

1977 No. 1020 (S.78)

AIRCRAFT AND SHIPBUILDING INDUSTRIES

The Aircraft and Shipbuilding Industries Arbitration
Tribunal (Scottish Proceedings) Rules 1977

<i>Made</i> - - - -	15th June 1977
<i>Laid before Parliament</i>	28th June 1977
<i>Coming into Operation</i>	1st August 1977

In exercise of the powers conferred on me by Section 42 of and paragraph 10(1) of Schedule 7 to the Aircraft and Shipbuilding Industries Act 1977(a), and after consultation with the Council on Tribunals I hereby make the following Rules:—

Citation, commencement, interpretation and extent

1. These Rules may be cited as the Aircraft and Shipbuilding Industries Arbitration Tribunal (Scottish Proceedings) Rules 1977 and shall come into operation on 1st August 1977.

2.—(1) In these Rules, unless the context otherwise requires:—

“the Act” means the Aircraft and Shipbuilding Industries Act 1977;

“the clerk” means the person for the time being performing the functions of clerk to the Tribunal;

“the office” means the office in Scotland for the time being of the Tribunal;

“the President” means the president of the Tribunal;

“the Tribunal” means the Aircraft and Shipbuilding Industries Arbitration Tribunal established under section 42(1) of the Act;

(2) The Interpretation Act 1889(b) shall apply for the interpretation of these Rules as it applies for the interpretation of an Act of Parliament.

3. These Rules shall not apply to proceedings other than proceedings which under section 43 of the Act, are to be treated as Scottish proceedings.

Institution of proceedings

4.—(1) Proceedings for the determination by the Tribunal of any question or dispute may be brought before it by any person who has a direct interest in that question or dispute sending to the clerk an application in or as nearly as may be in accordance with Form 1 set out in the Schedule hereto.

(2) Every such application shall name as a respondent every party (other than the applicant) to the question or dispute, or other person appearing to be directly interested in the subject of the application, and shall contain a statement that the application relates to proceedings which, under section 43 of the Act, are to be treated as Scottish proceedings.

(a) 1977 c. 3.

(b) 1889 c. 63.

5. The clerk shall, as soon as may be after he has received an application sent to him in accordance with Rule 4 send to each respondent named therein a copy thereof sealed with the seal of the Tribunal and endorsed with a notice in the following terms:—

“To the respondent (naming the respondent):

You will in due course receive from me a statement setting out the facts alleged by, and the contentions of, the applicant, and you are requested not to take any step in these proceedings until such statement has been received”.

Parties to Proceedings

6.—(1) The Tribunal may at any time if so requested by any person, whether an applicant or respondent or not, or of its own motion, direct any person appearing to the Tribunal to be directly interested in the subject of the application to be sisted to the proceedings as a respondent, and thereupon the clerk shall send to such person a copy of the application sealed with the seal of the Tribunal and endorsed with a notice in the terms set out in Rule 5.

(2) The Tribunal may likewise, if so requested as aforesaid or of its own motion, order that any respondent named in the application or subsequently sisted to the proceedings who shall appear to the Tribunal not to have been, or to have ceased to be, directly interested in the subject of the application, be dismissed from the proceedings upon such terms (if any) as the Tribunal may think fit.

Pleadings

7.—(1) The applicant shall, within 21 days after the application has been sent to the clerk in terms of Rule 4, send to the clerk a statement in writing setting out the facts relied upon by him and his contentions in regard to the question or dispute in issue.

(2) The clerk shall, as soon as may be after he has received the applicant's statement send to each respondent a copy thereof sealed with the seal of the Tribunal and endorsed with a notice in the following terms:—

“To the respondent (naming the respondent):

If you wish to dispute any of the facts relied upon by the applicant or do not agree with any of the contentions put forward by him in this statement, or if you wish to set out any other facts or to put forward any other contentions, you should within 21 days after this date, or within such extended time as the Tribunal may allow, send or deliver to the clerk to the Tribunal at [address of office] an answer in writing to this statement. Your answer should conform to the provisions of the Aircraft and Shipbuilding Industries Arbitration Tribunal (Scottish Proceedings) Rules 1977 and should state an address at which any further notices, orders or other documents in these proceedings may be sent to you.”

8.—(1) A respondent shall state in any answer sent by him to the clerk in accordance with the notice endorsed on the copy of the applicant's statement in terms of Rule 7 to what extent if any the facts relied upon by the applicant are disputed and the respects in which he disagrees with the applicant's contentions, and he shall set out therein any other facts explanations or other matters which he considers relevant and his own contentions.

(2) Any fact set out in a statement and not expressly denied in an answer sent to the clerk by a respondent shall as against such respondent be taken to be admitted but without prejudice to the right of the Tribunal to require such proof thereof as it considers necessary.

(3) The clerk shall, as soon as may be after receipt by him of a respondent's answer, send a copy thereof to the applicant and to every other respondent.

Record of applications etc.

9. The clerk shall allot a distinctive serial number to every application and every notice, statement, answer, order or other document relating to the same proceedings shall bear the same distinctive serial number.

