

## SCHEDULE

### MODEL RULES FOR APPEALS

## CHAPTER I

### MODEL RULES FOR APPEALS

#### PART IV

#### PREPARATION FOR DECIDING THE APPEAL

##### **Power to make interim orders and directions**

**15.**—(1) The Chairman may make an order granting on an interim basis any remedy which the tribunal would have the power to grant in its final decision, or otherwise give an interim direction in relation to the enforcement action in question.

(2) An order may be made or a direction given under this rule of the Chairman’s own motion or on the application of—

- (a) the appellant, or
- (b) any interested person whom the Registrar is required to invite to make representations under rule 16.

(3) Where an application is made for an order or direction under this rule before the appointment of the Chairman, the order or direction may be made or given by the Registrar on a temporary basis.

(4) An order made or direction given by the Registrar under paragraph (3) is subject to the decision of the Chairman, and when the Chairman has been appointed, he must without delay either affirm the order or direction (with or without variation) or discharge it.

(5) Before making, giving or affirming an order or direction under this rule, the Chairman or Registrar must give the Authority an opportunity to object, and, subject to paragraph (6), must consider any such objection.

(6) In an urgent case, the Chairman or Registrar may make an order or give a direction under this rule before considering any objection made by the Authority, but he must consider whether to revoke or vary the order or direction in the light of any such objection.

(7) The Chairman or Registrar may exercise his power to make, give or affirm an order or direction under this rule only if he is satisfied that—

- (a) failure to do so will deprive the appellant of the substance of the remedy which may be available if the appeal is successful, and
- (b) such an order or direction, if given or made, will not cause significant risk of harm to any person.

(8) Any order or direction under this rule is subject to the tribunal’s final decision under rule 30.

##### **Representations by interested persons**

**16.**—(1) The Registrar must as soon as practicable send to—

- (a) any person named by the appellant or the Authority as having a direct interest in the subject matter of the appeal, and
- (b) any other person whom the Chairman is satisfied has such a direct interest,

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copies of the documents supplied by each party in relation to the appeal, together with an invitation to send written representations to the tribunal so that they are received before the end of a period of twenty one days beginning with the date of that invitation.

(2) The Registrar must as soon as practicable send to each of the parties a copy of any representations received under this rule, together with an invitation to send written comments on them to the tribunal so that they are received before the end of the period of seven days beginning with the date of that invitation.

(3) The tribunal must not decide the appeal before—

- (a) the end of the period allowed for making representations under paragraph (1), or
- (b) the end of any period allowed for making comments under paragraph (2),

whichever is the later.

### **Experts**

**17.**—(1) The Chairman may, if he thinks that any technical question arises in relation to the appeal on which it would be desirable for the tribunal to have the assistance of an expert, appoint a person having appropriate qualifications to enquire into and report on the matter and, if either party requests, to attend the hearing and give evidence.

(2) The Registrar must supply the Authority and the appellant with a copy of any report received under paragraph (1) in advance of the hearing.

(3) The tribunal shall pay such fees as it may determine to any person appointed under this rule.

### **Legal assessor**

**18.**—(1) The Chairman may, if he thinks that a question of law arises in relation to the appeal on which it would be desirable to have the advice of a lawyer, appoint a solicitor or barrister (or, in relation to Scottish proceedings, an advocate) to give such advice.

(2) The tribunal shall pay such fees as it may determine to any person appointed under this rule.