
STATUTORY INSTRUMENTS

1998 No. 1203

The Consumer Credit Licensing (Appeals) Regulations 1998

PART IV

THE HEARING

Appointment of Expert

11.—(1) The Secretary of State may, if she thinks that any technical or other matter, including a matter of law, arises in relation to the appeal on which it would be desirable for the appointed person to have the assistance of any person having specialist knowledge in relation to that matter, appoint a person having appropriate qualifications to enquire into and report on the matter and, if either party or the appointed person requests, to attend the hearing and give evidence.

(2) The Secretary of State must supply the Director, the appellant and the appointed person with a copy of any report received under paragraph (1) in advance of the hearing.

(3) The Secretary of State shall pay such reasonable fees as she may determine to any person appointed under this regulation.

Fixing the date for the hearing

12.—(1) When the Secretary of State has received the notice of appeal and the additional material she must, bearing in mind the seriousness and complexity of the case and the convenience of the parties, without delay fix a date and place for the hearing.

(2) The Secretary of State must serve on the parties a notice informing them of the time and place of the hearing of the appeal.

(3) The date fixed for the hearing must be no less than twenty-one days and no more than six weeks after the date of the notice under paragraph (2).

(4) The notice must include guidance regarding the procedure which will apply to the hearing, including, in particular, information about—

- (a) attending the hearing and bringing documents and evidence,
- (b) the right of the parties to call witnesses,
- (c) the right to be represented or assisted at the hearing,
- (d) the right to receive the report of the appointed person,
- (e) the right to receive in writing the Secretary of State's reasons for the directions given by her under section 41(3) for the disposal of the appeal,
- (f) the right to appeal from the Secretary of State's directions,
- (g) the public nature of the hearing.

Action to be taken by the parties on receiving notice of the hearing

13. No less than fourteen days before the date fixed for the hearing, the appellant and the Director must each inform the Secretary of State whether or not he intends to attend the hearing, whom he intends to be represented by, if anyone, and which, if any, witnesses he or his representative intends to call and whether, and on what grounds, he requests that the hearing should not be held in public.

Alteration of place or time of the hearing

14.—(1) The Secretary of State may alter the time and place of the hearing—

- (a) where both the appellant and the Director agree, or
- (b) in exceptional circumstances, without the agreement of the parties, provided that the altered date of the hearing is not earlier than the original date.

(2) Where the Secretary of State alters the time or place of the hearing under paragraph (1)(b) above, she must without delay inform the appellant and the Director in writing of the alteration and the reasons for it.

Publication of notice of the hearing

15. The Secretary of State must, in such manner as she thinks fit, publish a notice of the time and place fixed for any hearing to which the public are to have access under regulation 16 below.

Hearing to be in public

16.—(1) The hearing must be in public except where the Secretary of State is satisfied that, either because the subject matter to be considered by the appointed person relates to intimate personal or financial circumstances, is commercially sensitive, or consists of information communicated or obtained in confidence, or for any other reason, it is fair and reasonable for the hearing, or any part of the hearing, to be conducted in private.

(2) Whether or not the hearing is held in public, a member of the Council on Tribunals or its Scottish Committee is entitled to attend the hearing and may remain present during the deliberations of the appointed persons but must not take part in the hearing or in those deliberations.

Procedure at the hearing

17.—(1) At the beginning of the hearing the appointed person or, if more than one has been appointed, the appointed person who is to preside—

- (a) must explain the order of proceedings which he proposes to adopt,
- (b) must conduct the hearing in the manner which he considers most suitable to the clarification and resolution of the issues in dispute before him and to the fair handling of the proceedings, and
- (c) shall, so far as appears appropriate, seek to avoid formality in the proceedings.

(2) The appellant and the Director may appear at the hearing and may be represented or assisted by any person.

(3) If the appellant or the Director fails to attend or be represented at the hearing, the appointed person may hear the other party or his representative and proceed to prepare his report in accordance with regulation 21.

(4) Subject to paragraph (5), the appellant and the Director are entitled to give evidence, to call witnesses, to question any witnesses and to address the appointed person both on the evidence and generally on the subject matter of the appeal.

(5) The appointed person or, if more than one has been appointed, the appointed person who is to preside, may at any point in the hearing—

- (a) limit the rights of either party under paragraph (4), provided that he is satisfied that to do so will not prevent the appeal from being decided fairly; and
- (b) adjourn the hearing, but must not do so unless he is satisfied that it is necessary to do so in order for the appeal to be decided fairly.

General powers of appointed person

18. Subject to the provisions of these Regulations, an appointed person may regulate the procedure of any oral hearing of an appeal as he thinks fit.

Absence of appointed person

19. Where more than one person has been appointed to hear an appeal, the persons appointed may, in the event of the absence of any other appointed persons, if they think fit, hear, or continue to hear, the appeal.

Evidence at the hearing

20.—(1) Evidence before the appointed person may be given orally or, if he permits, by affidavit or written statement.

(2) The appointed person may receive evidence of any fact which appears to him to be relevant, whether or not the evidence—

- (a) would be admissible in a court of law, or
- (b) was available to the Director when the determination was made.