

2008 No. 221

TRIBUNALS AND INQUIRIES

The Charity Tribunal Rules 2008

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The Lord Chancellor makes the following Rules in exercise of the powers conferred on him by section 2B of the Charities Act 1993(a), and after consultation with the Administrative Justice and Tribunals Council in accordance with section 8 of the Tribunals and Inquiries Act 1992(b).

PART 1

Introduction

Citation and commencement

1. These Rules may be cited as the Charity Tribunal Rules 2008 and shall come into force on 27th February 2008.

(a) 1993 c.10. Section 2B as inserted by section 8 of the Charities Act 2006 c.50.

(b) 1992 c.53 as amended by Schedule 8 to the Tribunals, Courts and Enforcement Act 2008 c.15.

Interpretation

2.—(1) A reference in these Rules to a rule by number alone means the rule so numbered in these Rules.

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

“the 1993 Act” means the Charities Act 1993(a);

“the 2006 Act” means the Charities Act 2006(b);

“appeal” means an appeal to the Tribunal under the 1993 or 2006 Act or, where appropriate, an appeal to the High Court from the Tribunal’s decision under section 2C of the 1993 Act;

“appeal notice” means an appeal or application filed under rule 17(1) (appeal notice);

“appellant” means a person who makes an appeal or an application to the Tribunal;

“appellant’s reply” means a reply filed by an appellant under rule 19 (appellant’s reply);

“applicant” means a party (as defined in these Rules) who seeks permission to bring an appeal to the High Court against a decision of the Tribunal under section 2C of the 1993 Act;

“application” means an application to the Tribunal for the review of a reviewable matter in accordance with paragraphs 3 and 4 of Schedule 1C to the 1993 Act;

“Commission” means the Charity Commission under section 1A of the 1993 Act;

“Commission’s final decision” means the definitive decision of the Commission that is the subject matter of the appeal or application;

“direction” includes any direction or order given or made by the Tribunal;

“document” means anything in which information is recorded in any form, and an obligation under these Rules to provide or allow access to a document or a copy of a document for any purpose means, unless the Tribunal directs otherwise, an obligation to provide or allow access to such documents or copy in a legible form or in a form which can be readily made into a legible form;

“file” means send to the Tribunal;

“legal representative” means an authorised advocate or authorised litigator as defined by section 119(1) of the Courts and Legal Services Act 1990(c);

“party” means an appellant (including the Attorney General when the Attorney General makes an appeal or application to the Tribunal) or the Commission and “other party” shall be construed accordingly;

“reference” means the referral by the Commission or the Attorney General of a question for the determination of the Tribunal in accordance with paragraphs 1 and 2 of Schedule 1D to the 1993 Act;

“reference notice” means a reference filed under rule 38(2) (notice of reference);

“referrer” means the person making a reference to the Tribunal, being either the Commission or the Attorney General;

“register” means the register kept by the Tribunal under rule 31(2);

“representations” means written representations or with the consent of the Tribunal, or at the Tribunal’s request, oral representations;

“respondent” means a person, not being the referrer or a witness, who takes part in reference proceedings (including, when not being the referrer, the Attorney General or the Commission);

“respondent’s notice” means a notice filed in accordance with rule 39(2) (respondent’s notice);

(a) Sections 1A, 2A, 2B, 2C, 2D and Schedules 1B, 1C and 1D as inserted by the Charities Act 2006 c.50.

(b) 2006 c.50.

(c) 1990 c.41.

“response” means the document filed by the Commission under rule 18 (Commission’s response) in response to the appeal notice;

“response document” means—

- (i) in relation to the Commission, the Commission’s response; and
- (ii) in relation to an appellant, the appellant’s reply;

“supplementary statement” means a statement that is supplementary to a response document and filed in accordance with a direction given by the Tribunal;

“Tribunal” means the Charity Tribunal established under section 2A(1) of the 1993 Act;

“working day” means any day except for Saturday, Sunday, Christmas Day, Good Friday or a bank holiday under the Banking and Financial Dealings Act 1971(a).

(3) Unless the context requires otherwise, and without prejudice to any provision of these Rules relating to who is authorised to act as a party’s representative, anything permitted or required by these Rules to be done by a party may be done by the representative of that party.

PART 2

General matters in appeals and applications

Directions

3.—(1) The Tribunal may at any time give directions to—

- (a) enable the parties to prepare for the hearing of the appeal or the application;
- (b) assist the Tribunal to determine the issues; and
- (c) ensure the just, expeditious and economical determination of the appeal or the application.

(2) The Tribunal may give directions—

- (a) at the request of any party; or
- (b) of its own initiative.

(3) Where the Tribunal gives a direction of its own initiative, it may (but need not) give prior notice to the parties of its intention to do so.

(4) Any request for directions must include the reasons for making that request.

(5) A request for directions must be filed except where it is made during the course of a hearing.

(6) The party making the request must at the same time send a copy of that request to any other party except where—

- (a) the request is accompanied by the written consent of all the parties;
- (b) the request is made during a hearing; or
- (c) the request is made under rule 15(2) (exceptions to disclosure).

(7) Where the Tribunal instructs that an oral hearing is to be held to consider a request under this rule, the Tribunal must give the parties not less than 14 days notice of the hearing unless the parties consent to shorter notice.

(8) Directions may be given in writing or orally at a hearing.