10. The clerk shall make and keep a list of all applications to the Tribunal showing the distinctive serial numbers allotted thereto and the dates of receipt thereof, and on application being made to the clerk such list may be inspected at the office during ordinary office hours.

11.—(1) Every application, notice, statement, answer, order or other document shall be filed by the clerk under the distinctive serial number thereof, and the file relating to any proceedings may on application being made to the clerk be inspected at the office during ordinary office hours by any person appearing to the clerk to have an interest in the matter, or by his authorised representative.

(2) Any question as to the right of a person to inspect any such file shall be determined by the President on the application of the person wishing to make such inspection.

Procedural orders

12. Any party to proceedings before the Tribunal may, subject to the provisions of Rule 25, at any time, by lodging with the clerk an application in or as nearly as may be in accordance with Form 2 set out in the Schedule hereto, apply to the Tribunal for an order granting leave to lodge any reply or to amend any statement answer or other pleading, for a commission and diligence for the recovery of documents, for a commission to take evidence, for the extension or the reduction of the time (whether or not it has already expired) for taking any step in the proceedings, for fixing the day of the hearing, or for any other purpose.

13.—(1) Subject to paragraph (3) of this Rule, the clerk shall on an application being lodged with him under the preceding Rule appoint a date, time and place for the hearing of the application and shall—

(a) give to every party concerned not less than 21 days' notice in writing of the date, time and place so appointed, and

(b) send to every such party (other than the applicant) a copy of the application.

(2) Any such application shall be heard and determined by the President unless he refers it to be heard and determined by the Tribunal or the applicant or other party to the proceedings requests that it be so referred and in such event the President shall if a hearing into the application has commenced before him adjourn the hearing so that the application may be so heard and determined, and if the date time and place appointed for the hearing by the Tribunal are not appointed on the occasion of such adjournment by the President the clerk shall give to every party concerned not less than 7 days' notice in writing thereof.

(3) Where all parties concerned consent to the granting of an application to be made in terms of the preceding Rule the party wishing to make such application may apply therefor by letter addressed to the clerk accompanied by the written consent to the application of all the other parties and the President may thereupon make the order and the clerk shall notify the parties accordingly:

Provided that if the President is of the opinion that he or the Tribunal should hear the parties with respect to the application then notwithstanding written consent having been given thereto the clerk shall inform the parties accordingly, and give them not less than 21 days' notice in writing of the date, time and place appointed for such hearing.

14. The Tribunal may of its own motion and at any stage in the proceedings make any order after having given the parties reasonable notice of its intention to make the order and afforded them an opportunity of being heard, or of making representations in writing, thereon.

Hearings before the Tribunal

15.—(1) A hearing by the Tribunal shall be on such date and at such time and place as the Tribunal may determine and if in the opinion of the Tribunal a hearing should be adjourned or continued it shall be so adjourned or continued to such date, time and place as the Tribunal may determine.

(2) The clerk shall give to every party concerned not less than 21 days' notice in writing of a hearing other than a hearing which has been adjourned.

(3) The hearing of an application other than an application for a procedural order shall be in public:

Provided that with the consent of all parties a hearing may be in private and in that case a member of the Council on Tribunals or the Scottish Committee thereof shall be entitled to attend the hearing.

Representation

16. A party may appear in person at any hearing, whether before the Tribunal or the President or may be represented by counsel or solicitor or by leave of the Tribunal or the President (as the case may be) by any other person or in the case of a corporation or unincorporated body by an officer appointed by it for the purpose.

Evidence

17.—(1) Evidence before the Tribunal may be given orally but the Tribunal may admit in place of oral evidence by any person in a hearing a written statement by that person signed by that person and sworn or affirmed to be true by that person before a notary public, commissioner for oaths or justice of the peace, or before a commissioner appointed by the Tribunal for that purpose:

Provided that such a statement may only be admitted if—

- (a) all persons who appear or are represented at the hearing agree to its admission; or
- (b) the Tribunal considers that its admission will not result in unfairness in the conduct of the hearing to any person who appears or is represented at the hearing.

(2) A certificate that the statement has been so sworn or affirmed, annexed to the statement and signed by the person making the statement and by the person before whom it is sworn or affirmed, shall be sufficient evidence that it has been so sworn or affirmed.

(3) So much of any statement as is admitted in evidence by virtue of this Rule shall, unless the Tribunal otherwise directs, be read aloud at the hearing by the party tendering the statement or by his representative as the case may be and where the Tribunal so directs an account shall be given orally by that party or his representative of so much of any statement as is not read aloud.

(4) Any document or object referred to as a production and identified in a written statement tendered in evidence under this Rule shall be treated as if it had been produced and had been identified in court by the maker of the statement.

(5) Notwithstanding the foregoing provisions of this Rule the Tribunal may at any stage of the proceedings make an order requiring the personal attendance for examination and cross-examination of any person who has given a written statement as aforesaid.

