

odged with the Tribunal, the submission by the intervener or a statement of intervention and, if appropriate, the submission by the principal parties of a response to the statement of intervention.

- 8) The statement of intervention and any response to it shall contain—

(a) a concise statement of the facts supporting the intervention or response; and

(b) any relief sought by the intervener or the party responding to the intervention.
- (9) The statement of intervention and any response shall be verified by a statutory declaration.
- (10) Rules 8 and 10 shall, mutatis mutandis, apply to the statement of intervention.

Consolidation

16 (1) Where two or more applications are made relating to the same licensing scheme or proposed licensing scheme, or which involve the same or similar issues, the Tribunal may on its own initiative, or on the request of a party, order that the proceedings or any particular issue or matter raised in the proceedings be consolidated or heard together.

(2) Before making an order under this rule, the Tribunal shall invite the parties to the relevant proceedings to submit their observations.

PART 5  
ALLOCATION

Allocation

17 (1) The Tribunal shall allocate an application to the small applications track or to the standard applications track, taking into account the factors set out in this rule.

- (2) When the Tribunal makes an allocation it shall have regard to—

(a) the financial value of the application to each of the parties;

(b) whether the facts, legal issues, relief requested or procedures involved are simple or complex; and

(c) the importance of the outcome of the application to other licensees or putative licensees of a licensing body.
- (3) The small applications track is the normal track for an application where its financial value is less than \$50,000 to each party and the facts and legal issues involved are simple.

- (4) The standard applications track is the normal track for all other applications.
- (5) When the Tribunal has allocated an application to a track the Secretary shall serve a notice of allocation on every party.

(6) Any application allocated to the small applications track is referred to as a “small application” and any other application is referred to as a “standard application”.

(7) The Rules apply to small applications with the exception of rules 22(1), (3) and (4), 23, 35 and 36.

(8) The Rules apply to standard applications with the exception of rule 21.

Change of track

18 The Tribunal may at any time on the request of a party or of its own initiative order, having considered the factors set out in rule 17(2), that—

- (a) proceedings allocated to the small applications track be transferred to the standard applications track; or
- (b) proceedings allocated to the standard applications track be transferred to the small applications track.

PART 6  
CASE MANAGEMENT AND PREPARATION FOR HEARING

Case management — general

19 (1) In determining applications the Tribunal shall actively exercise its powers set out in rules 16 (consolidation), 17 (allocation), 18 (change of track), 20 (directions), 21 (procedure for small applications), 22 (case management of standard applications and certain small applications), 23 (oral hearing of a standard application), 24 (evidence), 25 (expert evidence), 26 (summoning of witnesses and orders to answer questions or produce documents), and 27 (failure to comply with directions) with a view to ensuring that the application is dealt with justly.

- (2) The Tribunal may in particular—

(a) encourage and facilitate the use of an alternative dispute resolution procedure if it considers it appropriate; and

(b) dispense with the need for the parties to attend any hearing.

Directions

20 (1) The Tribunal may at any time, on the request of a party or of its own initiative, at a case management conference, pre-hearing review, on an application for appeal or otherwise, give such directions as are provided for in paragraph (3) or such other directions as it thinks fit to secure the just, expeditious and economical conduct of the proceedings.

- (2) Where a party requests directions in accordance with paragraph (1) the request shall be accompanied by the relevant fee.
- (3) The Tribunal may give directions—

(a) as to the manner in which the proceedings are to be conducted, including any time limits to be observed in the conduct of an oral hearing;

(b) that the parties file a reply, rejoinder or other additional statements or particulars;

(c) that part of any of the proceedings be dealt with as a preliminary issue;

(d) that any part of the application, response or intervention be struck out;

(e) for the dismissal of the proceedings;

(f) to stay the whole or part of any proceedings or order or decision of the Tribunal either generally or until after a specified date;

(g) for the preparation and exchange of skeleton arguments;

(h) requiring persons to attend and give evidence or to produce documents;

(i) as to the evidence which may be required or admitted in proceedings before the Tribunal and the extent to which it shall be oral or written;

(j) as to the submission in advance of a hearing of any witness statements or expert reports;

(k) as to the cross-examination of witnesses;

(l) as to the fixing of time limits with respect to any aspect of the proceedings;

(m) as to the abridgement or extension of any time limits, whether or not expired;

(n) for the disclosure between, or the production by, the parties of documents or classes of documents;

(o) for the appointment and instruction of experts, whether by the Tribunal or by the parties and the manner in which expert evidence is to be given;

(p) as to the use or further disclosure of a document which has

- (q) or the award of costs; and
- (r) for hearing a person who is not a party where, in any proceedings, it is proposed to make an order or give a direction in relation to that person.