(9) When a direction is given orally at a hearing the Tribunal must send a copy of the direction to any party as soon as may be practicable after the direction has been announced by the Tribunal.

(10) When a direction is given under these Rules containing a requirement—

(a) 1971 c.80.

- (a) it must include a statement of the possible consequences, as set out in rule 6 (failure to comply), of a party's failure to comply with the requirement; and
- (b) it may specify a time limit for complying with the requirement.

(11) When a direction is given under these rules which affects a party or a witness, that party or witness may apply to the Tribunal showing good cause why the direction should be varied or set aside.

(12) The Tribunal may, of the Tribunal's own initiative, vary or set aside any direction given under these Rules.

(13) The Tribunal must not vary or set aside a direction without first giving the party who requested the direction an opportunity to oppose that action.

Application for permission to make a late appeal or application

4. Where an appellant has made a request under rule 17(9) (appeal notice) to the Tribunal for a direction under rule 3 (directions) to allow an appeal or application to be made after the time limit for doing so has expired, the Tribunal must consider—

- (a) what steps (if any) the Commission has taken to notify or publicise the Commission's final decision;
- (b) when the appellant became aware of the Commission's final decision; and
- (c) when the appellant became aware of the right to make the appeal or application and of the time limit for making the appeal or application.

Powers of Tribunal to strike out etc.

5.—(1) The Tribunal may regulate its own procedure and may, if the Tribunal thinks fit order any appeal notice, response, response document, supplementary statement or representation to be struck out at any stage of the proceedings on the ground that it—

- (a) discloses no reasonable grounds for bringing or defending an appeal or an application;
- (b) is an abuse of the Tribunal's process; or
- (c) is likely to obstruct the just disposal of proceedings.

(2) Before making any order under paragraph (1), the Tribunal must provide an opportunity for the party against whom it is proposed that the order should be made, to make representations against the making of the order.

Failure to comply

6.—(1) The Tribunal may take any one or more of the steps in paragraph (2) in respect of a party, where that party has, without reasonable excuse, failed to comply—

- (a) with a direction given under these Rules; or
- (b) with a provision of these Rules.

(2) The steps referred to in paragraph (1) are—

- (a) where that party is an appellant, dismiss the whole or part of that appellant's appeal or application;
- (b) where that party is the Commission, strike out the whole or part of the response and, where appropriate, direct that the Commission be disqualified from participating in the appeal or application altogether.

(3) The Tribunal must not take any of the steps under this rule in respect of a party unless it has given that party an opportunity to make representations against the taking of any such steps.

Irregularities

7.—(1) Any irregularity that arises before the Tribunal has reached its decision, resulting from failure to comply with any provision of these Rules or of any direction of the Tribunal, will not of itself render the proceedings void.

(2) When any such irregularity comes to the attention of the Tribunal, the Tribunal may, and must if it considers that any person may have been prejudiced by the irregularity, give such directions as it thinks just to cure or waive the irregularity.

(3) Mistakes in any document recording a direction or decision, or errors arising in such a document from an accidental slip or omission, may be corrected by a certificate signed by the Tribunal.

Signature of documents

8. Any requirement in these Rules or in a direction of the Tribunal for a document to be signed by a person is satisfied, in the case of a document which is sent electronically in accordance with these Rules or with a direction of the Tribunal, by that person producing the name using a computer or other mechanical means.

Calculation of time

9. Where the time prescribed for doing any act under these Rules expires on a day, which is not a working day, the act is done on time if done on the next working day.

Sending of notices

10.—(1) Subject to paragraph (4) any document that is required to be sent under these Rules may only be sent—

- (a) by first class post or by personal delivery to the postal address given to that party as the address for service;
- (b) subject to paragraph (2) by document exchange, fax or email;
- (c) where no address for service has been provided, by post or by personal delivery to a party's registered office, principal place of business, head or main office or last known address.

(2) Documents may only be sent to any party by document exchange, fax or email if the intended recipient has informed the Tribunal and any other party in writing—

- (a) that the intended recipient is willing to accept service by document exchange, fax or email; and
- (b) of the box number at the document exchange, the fax number or the email address to which documents should be sent.

(3) If documents are sent by email in accordance with paragraph (2), the intended recipient may specify the format in which the documents must be sent.

(4) Any documents to be filed with the Tribunal must be sent—

- (a) by first class post to an address specified by the Tribunal; or
- (b) by such other method as the Tribunal may permit, including document exchange, fax or email.

(5) Where the Tribunal gives permission for documents to be filed using another method of service under paragraph (4)(b), the Tribunal may—

- (a) specify that the method may be used generally or only in relation to certain documents;
- (b) direct that the specified method is no longer available or substitute the specified method with another specified method; and

(c) make such directions in relation to the use of a specified method as the Tribunal deems appropriate.

(6) Any document which is sent in accordance with this rule must, unless the contrary is proved, be regarded as having been received—

- (a) where it has been sent by first class post, the second working day after it was posted;
- (b) where it is left at the specified address for service, if it is left on a working day before 5pm, on that day; or in any other case the working day after the day it was left;
- (c) where it was sent by email or by fax, if it is transmitted on a working day before 5pm, on that day; or in any other case, on the working day after the day that it was transmitted; or
- (d) where it was sent by document exchange, the second working day after it was left at the document exchange.

