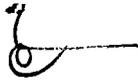


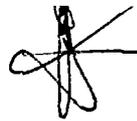
WHA



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Guernsey

Statutory Instrument

1956 No. 36

The Wireless Telegraphy Appeal Tribunal (Guernsey) Rules, 1956

We, the appeal tribunal constituted in accordance with section nine of the Wireless Telegraphy Act, 1949, as extended to the Channel Islands by the Wireless Telegraphy (Channel Islands) Order, 1952, for the purpose of proceedings in the Bailiwick of Guernsey, with the approval of the Royal Court, and in exercise of the powers conferred on us by paragraph (6) of section nine of and the Second Schedule to the said Act extended as aforesaid, do hereby make the following Rules:-

Interpretation

1. (1) In these Rules, unless the context otherwise requires, the following expressions have the meanings hereby respectively assigned to them, that is to say:-

"the Act" means the Wireless Telegraphy Act, 1949, as extended to the Channel Islands by the Wireless Telegraphy (Channel Islands) Order, 1952;

"appellant" means a person at whose instance a reference is made;

"the Bailiwick" means the Bailiwick of Guernsey;

"counsel" means a member of the Guernsey Bar;

"notice demanding a reference" means a notice under subsection (3) of section eleven or subsection (2) of section twelve of the Act requiring the Postmaster-General to refer a matter to the tribunal;

"Postmaster-General's notice" means a notice by the Postmaster-General under subsection (1) of section eleven or subsection (1) of section twelve of the Act;

"reference" means a reference to the tribunal made under subsection (3) of section eleven or subsection (2) of section twelve of the Act;

"the regulations" means the Wireless Telegraphy (Control of Interference from Ignition Apparatus) Regulations 1952, the Wireless Telegraphy (Control of Interference from Electric Motors) Regulations 1955, and the Wireless Telegraphy (Control of Interference from

Refrigerators) Regulations 1955 and any other regulations made under section ten of the Act which are from time to time in force in the Bailiwick;

"the tribunal" means the appeal tribunal constituted under section nine of the Act as respects proceedings in the Bailiwick.

(2) The Interpretation (Guernsey) Law, 1948, shall apply to the interpretation of these Rules as it applies to the interpretation of a Guernsey enactment.

Notice requiring reference to tribunal

2. Upon receipt of a notice demanding a reference, the Postmaster-General shall, subject to the provisions of subsection (3) of section eleven and subsection (2) of section twelve of the Act, refer the matter to the tribunal by sending a copy of the notice to the president of the tribunal, and thereupon the Postmaster-General and the appellant shall become parties to the reference.

Request for specially qualified assessors

3. (1) A notice given under subsection (4) of section nine of the Act, requesting the President of the Institution of Electrical Engineers to appoint either one or two specially qualified assessors, shall be served on the President of the said Institution not later than fourteen days after the date of service of the notice demanding a reference, or, where any person becomes a party to the reference under Rule six of these Rules, not later than fourteen days after that person became a party.

(2) Two copies of the notice shall be served on the Postmaster-General, who thereupon shall serve one of those copies on the president of the tribunal.

Request for additional members

4. (1) A notice given under subsection (5) of section nine of the Act, requesting the Royal Court to appoint two additional members to the tribunal, shall, subject to the provisions of the next succeeding paragraph, be served on a Law Officer of the Crown:-

- (a) in the case of a reference, not later than fourteen days after the date of service of the notice demanding a reference; or
- (b) in the case of an application under subsection (5) of section eleven of the Act, not later than seven days after the date

of service of the application.

(2) Notwithstanding the provisions of paragraph (1) of this Rule, where the request is made:-

(a) by the president of the tribunal, the notice may be served at any time;

(b) in the case of a reference, by a person who became a party under Rule six of these Rules, the notice shall be served not later than fourteen days after he became a party.

(3) A person serving a notice on a Law Officer of the Crown shall also:-

(a) if he is a party other than the Postmaster-General, serve two copies of the notice on the Postmaster-General, who thereupon shall serve a copy on every other party and on the president of the tribunal;

(b) if he is the Postmaster-General, serve a copy of the notice on every other party and on the president of the tribunal;

(c) if he is the president of the tribunal, cause copies of the notice to be served on all parties.

Time and place of hearing

5. The president of the tribunal shall fix a date, time and place for the hearing of the reference, and shall give notice thereof to the parties not less than twenty-eight days before the date so fixed.

Interested persons becoming parties

6. (1) A person may procure himself to be made a party to a reference under the provisions of subsection (4) of section eleven or subsection (3) of section twelve of the Act by serving on the Postmaster-General, not less than twenty-one days before the date fixed for the hearing of the reference, a notice (together with two copies thereof) stating that he desires to be heard on the reference and giving particulars of his interest in it.

