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STATUTORY INSTRUMENTS

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**1997 No. 798**

**The Reserve Forces Appeal Tribunals Rules 1997**

**PART III**

**PREPARATION FOR A HEARING**

**Service of documents by Secretary**

**12.**—(1) Subject to paragraph (2), the Secretary shall immediately send or deliver a copy of the notice of appeal and any reply, together with any amendments or statements, written representations or other documents or records received from one party, to the other party to the appeal:

Provided that if any such material is sent or delivered to the Secretary after the time prescribed by these Rules the Secretary shall—

- (a) send or deliver a copy of the material to the other party;
- (b) inform that other party that such action by the Secretary shall not prejudice the Tribunal's determination on whether to extend the relevant time limit.

(2) If any material referred to in paragraph (1) contains any matter that relates to intimate personal or financial circumstances, is commercially sensitive, consists of information communicated or obtained in confidence, or involves considerations of personal or national security and—

- (a) it appears to the Secretary that the material contains such matter; or
- (b) a party seeks to restrict its disclosure and informs the Secretary of that fact and of his reasons for seeking such a restriction,

the Secretary shall serve the copies as provided in this rule only in accordance with the directions of the Tribunal.

**Directions in preparation for a hearing**

**13.**—(1) The Tribunal may at any time, on the application of a party or on its own initiative, give such directions (including the issue of a witness summons or, where the Tribunal is sitting in Scotland, a citation) as are provided in this Part to enable the parties to prepare for the hearing or to assist the Tribunal to determine the issues:

Provided that in exercising the powers conferred by this rule, the Tribunal shall take into account the need to protect any matter that relates to intimate personal or financial circumstances, is commercially sensitive, consists of information communicated or obtained in confidence or concerns personal or national security.

- (2) Directions containing a requirement under this Part shall, as appropriate—
  - (a) include an explanation of the possible consequences for the appeal, as provided by rule 17 below, of a party's failure to comply with the requirement within the time allowed by the Tribunal;
  - (b) contain a reference to the provisions of section 93(3) (non compulsion to give evidence or produce documents) and section 94 (offences in connection with appeals) of the Act;

- (c) in the case of a witness summons or citation, except where the application for the summons or citation was made in the presence of the person to whom the summons or citation is addressed, draw to that person's attention his right to apply to the Tribunal under rule 18 below to vary or set aside the summons or citation.

(3) The Secretary shall immediately send a copy of all directions to the parties and any other person to whom they apply, except that a copy need not be sent to any person who was present or represented when the direction was made.

#### **Particulars and supplementary statements**

14. The Tribunal may give directions requiring a party to provide such particulars or supplementary statements as may be reasonably required for the determination of the appeal.

#### **Disclosure of documents and other material**

15. The Tribunal may give directions requiring a party to deliver to the Secretary any document or other material which the Tribunal may require and which it is in the power of that party to deliver. The Tribunal shall make such provision as it thinks necessary to supply copies of any material obtained under this rule to the other party, and it shall be a condition of such supply that the party shall use such material only for the purposes of the appeal.

#### **Summoning of witnesses**

16.—(1) Subject to paragraphs (2), (3) and (4) below, the Tribunal may by summons or, where the Tribunal is sitting in Scotland, citation require any person in the United Kingdom—

- (a) to attend as a witness at a hearing at such time and place as may be specified in the summons or citation and, subject to the proviso to rule 13(1) above, at the hearing to answer any questions; or
- (b) to produce any documents or other material in his custody or under his control which relate to any matter in question in the appeal, whether at the hearing or at an earlier time.

(2) No person shall be required to attend in obedience to such a summons or citation unless he has been given at least 5 days' notice of the hearing date or, if less than 5 days, he has informed the Secretary that he accepts as sufficient such notice as he has been given.

(3) No person shall be required in obedience to such a summons or citation to attend and give evidence or to produce any document unless the necessary expenses of such attendance or production are paid or tendered to him.

(4) The Tribunal shall make such provision as it thinks necessary to supply copies of any document obtained under this rule to the parties, and it shall be a condition of such supply that a party shall use such a document only for the purposes of the appeal.

(5) Any expenses to which a person is entitled under paragraph (3) above shall be paid by the Secretary of State.

#### **Failure to comply with certain directions**

17. If any directions given to a party under this Part are not complied with by that party, the Tribunal may, before or at the hearing, dismiss the whole or part of the appeal or, as the case may be, strike out the whole or part of the reply and, where appropriate, direct that the Authority shall be debarred from contesting the appeal altogether:

Provided that a Tribunal shall not so dismiss or strike out or give such a direction unless it has sent notice to the party who has not complied with the direction giving him an opportunity to show cause why it should not do so.

### **Varying or setting aside of directions**

**18.** A person to whom a direction (including any summons or, where the Tribunal is sitting in Scotland, a citation) is issued under this Part may apply to the Tribunal to vary it or set it aside, but the Tribunal shall not so do without first notifying the person, if any, who applied for the direction and considering any representations made by him.

### **Notice of place and time of hearing, and adjournments**

**19.**—(1) The Secretary shall, with due regard to the urgency of the appeal and the convenience of the parties, fix the time and place of the hearing and, not less than 5 days before the date so fixed (or such shorter time as the parties agree), send to each party a notice of the hearing at such time and place.

(2) The Secretary shall include in or with the notice of hearing—

- (a) information and guidance as to attendance at the hearing of the parties and witnesses, the bringing of documents, and the right of representation by another person;
- (b) an explanation of the right of the parties to ask for and to receive reasons in writing for any determination;
- (c) an explanation of the possible consequences of non-attendance and of the right of a party who does not attend and is not represented to make representations in writing.

(3) If a party does not intend to attend or be represented at the hearing, he may send to the Secretary additional written representations in support of his case.

(4) The Tribunal may alter the time and place of any hearing and the Secretary shall give the parties not less than 5 days' (or such shorter time as the parties agree) notice of any such alteration: Provided that any altered hearing date shall not (unless the parties agree) be before the date notified under paragraph (1).

(5) The Tribunal may from time to time, on the application of a party or on its own initiative, adjourn the hearing and, if the time and place of the adjourned hearing are announced before the adjournment, no further notice shall be required.

### **Public notice of hearings**

**20.** The Secretary shall keep at his office a list of all appeals for which a hearing is to be held and of the time and place fixed for the hearing, and the list shall be open to the inspection of any person without charge at all reasonable hours.