunal deems appropriate.

Orders against a vexatious litigant

11.—(1) The Tribunal may make an order where a person has persistently initiated proceedings before the Tribunal which are without merit.

(2) The Tribunal must not make an order under this rule without first inviting representations against the making of the order from the person against whom the order is to be made.

(3) Where the Tribunal makes such an order the person against whom the order is made will be prevented from taking any proceedings before the Tribunal without first obtaining the Tribunal's permission.

(4) Where a person who is subject to an order initiates proceedings before the Tribunal without first obtaining permission of the Tribunal, the Tribunal may order that the person's case is struck out—

- (a) without any new order needing to be made under this rule; and
- (b) without inviting representations from that person.

(5) An order under this rule may only be made for a specified period not exceeding 2 years.

(6) The Tribunal may extend the duration of an order under this rule on one occasion for a period not greater than 1 year if it considers that it is appropriate in the circumstances to do so.

(7) The circumstances in paragraph (6) include the making of repeated requests for permission under paragraph (3) which are without merit by a person who is subject to an order under this rule.

(8) A request for permission as described in paragraph (3) must be in writing and must—

- (a) state the nature of the request being sought;
- (b) explain that the person is the subject of an order made under this rule; and
- (c) be served on the parties to the proceedings in respect of which permission is being sought.

(9) The parties under paragraph (8)(c) must provide any representations about the request for permission not more than 7 days from the date on which they receive the request.

(10) The Tribunal must determine a request for permission under paragraph (8)—

- (a) on the papers; and
- (b) promptly, after having considered any representations made under paragraph (9).

Consolidation of appeals or applications

12. Where two or more appeal notices have been filed the Tribunal may direct that the appeals or the applications or any particular issue raised in the appeals or applications be consolidated or heard together—

- (i) in respect of the same matter;
- (ii) in respect of separate issues in the same matter; or
- (iii) which involve the same or similar issues.

Pre-hearing review

13.—(1) Where the Tribunal directs that it is appropriate to hold a pre-hearing review of the appeal or the application, unless the parties consent to shorter notice, the Tribunal must give the parties not less than 14 days' notice of the time and place of the pre-hearing review.

(2) At the pre-hearing review—

- (a) the Tribunal must give all directions appearing necessary or desirable to securing the just, expeditious and economical conduct of the appeal or the application; and
- (b) the Tribunal must endeavour to secure that the parties make all such admissions and agreements as they ought reasonably to have made in relation to the proceedings.

Preliminary questions

14.—(1) The Tribunal may direct that any preliminary question of fact or law which appears to be in issue in relation to the appeal or the application, be determined at a preliminary hearing.

(2) The Tribunal must give the parties not less than 14 days notice of the time and place of a preliminary hearing unless the parties agree to shorter notice.

(3) If, in the opinion of the Tribunal, the determination of that preliminary question substantially disposes of the appeal or the application, the Tribunal may—

- (a) treat the preliminary hearing as the hearing of the appeal or the application; and
- (b) make such order by way of disposing of the appeal or the application, as the Tribunal thinks fit.

(4) If the parties agree in writing, the Tribunal may determine the preliminary question without an oral hearing.

(5) Where the Tribunal determines the preliminary question without an oral hearing under paragraph (4), the Tribunal must not at the same time dispose of the appeal or the application unless the parties have agreed in writing to dispose of the appeal or application without an oral hearing.

Exceptions to disclosure

15.—(1) A party is not required to allow for the inspection of any document in a list under these Rules where inspection could not be compelled in a civil trial in England or Wales.

(2) A party who can establish a ground in paragraph (3) may make a request to the Tribunal, without giving notice to any other party, for a direction under rule 3 (directions) authorising that party not to include a document in the list, or not to allow for the inspection of a document in the list, required by rule 18(4)(a) (Commission's response), 19(3) (appellant's reply) or 20(1) (secondary disclosure by Commission).

(3) A party making a request under paragraph (2) must state in that request that a document should not be included or inspected on the ground that it—

- (a) would not be in the public interest;

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- (b) may be prejudicial to national security; or
 - (c) would not be fair having regard to the potential prejudice which may be caused to the legitimate interests of an appellant or a person other than an appellant.
- (4) For the purpose of deciding a request by a party under paragraph (2), the Tribunal may—
- (a) require that the document be produced to the Tribunal together with a statement of the reasons why it should not be included on a list or inspected as the case may be; and
 - (b) without disclosing the document, invite any other person to make representations.

Provision of copy documents

16. Without prejudice to rule 15 (exceptions to disclosure), a party who has filed a list under rule 18(4)(a) (Commission’s response), 19(3) (appellant’s reply) or 20(1) (secondary disclosure by Commission) must, no later than 7 days from the date of the request of any other party—

- (a) provide that other party with a copy of any document specified in the list; or
- (b) make any such document available to that party to read or to copy.