STATUTORY INSTRUMENTS

2009 No. 1976

The Tribunal Procedure (First-tier Tribunal) (General Regulatory Chamber) Rules 2009

PART 3

Proceedings before the Tribunal

CHAPTER 2

Before the hearing – charities cases

Application of this Chapter

25. This Chapter applies to charities cases.

The notice of appeal

26.—(1) An appellant must start proceedings before the Tribunal by sending or delivering to the Tribunal a notice of appeal so that it is received—

(a) if the appellant was the subject of the decision to which the proceedings relate, within 42 days of the date on which notice of the decision was sent to the appellant; or

(b) if the appellant was not the subject of the decision to which the proceedings relate, within 42 days of the date on which the decision was published.

(2) The notice of appeal must include—

(a) the name and address of the appellant;

(b) the name and address of the appellant's representative (if any);

(c) an address where documents for the appellant may be sent or delivered;

(d) the basis on which the appellant has standing to start proceedings before the Tribunal;

(e) the name and address of any respondent;

(f) details of the decision or act, or failure to decide or act, to which the proceedings relate;

(g) the result the appellant is seeking;

(h) the grounds on which the appellant relies; and

(i) any further information or documents required by a practice direction.

(3) If the proceedings challenge a decision, the appellant must provide with the notice of appeal a copy of any written record of that decision, and any statement of reasons for that decision that the appellant has or can reasonably obtain.

(4) If the notice of appeal relates to a reference under Schedule 1D of the Charities Act 1993—

(a) if the appellant is the Charity Commission, it must send evidence of the Attorney General's consent to the reference with the notice of appeal; and

(b) on receiving the notice of appeal the Tribunal must publish details of the reference and information as to how a person likely to be affected by the reference can apply to be added as a party to the proceedings.

(5) If the appellant provides the notice of appeal to the Tribunal later than the time required by paragraph (1) or by any extension of time under rule 5(3)(a) (power to extend time)—

(a) the notice of appeal must include a request for an extension of time and the reason why the notice of appeal was not provided in time; and

(b) unless the Tribunal extends time for the notice of appeal under rule 5(3)(a) (power to extend time) the Tribunal must not admit the notice of appeal.

(6) The appellant must send or deliver a copy of the notice of appeal and any accompanying documents to the respondent at the same time as it provides the notice of appeal to the Tribunal.

The response

27.—(1) The respondent must send or deliver to the Tribunal a response to the notice of appeal so that it is received within 28 days after the date on which the respondent received the notice of appeal.

(2) The response must include—

(a) the name and address of the respondent;

(b) the name and address of the respondent's representative (if any);

(c) an address where documents for the respondent may be sent or delivered;

(d) any further information or documents required by a practice direction or direction; and

(e) whether the respondent would be content for the case to be dealt with without a hearing if the Tribunal considers it appropriate.

(3) The response must include a statement as to whether the respondent opposes the appellant's case and, if so, any grounds for such opposition which are not contained in another document provided with the response.

(4) If the proceedings challenge a decision, the respondent must provide with the response a copy of any written record of that decision, and any statement of reasons for that decision, that the appellant did not provide with the notice of appeal and the respondent has or can reasonably obtain.

(5) If the proceedings challenge a decision, the respondent must provide with the response a list of—

(a) the documents relied upon by the respondent when reaching the decision; and

(b) any other documents which the respondent considers could adversely affect its case or support the appellant's case.

(6) If the respondent provides the response to the Tribunal later than the time required by paragraph (1) or by any extension of time under rule 5(3)(a) (power to extend time), the response must include a request for an extension of time and the reason why the response was not provided in time.

(7) The respondent must send or deliver a copy of the response and any accompanying documents to each other party at the same time as it provides the response to the Tribunal.

Appellant's reply

28.—(1) The appellant may send or deliver to the Tribunal a reply to the respondent's response and any additional documents relied upon by the appellant.

(2) Any reply must be sent or delivered to the Tribunal so that it is received within 28 days after the date on which the respondent sent the response to the appellant.

(3) If the appellant provides a reply to the Tribunal later than the time required by paragraph (2) or by any extension of time under rule 5(3)(a) (power to extend time) the reply must include a request for an extension of time and the reason why the reply was not provided in time.

(4) The appellant may provide with the reply a list of documents on which the appellant relies in support of the appeal or application, and which—

(a) the appellant did not provide with the notice of appeal; and

(b) the respondent did not include in any list of documents provided under rule 27(5).

(5) The appellant must send or deliver a copy of any reply and any accompanying documents to each respondent at the same time as it provides the reply to the Tribunal.

Secondary disclosure by the respondent

29.—(1) If the appellant provides a reply under rule 28, the respondent must send or deliver to the Tribunal, so that it is received within 14 days after the date on which the respondent received the appellant's reply, a list of any further material which—

(a) might reasonably be expected to assist that appellant's case as disclosed by that appellant's reply; and.

(b) was not included in a list of documents provided by the respondent with the response.

(2) If the respondent provides the list to the Tribunal later than the time required by paragraph (1) or by any extension of time under rule 5(3)(a) (power to extend time), the response must include a request for an extension of time and the reason why the response was not provided in time.

(3) The respondent must send or deliver a copy of the list to each other party at the same time as it provides the response to the Tribunal.

Provision of copy documents

30.—(1) If a party has provided a list of documents under rule 27, 28 or 29, that party must within 7 days of receiving a request from another party—

(a) provide that other party with a copy of any document specified in the list; or

(b) make such document available to that party to read or copy.

Involvement of the Attorney General under section 2D of the Charities Act 1993

31.—(1) If the Tribunal directs that all the necessary papers in proceedings be sent to the Attorney General under section 2D(2) and (3) of the Charities Act 1993, the Attorney General must notify the Tribunal whether the Attorney General intends to intervene in the proceedings within 28 days of receiving the papers.

(2) The Attorney General may at any time notify the Tribunal that the Attorney General intends to intervene in the proceedings on the Attorney General's own initiative.

(3) If the Tribunal requests that the Attorney General argue a question in relation to the proceedings under section 2D(4)(b) of the Charities Act 1993, the Tribunal must provide to the Attorney General—

(a) a statement of the question;

(b) an account of the proceedings to date;

(c) the reasons the Tribunal considers it necessary to have the question fully argued; and

(d) copies of the documents the Tribunal considers necessary to enable the Attorney General to decide whether it is appropriate to argue the question.

(4) If the Attorney General notifies the Tribunal that the Attorney General intends to intervene in, or to argue a question in relation to, proceedings under section 2D(4) of the Charities Act 1993, the Tribunal must hold a case management hearing.