(7) The Tribunal may direct that service of any documents under these Rules may be dispensed with and, in those circumstances, may make such consequential directions as the Tribunal deems appropriate.

Orders against a vexatious litigant

11.—(1) The Tribunal may make an order where a person has persistently initiated proceedings before the Tribunal which are without merit.

(2) The Tribunal must not make an order under this rule without first inviting representations against the making of the order from the person against whom the order is to be made.

(3) Where the Tribunal makes such an order the person against whom the order is made will be prevented from taking any proceedings before the Tribunal without first obtaining the Tribunal's permission.

(4) Where a person who is subject to an order initiates proceedings before the Tribunal without first obtaining permission of the Tribunal, the Tribunal may order that the person's case is struck out—

- (a) without any new order needing to be made under this rule; and
- (b) without inviting representations from that person.

(5) An order under this rule may only be made for a specified period not exceeding 2 years.

(6) The Tribunal may extend the duration of an order under this rule on one occasion for a period not greater than 1 year if it considers that it is appropriate in the circumstances to do so.

(7) The circumstances in paragraph (6) include the making of repeated requests for permission under paragraph (3) which are without merit by a person who is subject to an order under this rule.

(8) A request for permission as described in paragraph (3) must be in writing and must—

- (a) state the nature of the request being sought;
- (b) explain that the person is the subject of an order made under this rule; and
- (c) be served on the parties to the proceedings in respect of which permission is being sought.

(9) The parties under paragraph (8)(c) must provide any representations about the request for permission not more than 7 days from the date on which they receive the request.

(10) The Tribunal must determine a request for permission under paragraph (8)—

- (a) on the papers; and
- (b) promptly, after having considered any representations made under paragraph (9).

Consolidation of appeals or applications

12. Where two or more appeal notices have been filed the Tribunal may direct that the appeals or the applications or any particular issue raised in the appeals or applications be consolidated or heard together—

- (i) in respect of the same matter;
- (ii) in respect of separate issues in the same matter; or
- (iii) which involve the same or similar issues.

Pre-hearing review

13.—(1) Where the Tribunal directs that it is appropriate to hold a pre-hearing review of the appeal or the application, unless the parties consent to shorter notice, the Tribunal must give the parties not less than 14 days' notice of the time and place of the pre-hearing review.

(2) At the pre-hearing review—

- (a) the Tribunal must give all directions appearing necessary or desirable to securing the just, expeditious and economical conduct of the appeal or the application; and
- (b) the Tribunal must endeavour to secure that the parties make all such admissions and agreements as they ought reasonably to have made in relation to the proceedings.

Preliminary questions

14.—(1) The Tribunal may direct that any preliminary question of fact or law which appears to be in issue in relation to the appeal or the application, be determined at a preliminary hearing.

(2) The Tribunal must give the parties not less than 14 days notice of the time and place of a preliminary hearing unless the parties agree to shorter notice.

(3) If, in the opinion of the Tribunal, the determination of that preliminary question substantially disposes of the appeal or the application, the Tribunal may—

- (a) treat the preliminary hearing as the hearing of the appeal or the application; and
- (b) make such order by way of disposing of the appeal or the application, as the Tribunal thinks fit.

(4) If the parties agree in writing, the Tribunal may determine the preliminary question without an oral hearing.

(5) Where the Tribunal determines the preliminary question without an oral hearing under paragraph (4), the Tribunal must not at the same time dispose of the appeal or the application unless the parties have agreed in writing to dispose of the appeal or application without an oral hearing.

Exceptions to disclosure

15.—(1) A party is not required to allow for the inspection of any document in a list under these Rules where inspection could not be compelled in a civil trial in England or Wales.

(2) A party who can establish a ground in paragraph (3) may make a request to the Tribunal, without giving notice to any other party, for a direction under rule 3 (directions) authorising that party not to include a document in the list, or not to allow for the inspection of a document in the list, required by rule 18(4)(a) (Commission's response), 19(3) (appellant's reply) or 20(1) (secondary disclosure by Commission).

(3) A party making a request under paragraph (2) must state in that request that a document should not be included or inspected on the ground that it—

- (a) would not be in the public interest;
- (b) may be prejudicial to national security; or
- (c) would not be fair having regard to the potential prejudice which may be caused to the legitimate interests of an appellant or a person other than an appellant.

(4) For the purpose of deciding a request by a party under paragraph (2), the Tribunal may—

- (a) require that the document be produced to the Tribunal together with a statement of the reasons why it should not be included on a list or inspected as the case may be; and

- (b) without disclosing the document, invite any other person to make representations.

Provision of copy documents

16. Without prejudice to rule 15 (exceptions to disclosure), a party who has filed a list under rule 18(4)(a) (Commission’s response), 19(3) (appellant’s reply) or 20(1) (secondary disclosure by Commission) must, no later than 7 days from the date of the request of any other party—

- (a) provide that other party with a copy of any document specified in the list; or
- (b) make any such document available to that party to read or to copy.

PART 3

Initiating an appeal or application

Appeal notice

17.—(1) An appeal or application must be made by way of an appeal notice signed, dated and filed by an appellant.

(2) An appeal notice under paragraph (1) must be filed not later than 42 days after the date on which an appellant was notified of the Commission’s final decision.