(4) The Tribunal may, in particular, of its own initiative—

(a) put questions to the parties;

(b) invite the parties to make written or oral submissions on certain aspects of the proceedings;

(c) ask the parties or other persons for information or particulars;

(d) ask for documents or any papers relating to the case to be produced;

(e) summon the parties' representatives or the parties in person to meetings.

(5) A request by a party for directions shall be made in writing as soon as practicable and shall be served by the Secretary on any other party who might be affected by such directions and determined by the Tribunal taking into account the observations of the parties.

Procedure for small applications

21 (1) This rule contains the procedure for small applications.

(2) As soon as possible after an allocation is made in accordance with rule 17 or 18, the Tribunal shall give directions and notify the parties of the date on which the decision shall be delivered in accordance with rule 30.

(3) If any party requests a hearing or the Tribunal considers that a hearing is required, either before or after the Tribunal has given directions in accordance with paragraph (2), the Tribunal shall give directions (which may include directions for a case management conference or a pre-hearing review), fix a date for the hearing and notify the parties in writing of the date, time and place of that oral hearing.

Case management of standard applications and certain small applications

22 (1) Subject to paragraph (2), this rule applies to the case management of standard applications only.

(2) If the Tribunal gives directions in accordance with rule 21(3), then paragraphs (5) and (6) of this rule apply to small applications.

(3) Where it appears to the Tribunal that any proceedings would be facilitated by holding a case management conference or pre-hearing review the Tribunal may, on the request of a party or of its own initiative, give directions for such a conference or review to be held.

(4) Unless the Tribunal otherwise directs, a case management conference shall be held as soon as practicable after allocation in accordance with rule 17 or rule 18(a).

(5) A case management conference or pre-hearing review shall be held in private unless the Tribunal otherwise directs.

- (6) The purpose of a case management conference or pre-hearing review is—

(a) to ensure the efficient conduct of the proceedings;

(b) to determine the points on which the parties shall present further argument or which call for further evidence to be produced;

(c) to clarify the forms of order sought by the parties, their arguments of fact and law and the points at issue between them;

(d) to ensure that all agreements that can be reached between the parties about the matters in issue and the conduct of the proceedings are made and recorded;

(e) to facilitate the settlement of the proceedings;

(f) to set a timetable outlining the steps to be taken by the parties pursuant to directions in preparation for the oral hearing of the proceedings;

(g) to set the dates within which the hearing shall take place.

Oral hearing of a standard application

23 In a standard application, as soon as practicable after the case management conference or pre-hearing review, the Secretary shall, after discussions with the parties, notify the parties in writing of the date, time and place for the oral hearing and of any timetable for that hearing.

Evidence

- 24 (1) The Tribunal may control the evidence by giving directions as to—

(a) the issues on which evidence is required;

(b) the nature of the evidence required to decide those issues; and

(c) the way in which the evidence is to be placed before the Tribunal.
- (2) The Tribunal may use its power to exclude evidence that would otherwise be admissible where—

(a) the evidence was not provided within the time allowed by a direction;

(b) the evidence was provided in a manner that did not comply with a direction;

(c) it would be unfair to admit the evidence;

(d) the evidence is not proportionate to the issues of the case; or

(e) the evidence is not necessary for the fair disposal of the case.
- (3) The Tribunal may require any witness to give evidence on oath or affirmation or, if in writing, by way of a witness statement verified by a statutory declaration.
- (4) The Tribunal may allow a witness to give evidence through a video link or by other means.

Expert evidence

25 (1) Expert evidence shall be restricted to that which is proportionate to the issues of the case and necessary for the fair disposal of the case.

(2) No party may call an expert or put in expert evidence without the permission of the Tribunal.

(3) When a party applies for permission to call an expert or put in expert evidence it shall identify—

- (a) the field in which expert evidence shall be relied upon;
- (b) the expert in that field whose evidence shall be relied upon and, if applicable, the person by whom the expert is employed; and
- (c) the principal issues which the expert will be expected to address.

(4) If the Tribunal grants permission under this rule it shall be only in relation to the expert named and the field and on the issues identified in the application.

(5) The Tribunal may limit the fees and expenses of an expert that can be recovered from the parties to the proceedings that did not instruct that expert.

(6) If the Tribunal grants permission under this rule it shall be only in relation to the expert named and the field and on the issues identified in the application.

Summoning of witnesses and orders to answer questions or produce documents

26 (1) On the application of a party or on its own initiative, the Tribunal may—

- (a) by summons require any person to attend as a witness at a hearing at the time and place specified in the summons; or
- (b) order any person to answer any questions or produce any documents in that person's possession or control which relate to any issue in the proceedings.

