

---

STATUTORY INSTRUMENTS

---

**2008 No. 668**

**The Consumer Credit Appeals Tribunal Rules 2008**

**PART 2**

**General matters in appeals**

**Directions**

- 3.—**(1) The Tribunal may at any time give a direction to—
- (a) deal with any request or application made under these Rules;
  - (b) enable the parties to prepare for any hearing;
  - (c) assist the Tribunal to determine the issues; and
  - (d) ensure the just, expeditious and economical determination of the appeal.
- (2) The Tribunal may give a direction—
- (a) at the request of any party; or
  - (b) of its own initiative.
- (3) Where the Tribunal gives a direction of its own initiative under paragraph (2)(b), it may (but need not) give prior notice to the parties of its intention to do so.
- (4) Any request for a direction must include the reasons for making that request.
- (5) Unless the Tribunal directs otherwise or the request is made during the course of a hearing, a request for a direction must be in writing and filed.
- (6) The party making the request must at the same time serve a copy of that request on the other party except where—
- (a) the request is accompanied by the written consent of the other party;
  - (b) the request is made during a hearing; or
  - (c) the request is made under rule 5(4) (disclosure).
- (7) Where the Tribunal directs 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) A direction may be given in writing or orally at a hearing.
- (9) When the Tribunal gives a direction under these Rules containing a requirement, the Tribunal—
- (a) must include a statement of the possible consequences, as set out in rule 7 (failure to comply), of a party's failure to comply with the requirement; and
  - (b) may specify a time limit for complying with the requirement.
- (10) The Tribunal may, of the Tribunal's own initiative or at the request of a party or a witness, vary or set aside any direction given under these Rules.

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

### **Consolidation of appeals**

4. The Tribunal may direct that two or more appeals or any particular issue raised in the appeals, be consolidated or heard together.

### **Disclosure and inspection of documents**

5.—(1) In this rule “relevant document” means a document which is or has been in a party’s possession or control and—

- (a) is to be relied upon by that party in the proceedings;
- (b) adversely affects that party’s own case;
- (c) adversely affects another party’s case; or
- (d) supports another party’s case.

(2) The Tribunal may give a direction that one or more parties must file and serve on any party a list of—

- (a) all relevant documents; or
- (b) relevant documents which relate to specified issues.

(3) A list required under these Rules must indicate—

- (a) the documents in respect of which a right or duty to withhold inspection is claimed; and
- (b) the documents that are no longer in the party’s possession or control, and their current location.

(4) A party may make a request under rule 3 (directions), without notice to the other party, to exclude a document from a list required under these Rules.

(5) The Tribunal may make such directions as are necessary to determine any matters that arise under this rule including a direction—

- (a) for documents to be produced;
- (b) for a hearing to be held; and
- (c) inviting representations.

(6) Any party to whom a direction under paragraph (2) applies must, if a document to which the direction applies comes to the party’s attention at any time during the proceedings immediately notify the Tribunal of that document.

(7) Except where the matters in paragraph (8) apply, a party on whom a list has been served may inspect or take a copy of any document on that list on reasonable notice and at a reasonable time and place.

(8) The matters referred to in paragraph (7) are that the—

- (a) document is no longer in the possession or control of the party who served the list; or
- (b) party who served the list has a right or duty to withhold inspection of the document.

(9) Unless otherwise permitted by a direction, any document provided to the Tribunal or to a party under these Rules may only be used for the purpose of the proceedings in which it was disclosed.

(10) No person may be compelled to produce any document that they could not be compelled to produce on a trial of an action in a court of law in the part of the United Kingdom where the proceedings are due to be determined.

### **Powers of Tribunal to strike out**

6.—(1) The Tribunal may, if it thinks fit order any appeal notice, statement of case or written representation to be struck out at any stage of the proceedings on the ground that it—

- (a) discloses no reasonable grounds;
- (b) is an abuse of the Tribunal's process;
- (c) is likely to obstruct the just disposal of proceedings; or
- (d) is inordinately delayed.

(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.