(3) For the purposes of paragraph (2) an appellant is notified either on—

- (a) the date on which the appellant, being the subject of the decision, receives written notification of the Commission’s final decision; or
- (b) where the appellant is not the subject of the Commission’s final decision, the date the Commission’s final decision was published.

(4) The appeal notice must state—

- (a) the name and address of that appellant;
- (b) the name and address of that appellant’s representative (if any);
- (c) an address for service and an individual contact at that address;
- (d) that the appeal notice concerns either—
 - (i) the bringing of an appeal; or
 - (ii) the bringing of an application;
- (e) the category in column 2 of the Table in Schedule 1C to the 1993 Act that that appellant falls into;
- (f) the reasons that appellant considers they are or may be affected by the Commission’s final decision;
- (g) the grounds on which that appellant relies in the appeal or the application to challenge the Commission’s final decision; and
- (h) details of the Commission’s final decision including—
 - (i) the name of the person that the decision concerns;
 - (ii) any reference number;
 - (iii) the date that the final decision was notified to that appellant under paragraph (3); and
 - (iv) whether that appellant was notified under paragraph (3)(a) or (3)(b) of this rule.

(5) In paragraph (4)(a), “address” in respect of a corporation means the address of the registered or principal office.

(6) Where a representative, other than a legal representative, is named in paragraph (4)(b) and the appeal notice is signed by that representative on behalf of an appellant, a statement that the representative is authorised to act on that appellant’s behalf, must be—

- (a) filed with the appeal notice; and
- (b) signed by that appellant; or
- (c) signed, where that appellant is not an individual, by an individual authorised by that appellant.

(7) Except when there is a good reason why it is not possible, a copy of the Commission's final decision relating to the appeal or application must be filed with the appeal notice in paragraph (2).

(8) An appellant may make a request for directions under rule 3 (directions) when filing the appeal notice.

(9) Where the time limit for making an appeal or application under paragraph (2) has expired, an appellant must include with the appeal notice a request for a direction under rule 3 (directions) to allow the appeal or application to be made after the time limit for doing so has expired.

(10) A request for a direction to extend time under paragraph (9) must include—

- (a) a statement of the reasons for the delay in making the appeal or application; and
- (b) any information that will assist the Tribunal when it considers the matters set out in rule 4 (application for permission to make a late appeal or application).

(11) At the same time as filing the appeal notice, an appellant must send a copy of that notice (and of any application in accordance with paragraphs (8) and (9)) to the Commission and to any other party.

(12) Where a request is made under paragraph (9) the Tribunal must take no further action in relation to the appeal notice until such a request has been determined.

(13) Except where a request has been made in accordance with paragraph (12) the Tribunal must—

- (a) enter particulars of the appeal or the application in the register;
- (b) inform the parties in writing of the date when the Tribunal received the appeal notice; and
- (c) specify the date on which the document under paragraph (b) is sent.

(14) When a request has been determined in accordance with paragraph (12) the Tribunal must—

- (a) take the steps in paragraphs (13)(a) to (c) in relation to the appeal or the application; and
- (b) inform the parties of the Tribunal's decision relating to the request for directions under paragraph (9).

Commission's response

18.—(1) The Commission must file a response to the appeal notice under rule 17 (appeal notice).

(2) A response under paragraph (1) must be received by the Tribunal no later than 28 days after the date on which the Commission received the documents sent by the Tribunal in accordance with rules 17(13) or (14).

(3) The response must—

- (a) specify the legal basis for the Commission's final decision;
- (b) specify the reasons for the Commission's final decision;
- (c) state whether the Commission intends to play an active part in the proceedings;
- (d) specify the name and business address of the Commission's representative (if any);
- (e) identify an address for service and an individual contact at that address;
- (f) contain the signature of a person authorised by the Commission; and
- (g) specify the date on which the response is filed.

(4) Except where rule 15(2) (exceptions to disclosure) applies the response must be accompanied by—

- (a) a list of—
 - (i) the documents relied on by the Commission when reaching the Commission’s final decision; and
 - (ii) any additional documents which in the opinion of the Commission might undermine the Commission’s final decision or adversely affect its case or support the relevant appellant’s case;
 - (b) a copy of the Commission’s final decision; and
 - (c) if the Commission intends to play an active part, the names of any witnesses, including any expert witnesses.
- (5) If an expert witnesses is named in accordance with rule (4)(c), the Commission must—
- (a) provide full details about that witness;
 - (b) identify the nature of the expertise that witness is intended to provide; and
 - (c) request the Tribunals’ permission to call that witness in accordance with paragraph (7).
- (6) At the same time as the Commission files the response, the Commission must send to any other party—
- (a) a copy of the response;
 - (b) a copy of the documents referred to in paragraph (4)(a) to (c); and
 - (c) a copy of any request made under paragraphs (7) and (8).
- (7) The Commission may include a request for directions with the response.
- (8) When the time limit for filing the response under paragraph (2) has expired, the Commission must include with the response a request for a direction under rule 3 (directions) to allow the response to be filed after the time limit for doing so has expired.
- (9) A request under paragraph (8) must include a statement of the reasons for the delay in filing the response.
- (10) Where a request under paragraphs (7) or (8) has been determined, the Tribunal must send the parties the decision (including the particulars of the direction) and specify the date on which the decision is being sent.

Appellant’s reply

19.—(1) An appellant must file a written reply so that it is received by the Tribunal no later than 28 days after the date on which that appellant received the documents under rule 18(6) (Commission’s response).

