
STATUTORY INSTRUMENTS

1997 No. 798

The Reserve Forces Appeal Tribunals Rules 1997

PART II

MAKING AN APPEAL TO THE TRIBUNAL AND REPLY BY THE AUTHORITY

(A)

THE APPELLANT

Notice of appeal

3.—(1) An appeal to the Tribunal shall be made by written notice. The notice of appeal shall state—

- (a) the name, address and telephone number (if any) of the appellant;
- (b) that the notice is a notice of appeal;
- (c) the grounds of the appeal;
- (d) whether the appellant intends to be present or represented at the hearing;
- (e) the determination which the appellant seeks;
- (f) the name and address of the representative (if any) of the appellant, and whether the Secretary should send replies or notices concerning the appeal to the representative instead of the appellant;
- (g) the name and address of any witness whom the appellant wishes to give evidence to the Tribunal.

(2) The appellant or his representative shall attach to the notice of appeal a copy of the written notification of the disputed determination.

(3) The notice of appeal shall be further accompanied by—

- (a) copies of all documents or records supplied to the Authority in the course of making the application which resulted in the disputed determination;
- (b) copies of any other documents or records which the appellant wishes to be drawn to the attention of the Tribunal, and a statement of the reasons why they were not submitted to the Authority during the course of the application which resulted in the disputed determination.

(4) The appellant or his representative shall sign the notice of appeal.

(5) The appellant or his representative shall send or deliver the notice of appeal to the office of the Secretary so that it is received there not later than 5 days after the date on which written notification of the disputed determination was received by the appellant.

Application for extension of time

4. Notwithstanding rule 3(5) above, where the appellant or his representative considers it likely that, by reason of exceptional circumstances, the notice of appeal will be received at the office of the Secretary later than 5 days after the date on which written notification of the disputed determination was received by him, he may include with the notice of appeal a statement of the reasons on which he relies for justifying the delay, and the Tribunal shall treat any such statement as a request for extending the time limit under rule 30(2)(a) below.

Amendment of appeal and delivery of supplementary statement of grounds of appeal

5.—(1) The appellant or his representative may, at any time before he is notified of the hearing date, deliver a supplementary statement of grounds of appeal.

(2) The appellant may amend any notice of appeal or supplementary statement with the leave of the Tribunal at any time after he or his representative has been notified of the hearing date, either on an application in writing signed by him or his representative, or at a hearing at which he is present or represented. The Tribunal may grant such leave on such terms as it thinks fit, including under rule 28(1) below the payment of costs or, if the tribunal is sitting in Scotland, expenses.

(3) The appellant or his representative shall send a copy of every amendment and supplementary statement to the Secretary.

Withdrawal of appeal

6. The appellant may withdraw his appeal—

- (a) at any time before notice of the hearing date is delivered to him, by sending to the office of the Secretary a notice stating that he withdraws his appeal signed by him or his representative; or
- (b) with the leave of the Tribunal at any time after notice of the hearing date has been delivered to him, on an application to the Tribunal in writing signed by him or his representative or at a hearing at which he is present or represented. The Tribunal may grant such leave on such terms as it thinks fit, including under rule 28(1) below the payment of costs or, if the Tribunal is sitting in Scotland, expenses.

(B)

THE SECRETARY

Acknowledgement and registration of appeal and request to select Tribunal

7. Upon receiving a notice of appeal the Secretary shall immediately—

- (a) send to the appellant or his representative an acknowledgement, which shall include a notification that advice in relation to the proceedings may be obtained from the Secretary;
- (b) enter particulars of it in the register, and inform the parties in writing of the name and case number of the appeal entered in the register (which shall thereafter constitute the title of the proceedings) and of the address to which notices and other communications to the Tribunal shall be sent;
- (c) request the Lord Chancellor or, as the case may be, the Lord President of the Court of Session or the Lord Chief Justice of Northern Ireland to select a chairman and two other members from the appropriate panels to hear the appeal.

(C)

THE AUTHORITY

Action by the Authority on receipt of a notice of appeal

8.—(1) The Authority shall on receiving a copy of the notice of appeal prepare a written reply acknowledging the notice of appeal and stating—

- (a) whether or not the Authority intends to oppose the appeal and the grounds on which it relies in opposing the appeal;
- (b) the name and address of the representative (if any) of the Authority and whether such address is the address of the Authority for the purposes of the appeal;
- (c) whether the Authority wishes to attend or be represented at the hearing;
- (d) the name and address of any witness whom the Authority wishes to give evidence to the Tribunal.

(2) The Authority shall include with its reply—

- (a) a statement summarising the facts relating to the disputed determination and, if they are not part of that determination, the reasons for that determination;
- (b) a copy of every document considered by the Authority in making the disputed determination except those which the Secretary has notified the Authority as having already been submitted by the applicant.

(3) The reply shall be signed by an officer of the Authority and shall be sent or delivered to the office of the Secretary so that it is received there not later than 5 days after the date on which the copy of the notice of appeal was received by the Authority from the Secretary.

(4) The Authority may include in its reply, or in a separate notice to the Tribunal, a request for further particulars of the appeal.

Application for extension of time for delivery of reply

9. Notwithstanding rule 8(3) above, where the Authority considers it likely that, by reason of exceptional circumstances, its reply will be received at the office of the Secretary later than 5 days after the date on which it received a copy of the notice of appeal it may include with its reply a statement of the reasons on which it relies for justifying the delay, and the Tribunal shall treat any such statement as a request for extending the time limit under rule 30(2)(a) below.

Amendment of reply or supplementary statement by the Authority

10.—(1) The Authority may at any time before it is notified of the hearing date amend its reply or deliver a supplementary statement by way of reply.

(2) The Authority may amend any reply or supplementary statement with the leave of the Tribunal at any time after it has been notified of the hearing date, or at a hearing at which it is present or represented. The Tribunal may grant such leave on such terms as it thinks fit, including under rule 28(1) below the payment of costs or, if the Tribunal is sitting in Scotland, expenses.

(3) The Authority shall send a copy of every amendment and supplementary statement to the Secretary.

Failure to reply or absence of opposition

11. The Tribunal may, if it thinks fit, determine the appeal under rule 21 below if—

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- (a) no reply is received by the Secretary within the time appointed by rule 8 above or any extension of time allowed by the Tribunal; or
- (b) the Authority states in writing that it does not resist the appeal, or withdraws its opposition to the appeal.