

Statutory Instrument 1992 No. 2921

The Meat Hygiene Appeals Tribunal (Procedure) Regulations 1992

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STATUTORY INSTRUMENTS

1992No. 2921

FOOD

The Meat Hygiene Appeals Tribunal (Procedure) Regulations 1992

Made 19th November 1992

Laid before Parliament 10th December 1992

Coming into force 1st January 1993

The Minister of Agriculture, Fisheries and Food, the Secretary of State for Health and the Secretary of State for Wales, acting jointly, in relation to England and Wales, and the Secretary of State for Scotland in relation to Scotland, in exercise of the powers conferred on them by sections 4(1), 26(2)(f) and 48(1) of the Food Safety Act 1990^[1] and of all other powers enabling them in that behalf, hereby make the following Regulations, after consultation in accordance with section 48(4) of the said Act with such organisations as appear to them to be representative of interests likely to be substantially affected by the Regulations and after consultation with the Council on Tribunals in accordance with section 8 of the Tribunals and Inquiries Act 1992^[2]:

Title and commencement

1.—(1) These Regulations may be cited as the Meat Hygiene Appeals Tribunal

(Procedure) Regulations 1992 and shall come into force on 1st January 1993.

(2) Any reference in these Regulations to a Chairman or Secretary shall be a reference to the Chairman or Secretary appointed for the purposes of regulation 6 of, and Schedule 21 to, the Fresh Meat (Hygiene and Inspection) Regulations 1992^[3] and regulation 15 of, and Schedule 15 to, the Poultry Meat (Hygiene) Regulations 1976^[4] and regulation 15 of, and Schedule 15 to, the Poultry Meat (Hygiene) (Scotland) Regulations 1976^[5].

Application

2. These Regulations shall have effect for the purpose of proceedings before a Meat Hygiene Appeals Tribunal ("the Tribunal") relating to the refusal to license premises, or relating to the grant of a licence with conditions unacceptable to the occupier of the premises, or the revocation of a licence issued to the occupier of premises under regulation 4 or 5, as the case may be, of the Fresh Meat (Hygiene and Inspection) Regulations 1992 and under regulation 12 or 13, as the case may be, of the Poultry Meat (Hygiene) Regulations 1976 and under regulation 12 or 13, as the case may be, of the Poultry Meat (Hygiene) (Scotland) Regulations 1976.

Reference to the Tribunal

3.—(1) Where a person appeals to the Minister, by notifying him in writing, against the refusal to license premises, or against the imposition of unacceptable conditions in the licence, or against the revocation of a licence, the Minister shall refer the case to the Tribunal for a determination.

(2) The Minister shall provide the Tribunal with four copies of the appellant's notification of appeal and such other material as has been produced to or by the Minister which is or may be relevant to the appeal.

Provision of documents

4.—(1) The appellant shall send or deliver to the Secretary four copies of all the further documentary evidence on which he intends to rely for the purposes of the appeal.

(2) Notwithstanding paragraph (1) above, the Tribunal may excuse an appellant from providing any document the production of which would be unreasonable on the grounds of expense or otherwise.

Tribunal hearing

5.—(1) The Secretary shall, with due regard to the convenience of the appellant serve on the appellant a notice informing him of the time and place of the oral hearing of his appeal which, unless the appellant otherwise agrees, shall not be earlier than 21 days after the date on which the notice is delivered or sent to him by post. Such notice will include, in a form approved by the Chairman, guidance regarding the procedure which will apply to the hearing.

(2) The guidance set out by the Secretary shall include-

- (a) information in the form approved by the Chairman as to attendance at the hearing, the bringing of documents, and the right of representation or assistance by another person;
- (b) a statement of the right of the appellant to receive reasons in writing for the determination of the Tribunal.

(3) When he receives the notice of the time and place of a hearing, the appellant shall inform the Tribunal whether or not he intends to attend or be represented at the hearing.

(4) If the appellant does not intend to attend or be represented at the hearing, he may send to the Secretary four copies of additional written representations in support of his appeal.

6. The appellant shall be entitled to attend in person and to be represented by any person whom he may appoint for the purpose at any hearing of the appeal by the Tribunal.

7. The Chairman may give directions requiring the appellant or the Minister to provide such further particulars or supplementary statements as may be reasonably required for the full consideration of the appeal.

8.—(1) The Secretary may alter the time and place of any hearing and (unless the appellant has informed the Tribunal that he does not intend to attend or be represented at the hearing of this appeal) the Secretary shall give the appellant not less than seven days (or such shorter time as the appellant agrees) notice of any such alteration; any altered hearing date shall not (unless the appellant agrees) be earlier than the date notified under regulation 5 above.

(2) The Chairman of the hearing of an appeal may from time to time adjourn the hearing and, if the time and place of the adjourned hearing are then announced by such Chairman, and the appellant or his representative is present at the time, no notice of the time and place of the adjourned hearing need be given or sent to the appellant.

(3) When any hearing is adjourned in order that further information or evidence may be obtained, the Tribunal hearing the appeal may give directions regarding the provision of such information or evidence to the Secretary, the Minister and the appellant prior to the adjourned hearing.