- (2) The reply must—
- (a) identify all matters contained in the response which are disputed by that appellant;
 - (b) state that appellant’s reasons for disputing them; and
 - (c) specify the date on which it is filed.
- (3) The reply must be accompanied by—
- (a) a list of all the documents on which that appellant relies in support of the appeal or application, except where rule 15(2) (exceptions to disclosure) applies;
 - (b) the names of any witnesses, including expert witnesses, that appellant intends to call; and
 - (c) a copy of any request made under paragraphs (6) and (7).
- (4) If an expert witnesses is named in accordance with paragraph (3)(b), the Commission must—
- (a) provide full details about that witness;
 - (b) identify the nature of the expertise that witness is intended to provide; and
 - (c) request the Tribunals’ permission to call that witness in accordance with paragraph (6).

(5) At the same time as filing the reply, that appellant must send to the Commission and any other party a copy of the reply and of the documents referred to in paragraph (3).

(6) An appellant may include a request for directions in accordance with rule 3 (directions) with the reply.

(7) When the time limit for filing a reply under paragraph (1) has expired, an appellant must include with the reply a request for a direction under rule 3 (directions) to allow the reply to be filed after the time limit for doing so has expired.

(8) A request under paragraph (7) must include a statement of the reasons for the delay in filing the reply.

(9) When the Tribunal has determined a request under paragraphs (6) or (7), the Tribunal must send the parties the Tribunal's decision (including the particulars of any direction).

(10) The Tribunal when sending the documents in paragraph (9) must specify the date on which they are being sent.

Secondary disclosure by the Commission

20.—(1) Except where rule 15(2) (exceptions to disclosure) applies, following the receipt of an appellant's reply, the Commission must file a list of any further material—

- (a) which might reasonably be expected to assist that appellant's case as disclosed by that appellant's reply; and
- (b) which is not mentioned in the list provided in accordance with rule 18(4)(a) (Commission's response).

(2) Any list required to be filed under paragraph (1) must be filed so that it is received by the Tribunal no later than 14 days after the day on which the Commission received that appellant's reply under rule 19(5) (appellant's reply).

(3) At the same time as filing any list required by paragraph (1), the Commission must send a copy of that list to that appellant and any other party.

PART 4

Hearings of appeals and applications

Fixing the time and place of the hearing of the appeal or application

21.—(1) Unless the parties otherwise agree or the Tribunal otherwise directs, the Tribunal must give the parties not less than 28 days notice of the time and place of the hearing of the appeal or application.

(2) Before fixing the time and place of a hearing under paragraph (1), the Tribunal must consider—

- (a) whether the appeal or the application should be dealt with as a matter of urgency; and
- (b) the convenience and the ability of any appellant to attend a hearing, which is to be heard at short notice.

Intervention by Attorney General in appeals and applications

22.—(1) Where the Attorney General has received papers sent in accordance with section 2D(2) and (3) of the 1993 Act, the Attorney General must notify the Tribunal whether the Attorney General intends to intervene in the proceedings not later than 28 days after the date on which the Attorney General received those papers.

(2) Regardless of paragraph (1) the Attorney General may notify the Tribunal that the Attorney General intends to intervene in the proceedings at any time.

(3) When the Tribunal receives notification from the Attorney General under paragraphs (1) or (2) it must fix a directions hearing.

(4) The Attorney General and the parties will be given not less than 28 days notice of the time and place of the hearing under paragraph (3) unless the Attorney General and parties agree to shorter notice.

(5) When the Attorney General intervenes in proceedings under paragraph (2) the Attorney General may request under rule 3 (directions) that the Tribunal send all the necessary papers in the proceedings to the Attorney General.

Requests to the Attorney General for assistance

23.—(1) A request by the Tribunal to the Attorney General to argue any question in the proceedings pursuant to section 2D(4)(b) of the 1993 Act must be made in accordance with this rule.

(2) The Tribunal must provide the Attorney General with an account of—

- (a) the question the Tribunal thinks it is necessary that the Attorney General argue;
- (b) the proceedings to date; and
- (c) the reasons the Tribunal considers it necessary to have the question argued.

(3) A request by the Tribunal under this rule must be accompanied by the documents the Tribunal considers are necessary to enable the Attorney General to decide whether it is appropriate to provide assistance.

(4) The Attorney General must respond to a request by the Tribunal under this rule not later than 28 days after the date the Attorney General received the documents in paragraph (2).

(5) When the Tribunal has received a response from the Attorney General under paragraph (4), the Tribunal must fix a directions hearing.

(6) The Tribunal must give the parties, and the Attorney General if the Attorney General agrees to argue the question, not less than 28 days notice of a directions hearing under paragraph (5), unless the parties to that hearing agree to shorter notice.

Withdrawal of appeal or application and unopposed appeals or applications

24.—(1) An appellant may withdraw their appeal or their application, and in accordance with paragraphs (a) and (b) the Tribunal must dismiss that party's appeal or application where it is withdrawn—

- (a) at any time before the hearing of the appeal or the application, without permission, by filing a notice in writing to that effect; or
- (b) at the hearing of the appeal or the application, with the Tribunal's permission.

(2) The Commission may state that it does not oppose or is withdrawing its opposition to a party's appeal or an application—

- (a) at any time before the hearing of the appeal or the application, without permission, by filing a notice to that effect; or
- (b) at the hearing of the appeal or the application, with the Tribunal's permission.