(2) On receipt of the said notice, the Postmaster-General shall serve a copy on every other party to the reference and on the president of the tribunal.

Withdrawal of reference

7. (1) An appellant may at any time before the hearing give notice

in writing to the Postmaster-General that he desires the reference to be withdrawn, and upon receipt of the notice the reference shall be cancelled and the Postmaster-General shall inform the president of the tribunal and every other party to the reference accordingly.

(2) Cancellation of the reference shall not prejudice the powers of the tribunal with respect to costs and expenses.

Right of audience

8. In any proceedings before the tribunal:-

- (a) the Postmaster-General may appear and be heard by counsel or by an officer of the Post Office; and
- (b) any other party may appear and be heard either in person or by counsel, or by a person in the service of that person appointed in writing as his representative, or by any other person allowed by leave of the tribunal to appear instead of the party.

The hearing and evidence

9. (1) The tribunal shall sit in public, unless the president determines that in the interests of justice or public policy the hearing or any part of it should be held in private.

(2) The tribunal may at any time and from time to time adjourn the hearing.

(3) At the hearing witnesses may be called by the Postmaster-General, by the appellant, and, by leave of the tribunal, by any person who has procured himself to be made a party to the reference under Rule six of these Rules.

(4) Save as provided in the next succeeding paragraph, witnesses shall give evidence orally and shall be subject to cross-examination and re-examination.

(5) Facts may be proved without oral evidence:-

- (a) by a statement agreed by all parties to the reference; or
- (b) by affidavit, if all parties consent or if the president gives leave on the application of any party made on fourteen days' notice to all other parties.

(6) Failure by any party to the reference:-

- (a) to prove facts in accordance with the provisions of the

last preceding paragraph or to agree to such proof;

(b) to furnish the other parties with a list of documents to which he proposes to refer at the hearing; or

(c) to agree a bundle of documents for the use of the tribunal; shall, if the tribunal considers that the failure was unreasonable and has increased the cost of the proceedings, be one of the circumstances which the tribunal shall consider in exercising its discretion as to the costs of the proceedings.

Decision of tribunal

10. (1) The decision of the tribunal shall be given in writing over the signature of the president.

(2) The president shall cause a copy of the decision to be sent to each party to the reference together with a brief statement of the reasons for the decision.

(3) A copy of the decision certified by the president to be a true copy thereof shall be supplied by him free of charge on request made for good reason.

Determination of question under section 11 (5) of the Act

11. (1) An application for a determination of the tribunal under subsection (5) of section eleven of the Act shall be in writing signed by or on behalf of the person making it.

(2) Where the Postmaster-General is the applicant, he shall serve the application on the president of the tribunal and a copy thereof on every other party to the reference; and thereupon the Postmaster-General and those parties shall become parties to the application.

(3) An application made by a person other than the Postmaster-General shall include a statement whether or not that person has possession of the apparatus or has any and if so what interest in it, and shall be served (together with two copies thereof) on the Postmaster-General, who shall serve a copy on the president of the tribunal and every other party to the reference; and thereupon the applicant, the Postmaster-General, and every other party to the reference shall become parties to the application.

(4) Rules five, seven, eight, nine, twelve and thirteen of these Rules shall apply to an application under this Rule as they apply to a

any step in any proceedings may, on application under Rule twelve of these Rules, be extended on such terms, if any, as may seem just, whether or not the time appointed has expired before the application is made.

(2) Any document required or authorised by these Rules to be served on any person may be served by registered post.

(3) Subject to the provisions of the Act and these Rules, the tribunal may regulate its own procedure.

Affidavits

14. An affidavit for the purposes of these Rules shall -

- (a) if made in the Island of Guernsey, be made before the Bailiff, a Jurat, the Magistrate or a Notary Public;
- (b) if made in the Island of Alderney, be made before a Jurat;
- (c) if made in the Island of Sark, be made before the Seneschal;
- (d) if made elsewhere, be made before any person authorised by law in the place in which it is made to take sworn declarations or administer oaths.

Application, citation and commencement

15. (1) These Rules shall apply to proceedings in the Bailiwick.

(2) These Rules may be cited as the Wireless Telegraphy Appeal Tribunal (Guernsey) Rules, 1956.

(3) These Rules shall come into operation on the seventeenth day of December, nineteen hundred and fifty-six.

Dated this fifteenth day of December, nineteen hundred and fifty-six.

(Signed) A. J. SHERWILL

(Signed) NOEL ASHBRIDGE

(Signed) H. W. GRIMMITT

Approved by Act of the Royal Court of the fifteenth day of December, nineteen hundred and fifty-six.

JAMES E. LE PAGE

Her Majesty's Greffier.