### **Failure to comply**

7.—(1) In addition to any direction that the Tribunal thinks it is reasonable to make, the Tribunal may take one 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 the party is the appellant, dismiss the whole or part of the appeal (or, if there is more than one appellant, that appellant's appeal); and
- (b) where the party is the Regulator, strike out the whole or part of the statement of case and, where appropriate, direct that the Regulator is to be barred from contesting the appeal.

(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.

### **Notification of witnesses**

8.—(1) Unless the Tribunal directs otherwise, if a party intends to call any witness, that party must file a written notice stating the names of the witnesses that party intends to call not less than 14 days before the day fixed for the hearing of the appeal.

(2) A party calling an expert witness under rule 23(2)(c) must provide full details about that witness when making the request under that rule, including the nature of the expertise that witness is intended to provide.

### **Signature of documents**

9. 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 in accordance with a direction of the Tribunal, by the individual who is required to sign the document producing their name by means of a computer or by other electronic means.

### **Calculation of time**

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

### **Sending of notices**

11.—(1) Any documents to be served by a party under these Rules must be served—

- (a) by first class post or by personal delivery to the postal address given to that party as the address for service;
  - (b) where no address for service has been provided, by first class post or by personal delivery to the party's registered office, principal place of business, head or main office or last known address;
  - (c) subject to paragraph (2), by an alternative method.
- (2) Documents may only be served on a party by an alternative method if the intended recipient has informed the Tribunal and each other party in writing—
- (a) that they are willing to accept service by an alternative method; and
  - (b) of the relevant information to allow documents to be served in that way.
- (3) Any documents to be filed with the Tribunal must be filed—
- (a) by first class post or by personal delivery to an address specified by the Tribunal; or
  - (b) by such alternative method as the Tribunal may permit.
- (4) Where the Tribunal gives permission for documents to be filed using an alternative method under paragraph (3)(b), the Tribunal may—
- (a) specify that the alternative method may be used generally or only in relation to certain documents;
  - (b) direct that the alternative method is no longer available or substitute an alternative method with another alternative method; and
  - (c) make such directions in relation to the use of an alternative method as the Tribunal considers appropriate.
- (5) Any document which is filed or served in accordance with this paragraph must, unless the contrary is proved, be regarded as having been received—
- (a) where it is sent by first class post, the second working day after it was posted;
  - (b) where it is delivered to the specified address for service, if it is delivered on a working day before 5pm, on that day; or in any other case the working day after the day it is delivered;
  - (c) where it is 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 is transmitted;
  - (d) where it is sent by document exchange, the second working day after it is left at the document exchange.
- (6) The Tribunal may direct that filing or service of any documents under these Rules be dispensed with and, in those circumstances, may make such consequential directions as the Tribunal considers appropriate.
- (7) Any document that is served or filed under the Rules must specify the date on which it is being served or filed.

**Absence of a tribunal member**

- 12.—**(1) This rule applies when a member who is selected to hear an appeal becomes unable to act.
- (2) In the absence of any selected member, the remaining members may continue to hear the appeal if—
- (a) the parties consent in writing; and
  - (b) the absent member was not selected from the panel of chairmen.

(3) Except where paragraph (4) applies, where a member selected from the panel of chairmen to hear an appeal becomes unable to act the Tribunal must adjourn the hearing.

(4) The Tribunal need not adjourn the hearing under paragraph (3) if—

- (a) one of the remaining members selected to hear the appeal is a member selected from the panel of chairmen; and
- (b) it is in the interests of justice to continue to hear the appeal.

#### **Member of the panel of chairmen acting alone**

**13.** Any request, application or hearing under these Rules, except for the substantive hearing of the appeal, may be decided or heard by a member of the panel of chairmen acting alone.

#### **The register**

**14.—**(1) Subject to rule 20 and 25 the Tribunal must maintain a register containing details of—

- (a) appeals to the Tribunal; and
- (b) decisions of the Tribunal that dispose of appeals.

(2) The register must be reasonably accessible to any person without charge.