
STATUTORY INSTRUMENTS

1995 No. 490

The Antarctic Regulations 1995

PART 3

THE TRIBUNAL

Antarctic Act Tribunal: establishment and jurisdiction

11.—(1) For the purpose of performing the functions conferred by this regulation there shall be a tribunal to be called the Antarctic Act Tribunal (hereinafter referred to as “the Tribunal”).

(2) If a permit granted under section 3, 4, 5 or 6 of the Act has been revoked or suspended in accordance with regulation 10, the person to whom the permit was granted or any person specified in the permit may appeal to the Tribunal.

(3) The Tribunal shall consider—

- (a) whether the Secretary of State had grounds under regulation 10 for his decision; and
- (b) if the Tribunal is satisfied that he did have such grounds, whether, taking into account all the circumstances, the decision was reasonable.

(4) The Tribunal may dismiss the appeal or order the Secretary of State to reinstate the permit with such variations (if any) as the Tribunal may decide.

Constitution of the Tribunal

12.—(1) The Tribunal shall consist of a Chairman and two other members.

(2) The Chairman shall be appointed by the Secretary of State after consultation with the Lord Chancellor.

(3) The other two members shall be appointed by the Secretary of State, who in so doing shall take account of the nature of the activity which is the subject of the permit and the reasons given by him for revoking or suspending the permit if they are related to the nature of the activity.

(4) No member of the Tribunal shall be an officer of the Crown.

(5) The Secretary of the Tribunal (hereinafter referred to as “the Secretary”) shall be such person as may be appointed for this purpose from time to time by the Secretary of State.

Procedure

13.—(1) An appeal shall be entertained by the Tribunal if the appellant, within 28 days of receipt by him of the notification of the revocation or suspension, lodges with the Secretary copies of the notice of revocation or suspension, of any representations concerning it made by him to the Secretary of State, and his grounds of appeal:

Provided that the Tribunal may waive the time limit for lodging the appeal if it is satisfied that in the circumstances the appellant could not reasonably be expected to lodge (or to have lodged) his appeal within the period prescribed.

(2) The Secretary, on being informed of the appeal, shall without delay fix a convenient date and place for the hearing of it and shall duly inform the appellant and the Secretary of State not later than 14 days before the date of the hearing, or such shorter time as the parties and the Tribunal may agree.

(3) The Tribunal shall conduct the hearing in such manner as it considers most suitable to the clarification of the issues before it and generally to the just handling of the proceedings; and it shall so far as appears to it appropriate seek to avoid formality in its proceedings.

(4) The parties shall be heard in such order as the Tribunal shall determine; they shall be entitled to give evidence, to call witnesses, to question any witnesses and to address the Tribunal both on the evidence and generally on the subject matter of the appeal.

(5) The Tribunal may determine the appeal without an oral hearing unless either party requests one.

(6) The oral hearings of the Tribunal shall be in public, unless the Tribunal decides otherwise with regard to a particular hearing or part of a hearing at which evidence to be presented would disclose intimate personal or financial circumstances, commercially sensitive information, information communicated or obtained in confidence or matters concerning national security or diplomatic relations, and the interests of justice do not require such evidence to be heard in public.

(a) (7) (a) The appellant shall have the right to be represented in person or by counsel, solicitor or advocate or, with the permission of the Tribunal, by any other representative as he may select.

(b) The Secretary of State may be represented by any person instructed in that behalf.

(8) The Tribunal may require any witness to give evidence on oath or affirmation and for that purpose there may be administered an oath or affirmation in due form.

(9) In the event of a difference of opinion amongst the members of the Tribunal, the decision of the majority shall become the finding of the Tribunal.

(10) The decision of the Tribunal shall be notified to the parties in writing by the Secretary and shall include the reasons for the finding.

(11) The Tribunal shall not have any power to order the payment of any costs or expenses.

(12) When the Tribunal is not sitting the Chairman may, if he considers it necessary or expedient, exercise the powers of the Tribunal on behalf of the other members, other than the decision of an appeal (not being a decision on an unopposed appeal).

(13) A member of the Council on Tribunals or of the Scottish Committee of the Council on Tribunals may attend any oral hearing, including any held in private, and may be present during the deliberations of the Tribunal, but shall take no part in those deliberations.

(14) Subject to the provisions of this Part, the Tribunal shall have power to regulate its own procedure.