(3) When the Tribunal dismisses or allows a party's appeal or application under this rule it must, as soon as is reasonably practicable, notify the parties of that decision.

(4) When the Tribunal dismisses or allows a party's appeal or application under this rule it may award costs in accordance with rule 33 (costs).

Determination without oral hearing

25. — The Tribunal may determine an appeal, an application, or any particular issue arising in an appeal or application, without an oral hearing if—

- (a) the parties agree in writing; or
- (b) the issue concerns a request for directions.

Public hearings and directions for private hearings

26.—(1) In this rule, “hearing” means any oral hearing under these Rules except for a directions hearing that takes place without notice to the other parties under rule 15(2) (exceptions to disclosure).

(2) All hearings must be in public except for in the limited circumstances specified in this rule.

(3) The Tribunal may direct that all or part of a hearing is to be in private upon the request of any party, if the Tribunal is satisfied that a hearing in private is necessary in the circumstances and would not prejudice the interests of justice.

(4) Before determining a request under paragraph (3), the Tribunal must give any other party an opportunity to make representations.

(5) Before giving a direction under paragraph (3) that all of a hearing should be in private, the Tribunal must consider whether it is only necessary that part of the hearing should be in private.

(6) The Tribunal may direct that any proceedings are to be held in private and may direct that any particular individual be excluded from those proceedings.

(7) The Tribunal may permit any individual to attend a hearing, which is to be held in private.

(8) The Tribunal may exclude from the whole or part of any hearing any person whose conduct, in the opinion of the Tribunal, has disrupted or is likely to disrupt, the hearing.

(9) Subject to any direction under paragraph (10), the Tribunal must provide for the public inspection of—

- (a) a daily list of all hearings; and
- (b) information about the time and place fixed for the hearings.

(10) Where all or part of a hearing is held or is to be held in private, the Tribunal may direct that information about the whole or the relevant part of the proceedings before the Tribunal (including information that might help to identify any person) must not be made public.

(11) Where a direction is given under paragraph (10), the Tribunal must state what information (if any), is to be entered in the register or removed from it.

Representation at hearings

27.—(1) Subject to paragraph (2), the parties may appear at a hearing and may be assisted or represented by any person, whether or not that person is a legal representative.

(2) If in any particular appeal or application the Tribunal is satisfied that there are good and sufficient reasons for doing so, it may refuse to permit a person to assist or represent a party at the hearing.

(3) Where a party intends to be represented or assisted by a person who has been the subject of an order under section 42 of the Supreme Court Act 1981(a) or section 33 of the Employment Tribunals Act 1996(b) that party must seek permission from the Tribunal to be represented or assisted by that person.

(4) A party must make all reasonable enquiries to find out whether an order has been made in the circumstances set out in paragraph (3) and inform the Tribunal in accordance with that paragraph.

(a) 1981 c.54.
(b) 1996 c.17.

Adjournment of hearing

28.—(1) Where a party requests an adjournment of an appeal or an application hearing, that party must—

- (a) notify all other parties of the request for an adjournment except where notification is not practicable;
- (b) show good reason why an adjournment is necessary; and
- (c) produce evidence of any fact or matter relied upon in support of the request for adjournment.

(2) The Tribunal must not adjourn a hearing of an appeal or application at the request of any party unless satisfied that the appeal or application cannot otherwise be justly determined.

(3) Where the hearing of an appeal or an application is adjourned, the Tribunal must fix a new hearing date which—

- (a) must not be more than 28 days after the original hearing date, unless there are exceptional circumstances that mean the appeal or the application cannot be justly heard within that time; and
- (b) must not be later than is strictly required by the circumstances necessitating the adjournment.

Procedure at hearings

29.—(1) Subject to the 1993 Act, the 2006 Act and these Rules, the Tribunal must conduct all hearings under these Rules in such manner as the Tribunal considers most suitable to the clarification of the issues before it, and generally to the just, expeditious and economical determination of the proceedings.

(2) Subject to any directions by the Tribunal, the parties may—

- (a) give evidence;
- (b) make a request under rule 3 (directions) to present expert evidence;
- (c) call witnesses;
- (d) question any witnesses; and
- (e) address the Tribunal on the evidence, and generally on the subject matter of the appeal or application.

(3) Evidence may be admitted by the Tribunal—

- (a) whether or not it would be admissible in a civil trial in England and Wales; and
- (b) whether or not it was available to the Commission when the Commission's final decision was made.

Failure to attend a hearing

30.—(1) If a party fails to attend or be represented at any hearing of which that party has been duly notified, the Tribunal may, if it is satisfied that there is no sufficient reason for the absence—

- (a) hear and determine the appeal or application in that party's absence; or
- (b) adjourn the hearing.

(2) The Tribunal may give any necessary directions when it takes one of the steps in paragraph (1).

(3) A party may make a written request to the Tribunal to set a decision aside where that party was entitled but failed to attend or be represented at the hearing at which the decision was made.

(4) When a request is made under paragraph (3) the Tribunal may set the decision aside if the party making the request shows good reason for failure to attend or be represented.

Publication of decisions of the Tribunal

31.—(1) The Tribunal must publish its decisions and the reasons for those decisions except where the Tribunal considers that there are circumstances that make it necessary to impose restrictions on publication.

