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STATUTORY INSTRUMENTS

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**2009 No. 1976**

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

**PART 3**

Proceedings before the Tribunal

**CHAPTER 1**

Before the hearing – cases other than charities cases

**Application of this Chapter**

**21.** This Chapter applies to cases other than charities cases.

**The notice of appeal**

**22.—(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) in an appeal against a refusal or revocation of a licence to give driving instruction, within 14 days of the date on which notice of the decision was sent to the appellant;
- (b) otherwise, within 28 days of the date on which notice of the act or decision to which the proceedings relate was sent to the appellant.

(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 name and address of any respondent;
- (e) details of the decision or act, or failure to decide or act, to which the proceedings relate;
- (f) the result the appellant is seeking;
- (g) the grounds on which the appellant relies; and
- (h) 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 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.

(5) When the Tribunal receives the notice of appeal it must send a copy of the notice of appeal and any accompanying documents to each respondent.

### **The response**

**23.**—(1) Each respondent must send or deliver to the Tribunal a response to the notice of appeal so that it is received—

- (a) in a transport case, within 14 days after the date on which the respondent received the notice of appeal;
- (b) otherwise, 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 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.

(6) In a transport case, the Tribunal must send a copy of the response and any accompanying documents to each other party.

(7) In any other case, 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**

**24.**—(1) The appellant may make a written submission and provide further documents in reply to a response.

(2) Any reply and accompanying documents provided under paragraph (1) must be sent or delivered to the Tribunal within 14 days after the date on which the respondent or the Tribunal sent the response to the appellant.

(3) If the appellant provides the 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) In a transport case, the Tribunal must send a copy of any reply and any accompanying documents to each other party.

(5) In any other case, the appellant must send or deliver a copy of any reply and any accompanying documents to each other party at the same time as it provides the reply to 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.

## **CHAPTER 3**

### **Hearings**

#### **Decision with or without a hearing**

**32.**—(1) Subject to paragraphs (2) and (3), the Tribunal must hold a hearing before making a decision which disposes of proceedings unless—

- (a) each party has consented to the matter being determined without a hearing; and

(b) the Tribunal is satisfied that it can properly determine the issues without a hearing.

(2) This rule does not apply to a decision under Part 4 (correcting, setting aside, reviewing and appealing Tribunal decisions).

(3) The Tribunal may in any event dispose of proceedings without a hearing under rule 8 (striking out a party's case).

(4) Notwithstanding any other provision in these Rules, if the Tribunal holds a hearing to consider a preliminary issue, and following the disposal of that preliminary issue no further issue remains to be determined, the Tribunal may dispose of the proceedings without holding any further hearing.

### **Entitlement to attend and take part in a hearing**

**33.**—(1) Subject to rule 35(4) (exclusion of a person from a hearing) each party is entitled to—

- (a) attend any hearing that is held; and
- (b) send written representations to the Tribunal and each other party prior to the hearing.

(2) The Tribunal may give a direction permitting or requesting any person to—

- (a) attend and take part in a hearing to such extent as the Tribunal considers proper; or
- (b) make written submissions in relation to a particular issue.

### **Notice of hearings**

**34.**—(1) The Tribunal must give each person entitled, permitted or requested to attend a hearing (including any adjourned or postponed hearing) reasonable notice of the time and place of the hearing and any changes to the time and place of the hearing.

(2) The period of notice under paragraph (1) in relation to a hearing to consider disposal of the proceedings must be at least 14 days, except that the Tribunal may give shorter notice—

- (a) with the parties' consent; or
- (b) in urgent or exceptional circumstances.

### **Public and private hearings**

**35.**—(1) Subject to the following paragraphs, all hearings must be held in public.

(2) The Tribunal may give a direction that a hearing, or part of it, is to be held in private.

(3) Where a hearing, or part of it, is to be held in private, the Tribunal may determine who is permitted to attend the hearing or part of it.

(4) The Tribunal may give a direction excluding from any hearing, or part of it—

- (a) any person whose conduct the Tribunal considers is disrupting or is likely to disrupt the hearing;
- (b) any person whose presence the Tribunal considers is likely to prevent another person from giving evidence or making submissions freely;
- (c) any person who the Tribunal considers should be excluded in order to give effect to the requirement at rule 14(10) (prevention of disclosure or publication of documents and information); or
- (d) any person where the purpose of the hearing would be defeated by the attendance of that person.

(5) The Tribunal may give a direction excluding a witness from a hearing until that witness gives evidence.

### **Hearings in a party's absence**

- 36.** If a party fails to attend a hearing the Tribunal may proceed with the hearing if the Tribunal—
- (a) is satisfied that the party has been notified of the hearing or that reasonable steps have been taken to notify the party of the hearing; and
  - (b) considers that it is in the interests of justice to proceed with the hearing.

## **CHAPTER 4**

### **Decisions**

#### **Consent orders**

**37.—**(1) The Tribunal may, at the request of the parties but only if it considers it appropriate, make a consent order disposing of the proceedings and making such other appropriate provision as the parties have agreed.

(2) Notwithstanding any other provision of these Rules, the Tribunal need not hold a hearing before making an order under paragraph (1), or provide reasons for the order.

#### **Decisions**

**38.—**(1) The Tribunal may give a decision orally at a hearing.

(2) Subject to rule 14(10) (prevention of disclosure or publication of documents and information), the Tribunal must provide to each party as soon as reasonably practicable after making a decision which finally disposes of all issues in the proceedings (except a decision under Part 4)—

- (a) a decision notice stating the Tribunal's decision;
- (b) written reasons for the decision; and
- (c) notification of any right of appeal against the decision and the time within which, and manner in which, such right of appeal may be exercised.

(3) The Tribunal may provide written reasons for any decision to which paragraph (2) does not apply.