

Status: Point in time view as at 06/04/2008.

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SCHEDULES

SCHEDULE A1

THE CONSUMER CREDIT APPEALS TRIBUNAL

PART 4

TRIBUNAL POWERS AND PROCEDURE

Sittings

- 8 The Tribunal shall sit at such times and in such places as the Lord Chancellor may direct.

Evidence

- 9 (1) Subject to sub-paragraph (2), the Tribunal may, on an appeal, consider any evidence that it thinks relevant, whether or not it was available to the OFT at the time it made the determination appealed against.
- (2) Rules may make provision restricting the evidence that the Tribunal may consider on an appeal in specified circumstances.

Rules on procedure

- 10 Rules may include, amongst other things, provision—
- (a) about the withdrawal of appeals;
 - (b) about persons who may appear on behalf of a party to an appeal;
 - (c) about how an appeal is to be dealt with if a person acting as member of the Tribunal in respect of the appeal becomes unable to act;
 - (d) setting time limits in relation to anything that is to be done for the purposes of an appeal or for such limits to be set by the Tribunal or a member of the panel of chairmen;
 - (e) for time limits (including the period specified for the purposes of section 41(1) of this Act) to be extended by the Tribunal or a member of the panel of chairmen;
 - (f) conferring powers on the Tribunal or a member of the panel of chairmen to give such directions to the parties to an appeal as it or he thinks fit for purposes connected with the conduct and disposal of the appeal;

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- (g) about the holding of hearings by the Tribunal or a member of the panel of chairmen (including for such hearings to be held in private);
- (h) placing restrictions on the disclosure of information and documents or for such restrictions to be imposed by the Tribunal or a member of the panel of chairmen;
- (i) about the consequences of a failure to comply with a requirement imposed by or under any rule (including for the immediate dismissal or allowing of an appeal if the Tribunal or a member of the panel of chairmen thinks fit);
- (j) for proceedings on different appeals (including appeals with different appellants) to take place concurrently;
- (k) for the suspension of determinations of the OFT;
- (l) for the suspension of decisions of the Tribunal;
- (m) for the Tribunal to reconsider its decision disposing of an appeal where it has reason to believe that the decision was wrongly made because of an administrative error made by a member of its staff.

Council on Tribunals

- 11 A member of the Council on Tribunals or of its Scottish Committee shall be entitled —
- (a) to attend any hearing held by the Tribunal or a member of the panel of chairmen whether or not it is held in public; and
 - (b) to attend any deliberations of the Tribunal in relation to an appeal.

Disposal of appeals

- 12 (1) The Tribunal shall decide an appeal by reference to the grounds of appeal set out in the notice of appeal.
- (2) In disposing of an appeal the Tribunal may do one or more of the following—
- (a) confirm the determination appealed against;
 - (b) quash that determination;
 - (c) vary that determination;
 - (d) remit the matter to the OFT for reconsideration and determination in accordance with the directions (if any) given to it by the Tribunal;
 - (e) give the OFT directions for the purpose of giving effect to its decision.
- (3) In the case of an appeal against a determination to impose a penalty, the Tribunal—
- (a) has no power by virtue of sub-paragraph (2)(c) to increase the penalty;
 - (b) may extend the period within which the penalty is to be paid (including in cases where that period has already ended).
- (4) Sub-paragraph (3) does not affect—
- (a) the Tribunal's power to give directions to the OFT under sub-paragraph (2) (d); or
 - (b) what the OFT can do where a matter is remitted to it under sub-paragraph (2) (d).

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- (5) Where the Tribunal remits a matter to the OFT, it may direct that the requirements of section 34 of this Act are not to apply, or are only to apply to a specified extent, in relation to the OFT's reconsideration of the matter.
- (6) Subject to sub-paragraphs (7) and (8), where the Tribunal remits an application to the OFT, section 6(1) and (3) to (9) of this Act shall apply as if the application had not been previously determined by the OFT.
- (7) In the case of a general notice which came into effect after the determination appealed against was made but before the application was remitted, the applicant shall provide any information or document which he is required to provide under section 6(6) within—
 - (a) the period of 28 days beginning with the day on which the application was remitted; or
 - (b) such longer period as the OFT may allow.
- (8) In the case of—
 - (a) any information or document which was superseded,
 - (b) any change in circumstances which occurred, or
 - (c) any error or omission of which the applicant became aware,after the determination appealed against was made but before the application was remitted, any notification that is required to be given by the applicant under section 6(7) shall be given within the period of 28 days beginning with the day on which the application was remitted.

Decisions of the Tribunal

- 13 (1) A decision of the Tribunal may be taken by majority.
- (2) A decision of the Tribunal disposing of an appeal shall—
 - (a) state whether it was unanimous or taken by majority; and
 - (b) be recorded in a document which—
 - (i) contains a statement of the reasons for the decision and any other specified information; and
 - (ii) is signed and dated by a member of the panel of chairmen.
- (3) Where the Tribunal disposes of an appeal it shall—
 - (a) send to each party to the appeal a copy of the document mentioned in sub-paragraph (2)(b); and
 - (b) publish that document in such manner as it thinks fit.
- (4) The Tribunal may exclude from what it publishes under sub-paragraph (3)(b) information of a specified description.

Costs

- 14 (1) Where the Tribunal disposes of an appeal and—
 - (a) it decides that the OFT was wrong to make the determination appealed against, or

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(b) during the course of the appeal the OFT accepted that it was wrong to make that determination,

it may order the OFT to pay to the appellant the whole or a part of the costs incurred by the appellant in relation to the appeal.

(2) In determining whether to make such an order, and the terms of such an order, the Tribunal shall have regard to whether it was unreasonable for the OFT to make the determination appealed against.

15 Where—

(a) the Tribunal disposes of an appeal or an appeal is withdrawn before the Tribunal disposes of it, and

(b) the Tribunal thinks that a party to the appeal acted vexatiously, frivolously or unreasonably in bringing the appeal or otherwise in relation to the appeal,

it may order that party to pay to the other party the whole or a part of the costs incurred by the other party in relation to the appeal.

16 An order of the Tribunal under paragraph 14 or 15 may be enforced—

(a) as if it were an order of the county court; or

(b) in Scotland, as if it were an interlocutor of the Court of Session.

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