Consent orders

18. Where a question or dispute is settled between the parties whether during before or after a hearing the Tribunal shall, by consent of the parties, determine the same in terms of such settlement.

Decisions and orders of the Tribunal

19.—(1) The final decision of the Tribunal in respect of an application shall be in writing sealed with the seal of the Tribunal and signed by the President and shall include a statement of the Tribunal's reasons therefor.

(2) The clerk shall send to every party to the proceedings a copy of the Tribunal's decision and shall cause a copy to be made available at the office for public inspection at such times as the Tribunal may direct.

(3) All orders of the Tribunal shall be sealed with the seal of the Tribunal, the application of which shall be authenticated by the signature of the clerk or some other person authorised by the Tribunal to act for him.

Failure to proceed

20.—(1) The Tribunal may either of its own motion or on an application made in that behalf, dismiss any application on the grounds that the applicant has failed to proceed in the matter.

(2) The clerk shall give to every party to the proceedings notice of the dismissal of an application on the said grounds.

Withdrawal of application

21. An applicant who wishes to withdraw his Application may do so at any time by giving the clerk written notice to that effect accompanied by the written consent of every other party to the proceedings.

Service of documents

22.—(1) Any notice or other document required by these Rules to be given or sent to the Tribunal may be given or sent by prepaid post to the clerk at the office.

(2) If it appears to the Tribunal that for any reason a notice or other document cannot readily be given or sent to the person concerned in the manner authorised by the Act the Tribunal may direct that the giving or sending of such notice or document may be dispensed with or made in such manner as the Tribunal may direct.

(3) Any party to proceedings may at any time change his address for the receipt of notices by notice in writing given to the Tribunal, and in that event the clerk shall notify every other party of the change.

Statement of case for Court of Session

23.—(1) An application to the Tribunal to state a case for the opinion of the Court of Session under paragraph 8 of Schedule 7 to the Act may be made by notice in writing lodged by the applicant with the clerk.

(2) The clerk shall, as soon as may be after having received a notice under paragraph (1), send a copy thereof to every other party concerned.

(3) The Tribunal shall, as soon as may be practicable, consider the application, and shall notify its decision thereon to the applicant and every other such party:

Provided that if the Tribunal refuse to state a case for the opinion of the Court of Session the notification shall contain a statement of the Tribunal's reasons for the refusal.

Expenses

24. The Tribunal shall have discretion in regard to the expenses of and incidental to any proceedings before it and may direct to and by whom and in what manner these expenses or part thereof shall be paid and as to the determination and taxation of such expenses or part.

Miscellaneous

25. Except by leave of the Tribunal and subject to the provisions of these Rules no further step in any proceedings before the Tribunal shall be taken until the expiration of the time limited for service of an answer, or of such extension of that time as the Tribunal may allow.

26. Subject to the provisions of the Act and of these Rules, the Tribunal may regulate its own procedure.

Ronald King Murray,
Lord Advocate.

Lord Advocate's Chambers.

15th June 1977.

SCHEDULE

Rule 4

FORM 1

Application

THE AIRCRAFT AND SHIPBUILDING INDUSTRIES
ARBITRATION TRIBUNAL

[Name and address of applicant]	No.....
and	Applicant
[Name(s) and address(es) of respondent(s)]	Respondent(s)

To:

The clerk of the Aircraft and Shipbuilding Industries Arbitration Tribunal:

The above-named applicant hereby applies to the Aircraft and Shipbuilding Industries Arbitration Tribunal pursuant to the provisions of the Aircraft and Shipbuilding Industries Act 1977 for the determination of the following question(s)/dispute arising under section of the Aircraft and Shipbuilding Industries Act 1977.

The question/dispute which is the subject of the application is
[state briefly question of which determination is sought]

To the best of the applicant's knowledge and belief this application relates to proceedings which are under section 43 of the Aircraft and Shipbuilding Industries Act 1977 are to be treated as Scottish proceedings.

The above-named respondent(s) is (are) interested in the subject of this application.
The address for service on the applicant is [as above].

Signed

Status of signatory*

Date

*insert as appropriate:
"Applicant"
"An officer of applicant"
"Solicitor(s) for applicant"

Rule 12

FORM 2

Application for Order

THE AIRCRAFT AND SHIPBUILDING INDUSTRIES
ARBITRATION TRIBUNAL

[Name and address of applicant] and [Name(s) and address(es) of respondent(s)]	No.....	Applicant Respondent(s)
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To:

The clerk of the Aircraft and Shipbuilding Industries Arbitration Tribunal:

The above-named applicant hereby applies to the Tribunal for directions that [particulars of directions sought] and requests that copies of this notice be served on the other parties to these proceedings.

Signed

Status of Signatory*

Date

*insert as appropriate:
 "Applicant"
 "An officer of applicant"
 "Solicitor(s) for applicant"

EXPLANATORY NOTE

(This Note is not part of the Rules.)

These Rules regulate the procedure in or in connection with any proceedings before the Arbitration Tribunal established by the Aircraft and Shipbuilding Industries Act 1977 which are to be treated as Scottish proceedings.

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