(2) Subject to any restrictions on publication imposed by the Tribunal, the Tribunal must keep a register which allows the public access without charge to—

- (a) the Tribunal’s decisions and the reasons for those decisions; and
- (b) details about appeals and applications.

(3) A restriction on the publication of Tribunal proceedings may be imposed by the Tribunal—

- (a) on its own initiative; or
- (b) in response to a request by a party for a direction under rule 3 (directions).

(4) If the Tribunal decides that a restriction on publication is necessary the Tribunal may take any steps, including any one or more of the steps specified in paragraph (6).

(5) Any step taken under paragraph (4) must be taken with a view to ensuring the minimum restriction on publication that is consistent with the need for the restriction.

(6) The specified steps that may be taken by the Tribunal under paragraph (4) are—

- (a) anonymising the decision;
- (b) editing the text of the decision; and
- (c) declining to publish the whole or part of the decision.

(7) Before reaching a decision on whether to impose restrictions on publication the Tribunal must invite the parties, and any other person that the Tribunal considers necessary, to make representations.

Notification of the Tribunal’s decision

32.—(1) The Tribunal must as soon as may be practicable—

- (a) send a notification of a decision and the reasons for reaching it to each of the parties to the appeal or the application; and
- (b) subject to any steps taken under the Rules to restrict publication of a decision, enter the decision and the reasons for reaching it in the register.

(2) Every notification under paragraph (1)(a) must be accompanied by a notification of—

- (a) the right to appeal from the Tribunal to the High Court; and
- (b) the time within which, and the place at which, an application for permission to appeal is to be made.

Costs

33.—(1) No costs order may be made by the Tribunal under section 2B(6) or (7) of the 1993 Act or under rule 24 (withdrawal of appeal or application and unopposed appeals or applications) without first giving the paying party an opportunity to make representations against the making of an order.

(2) Where the Tribunal makes a costs order it may make an order—

- (a) that an amount fixed by the Tribunal must be paid by the paying party to the receiving party; or
- (b) that the costs are to be assessed by the Tribunal on such basis as the Tribunal specifies.

Review of the Tribunal's decision

34.—(1) If, at the request of a party or at the Tribunal's own initiative, the Tribunal is satisfied that the Tribunal's decision was wrongly made as a result of an administrative error on the part of the Tribunal or staff, the Tribunal may review that decision.

(2) When the Tribunal reviews a decision under paragraph (1) it may set aside that decision.

(3) A request by a party under paragraph (1) must state the grounds on which the request is made and must be made—

- (a) orally at the hearing immediately following the announcement of the decision; or
- (b) by way of written application filed not later than 14 days after the date on which notification of the decision was sent by the Tribunal.

(4) Where the Tribunal proposes to review its decision on its own initiative, the Tribunal must notify the parties of that proposal not later than 14 days after the date on which the decision was notified to the parties under rule 32 (notification of Tribunal's decision).

(5) The parties must have an opportunity to make representations in relation to any request or proposal for review under this rule.

(6) A review under this rule is to be heard either by the same members of the Tribunal who made the decision or by a differently constituted Tribunal.

(7) The decision of the Tribunal whether or not to set aside the decision must be recorded in a certificate signed by the Tribunal.

(8) If the Tribunal sets the decision aside—

- (a) the Tribunal must—
 - (i) substitute such decision as it thinks fit;
 - (ii) make such correction as may be necessary in the register; and
 - (iii) send a copy of the entry so corrected to the parties.

(9) The Tribunal must notify the parties in writing of the Tribunal's decision.

PART 5

Appeals from the Tribunal in appeals and applications

Permission to appeal to the High Court

35.—(1) A request to the Tribunal for permission to appeal to the High Court may be made by the applicant—

- (a) orally at the hearing immediately following the announcement of the decision by the Tribunal; or
- (b) by way of a written request filed not later than 28 days after the date on which the notification of the decision is received by the party making the application; or
- (c) by way of a written request filed not later than 28 days after the date on which the person making the application receives the notification under rule 34(9) (review of Tribunal's decision).

(2) A written request under paragraph (1)(b) or (c), must be signed by the applicant and must—

- (a) state the name and address of the applicant and any representative of the applicant;
- (b) identify the decision of the Tribunal to which the request relates; and
- (c) state the grounds on which the applicant intends to rely before the High Court.

Decision as to permission to appeal to the High Court

36.—(1) The request for permission to appeal to the High Court must be decided on the papers unless the Tribunal considers that special circumstances make a hearing desirable.

(2) The decision of the Tribunal following a request for permission to appeal to the High Court, together with the reasons for its decision, must be recorded in writing.

(3) The Tribunal must notify the applicant and each of the other parties of the decision and the reasons for the decision in writing.

(4) If the Tribunal refuses the request, the notification to the applicant under paragraph (3) must inform the applicant of the right to seek permission to appeal from the High Court.

Appeal remitted by the High Court for rehearing

37. Where the High Court remits an appeal to the Tribunal for rehearing and determination (“the rehearing”)—

- (a) these Rules, so far as relevant, apply to the rehearing as they did to the original hearing of the appeal or application; and
- (b) the Tribunal must, within 28 days of the date on which the High Court ordered remittal, give directions in relation to the rehearing.

PART 6

Special provisions for references

Notice of reference

38.—(1) For the purposes of this Part, and where these Rules are stated as applying to the proceedings in a reference, “party” means the referrer or a respondent.