(2) A summons under paragraph (1)(a) shall—

(a) give the person required to attend not less than 14 days' notice of the hearing or such shorter period as the Tribunal may direct; and

(b) where the person is not a party, make provision for the person's necessary expenses of attendance to be paid, and state who is to pay them.

(3) No person may be compelled to give any evidence or produce any document that the person could not be compelled to give or produce on a trial of an action in a court of law in Bermuda.

Failure to comply with directions

27 If any party fails to comply with any direction given in accordance with these Rules, the Tribunal may, if it considers that the justice of the case so requires, order that such party be debarred from taking any further part in the proceedings without the permission of the Tribunal.

PART 7  
THE HEARING

Hearing to be in public

28 Except where the Tribunal orders otherwise, the hearing of any application shall be in public.

Procedure at the hearing

29 (1) The proceedings shall be opened and directed by the Chairman who is responsible for the proper conduct of the hearing.

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

(3) Unless the Tribunal otherwise directs, no witness of fact or expert may be heard unless the relevant witness statement or expert report has been submitted in advance of the hearing and in accordance with any directions of the Tribunal.

(4) The Tribunal may limit cross-examination of witnesses to any extent or in any manner it deems appropriate.

PART 8  
DELIVERY OF THE DECISION

Delivery of the decision

30 (1) The decision of the Tribunal on an application shall be given in writing and shall include a statement of the Tribunal's reasons.

(2) The Secretary shall as soon as practicable serve on every party to the proceedings a copy of the Tribunal's decision.

(3) The Chairman shall arrange for the decision of the Tribunal to be published in such manner as considered appropriate.

(4) The Secretary shall keep, at the Tribunal Office for inspection by the public, every decision given by the Tribunal under subsection (1).

Orders for costs

31 (1) The Tribunal may, at its discretion, at any stage of the proceedings make any order it thinks fit in relation to the payment of costs by one party to another in respect of the whole or part of the proceedings.

(2) Any party against whom an order for costs is made shall, if the Tribunal so directs, pay to any other party a lump sum by way of costs, or such proportion of the costs as may be just, and in the last mentioned case the Tribunal may assess the sum to be paid or may direct that it be assessed or, where appropriate, taxed by the Chairman.

Effective date of order

32 Except where the operation of the order is suspended under rule 33 or 34, an order of the Tribunal shall take effect from such date, and shall remain in force for such period, as is specified in the order.

PART 9  
APPEALS FROM THE TRIBUNAL

Commencement of appeal proceedings

33 (1) An appeal to the Court under section 189 of the Act arising from a decision of the Tribunal shall be brought within 28 days of the date of decision of the Tribunal or within such further period as the Court may, on application to it, allow.

(2) A party appealing to the Court shall as soon as may be practicable serve on the Tribunal a notice of such appeal accompanied by the relevant fee and shall serve a copy of the notice on every person who was a party to the proceedings giving rise to that decision.

(3) Following receipt of the notice of appeal by the Secretary, the Tribunal may on its own initiative suspend the operation of any order contained in its decision.

Suspension of order

34 (1) Unless the Tribunal orders otherwise an appeal to the Court shall not operate as a stay of any decision or order of the Tribunal.

(2) The Tribunal may endorse a consent order where all parties to an action have consented to the suspension of the operation of an order.

(3) An application to the Tribunal for an endorsement under paragraph (2) shall be accompanied by the relevant fee.

(4) Where any order of the Tribunal has been suspended by the Tribunal in accordance with rule 33(3) or upon the application of a party to the proceedings in accordance with rule 34(2) the Secretary shall serve notice of the suspension on all parties to the proceedings, and if particulars of the order have been advertised shall cause notice of the suspension to be advertised in the same manner.

(5) Rule 30(3) applies to the publication of a decision to suspend an order.

PART 10  
INTERIM ORDERS AND AWARDS

Power to make provisional awards

35 Subject to rule 36, the Tribunal shall have power to order on a provisional basis any relief which it would have power to grant in a final decision.

Awards on different issues

36 (1) The Tribunal may make more than one award at different times on different aspects of the matters to be determined.

- (2) The Tribunal may, in particular, make an award relating to—

(a) an issue affecting the whole claim; or

(b) a part only of the claims or cross-claims submitted to it for decision.

(3) If the Tribunal makes an award under paragraph (2), it shall specify in its award—

- (a) the issue that affects the whole claim; or
- (b) the part of any claim or cross-claim,

which is the subject matter of that award.