(2) A reference must be made by way of a reference notice and filed by the referrer.

(3) The reference notice must state—

- (a) whether the referrer is the Attorney General or the Commission;
- (b) the name and address of the referrer’s representative;
- (c) a copy of the Attorney General’s consent if the referrer is the Commission;
- (d) a statement of the question being referred;
- (e) if relevant, the circumstances out of which the reference has arisen;
- (f) the reason for the reference;
- (g) a statement of any relevant law;
- (h) a list of any relevant authorities;
- (i) a list of any other supporting documents that the referrer considers is relevant to the reference and would assist the Tribunal; and
- (j) those persons that the referrer thinks may be affected by the reference and why.

(4) The referrer may include an application for directions with the reference notice which may be decided in accordance with rule 3 (directions).

(5) Upon receiving a reference notice the Tribunal will —

- (a) enter the particulars in the register;
- (b) publish details of the reference and information about how a person likely to be affected by the reference can request to be a party to the reference (“the respondent”);
- (c) notify the Commission or the Attorney General, as appropriate, that—
 - (i) the reference has been made; and

- (ii) they should inform the Tribunal, no later than 28 days after the date that the notification is received, of whether they intend to be a respondent.

(6) The Tribunal will consider the requests it receives by virtue of the information published in accordance with paragraph (5)(b) and make a direction specifying the persons it has decided should be made a respondent.

(7) The Tribunal will notify in writing those persons specified in a direction in paragraph (6).

Respondent's notice

39.—(1) The Tribunal will send to the referrer and to persons selected as being respondents under rule 38(6) (notice of reference) a copy of the reference notice.

(2) A respondent must file a respondent's notice not later than 28 days beginning on the day after the document in paragraph (1) is received by the respondent.

(3) The respondent's notice must state—

- (i) the name of the respondent;
- (ii) the address for service;
- (iii) the name and address of the respondent's representative (if any);
- (iv) the name of a contact person (if appropriate);
- (v) a full account of the impact that the Tribunal's determination of the question being referred may have on the respondent or other persons identified by the respondent;
- (vi) any other matters that the respondent thinks the Tribunal should take into account when determining the reference; and
- (vii) whether the respondent intends to appear at the hearing or alternatively, make any representations in writing.

(4) The respondent's notice must be accompanied by a list of authorities and any other supporting documents relied on in support of the respondent's case.

(5) The respondent may include a request for directions with the respondent's notice in accordance with rule 3 (directions).

(6) At the same time as filing the respondent's notice and the list in paragraph (4) the respondent must send to the referrer and any other respondent a copy of the notice.

Procedure at the reference hearing

40.—(1) After the notice of reference and the respondent's notice have been filed, the Tribunal must convene a directions hearing.

(2) The parties must be given 28 days notice of the time and place of the hearing under paragraph (1).

(3) Part 1, 2 (except for rule 4), 4 (except for rules 24 and 34) and 5 (except for rule 35(1)(c)) apply to the determination of a reference by the Tribunal as they apply to the determination of an appeal or application.

(4) The referrer may seek the Tribunal's permission to withdraw a reference made under rule 38 (notice of reference).

Signed on the authority of the Lord Chancellor

4th February 2008

Bridget Prentice
Parliamentary Under Secretary of State
Ministry of Justice

EXPLANATORY NOTE

(This note is not part of the Rules)

The Charity Tribunal Rules 2008 regulate the practice and procedure of proceedings before the Charity Tribunal created by section 8 of the Charities Act 2006. The Tribunal has jurisdiction to hear appeals and applications for review from certain decisions of the Charity Commission and to consider matters referred to it by the Attorney General or, with the Attorney General's consent, the Charity Commission (a reference being made before the Tribunal has made any decision in relation to the proceedings in which the question being referred has arisen).

The Rules are arranged so that Parts 1 to 5 provide for the procedure to be followed when an appeal or application for review is made to the Tribunal while Part 6 makes specific provision for references.

Part 2 makes provision for general matters that relate to the proceedings in an appeal or application for review. In particular, this Part contains general powers of the Tribunal to give directions to ensure fair and efficient proceedings, to strike out a party's case for abuse of process or to make an order against a person who acts vexatiously in bringing proceedings.

Part 3 sets out the procedure to be followed when initiating an appeal or application. It includes rules about filing the appeal notice, the Commission's response to that appeal notice and the appellant's reply to that response.

Part 4 provides rules to be followed when a hearing is fixed for an appeal or application. In particular this part makes provision for the Attorney General to intervene in proceedings when the Attorney General is not a party, when the Tribunal requests such action or when the Attorney General considers that intervention is necessary. There is also a rule that allows the Attorney General to assist the Tribunal by arguing any question before the Tribunal that the Tribunal thinks it is necessary to argue.

Part 5 makes provision for appeals from the Tribunal to the High Court and in particular the steps to be followed to obtain permission to bring an appeal.

Part 6 makes special provision for references that are brought by the Attorney General or the Commission under Schedule 1D to the Charities Act 1993. This Part essentially provides for the manner in which a reference is initiated, the selection of parties who apply to the Tribunal to be respondents to a reference and the contents of the respondent's notice. Part 6 also makes provision for a directions hearing to be convened to decide the manner in which reference proceedings are to be conducted.