9.—(1) The following persons shall be entitled to attend the hearing-

- (a) The Chairman or the Deputy Chairman or any member of the panel from which the Tribunal is drawn, notwithstanding that they do not constitute the Tribunal for the purpose of the hearing;
- (b) a member of the Council on Tribunals or its Scottish Committee;
- (c) an appointed representative of the Minister.

(2) The hearing before the Tribunal will be held in private unless the Chairman, at his discretion, or the request of a party, requires that it, or part of it, be held in public.

10. If an appellant fails to attend or be represented at a hearing of which he has been duly notified, the Tribunal hearing his appeal may-

- (a) unless it is satisfied that there is sufficient reason for such absence, hear and determine the case in the appellant's absence; or
- (b) adjourn the hearing.

Procedure at the hearing

11.—(1) At the beginning of the hearing the Chairman of the hearing shall explain the order of proceedings which the Tribunal proposes to adopt.

(2) The Tribunal hearing an appeal 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; it shall so far as appears to it appropriate, seek to avoid formality in its proceedings.

(3) The Tribunal shall allow-

- (a) the appellant or his representative to address them;

- (b) the appellant to give evidence in support of his appeal and to produce documentary evidence;
- (c) the appellant or his representative to call other witnesses;
- (d) the appellant or his representative to cross-examine any witness called by the representative of the Minister; and
- (e) the appellant or his representative to make a second address closing his case.

(4) The Tribunal shall also allow the representative of the Minister-

- (a) to address them;
- (b) to cross-examine any witness called by or on behalf of the appellant (including the appellant himself if he gives evidence);
- (c) to call witnesses and to produce documentary evidence; and
- (d) to make a second address closing his case.

(5) The Chairman and members of the Tribunal hearing an appeal may put any questions to any witnesses called by or on behalf of the appellant (including the appellant himself if he gives evidence) or on behalf of the Minister.

(6) The Tribunal hearing an appeal may receive evidence of any fact which appears to the Tribunal to be relevant notwithstanding that such evidence would be inadmissible in proceedings before a court of law.

(7) The Tribunal hearing an appeal may, if it is satisfied that it is just and reasonable to do so, permit an appellant to rely on grounds not stated in his appeal, written representations or in supporting documents.

(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.

Decision of Tribunal

12.—(1) The determination of a Tribunal hearing an appeal may be taken by a majority.

(2) The determination of a Tribunal hearing an appeal may be given orally at the end of the hearing but in any event, shall be recorded in a document which shall also contain a statement of the reasons for such determination, which shall be signed and dated by the Chairman of the Tribunal or Deputy Chairman.

(3) The Secretary shall send copies of the document recording the determination to the appellant, the Minister and the relevant local authority.

Composition of Tribunal

13. For the purposes of hearing and determining cases the Tribunal shall sit in such places and at such times as the Chairman or a Deputy Chairman may direct.

14. The composition of the Tribunal at any hearing shall consist of such three members as the Chairman or a Deputy Chairman may select.

15. Any appeal may, with the consent of the parties, be proceeded with in the absence of any one member of the Tribunal other than the Chairman.

Irregularities

16.—(1) Any irregularity resulting from failure to comply with any provision of these Regulations or of any direction of the Tribunal before the Tribunal has reached its determination shall not itself render the proceedings void.

(2) Where any such irregularity comes to the attention of the Tribunal hearing any appeal, the Tribunal may, and shall if it considers that any person may have been prejudiced by the irregularity, give such directions as it thinks just to cure or to waive the irregularity before reaching its determination on the appeal.

(3) Clerical mistakes in any document recording a direction or determination of a Chairman hearing an appeal, or errors arising in such a document from an accidental slip or omission, may be corrected by such Chairman by certificate under his hand.

Service of documents

17. Any document purporting to be a document duly signed or issued by the Chairman or a Deputy Chairman or Secretary shall, unless the contrary is proven, be deemed to be a document so signed or issued as the case may be.

18.—(1) Any document or thing required or authorised by these Regulations to be sent or delivered to, or served on any person shall be duly sent, delivered or served on that person—

- (a) if it is sent by post in a pre-stamped envelope addressed to him at his address as set out in the form on which he made his claim to the Minister or such other address as he may notify in writing to the Secretary;
- (b) if it is sent to him at the address by fax or other similar means, in which event the document shall be regarded as sent when it is received by him in a legible form;
- (c) if it is delivered to him or left at his address referred to in (a) above.

(2) The proper address for the Secretary is the address of the Tribunal, for England and Wales, at Government Buildings (Toby Jug Site), Hook Rise South, Tolworth, Surbiton, Surrey KT6 7NF, and for Scotland, Pentland House, 47 Robb's Loan, Edinburgh EH14 1TW, or such other address as the Chairman of the Tribunal shall announce by advertisement published in the London or Edinburgh Gazette.

(3) Any document or thing required or authorised to be sent or delivered to, or served on, a company shall be duly sent, delivered or served if sent or delivered to or served on the Secretary of the company at its principal or registered address for the time being.

(4) Any document or thing required or authorised by these Regulations to be sent, delivered or served on a partnership shall be duly sent, delivered or served if duly sent delivered or served on any one of the partners for the time being.

(5) The service of any document on the Secretary of the Tribunal shall be effected by the same being handed to the Secretary or being received by post at the address of the Tribunal.

(6) Any document required to be given or sent to the Minister may be so given or sent by being handed to, or sent by post in any envelope addressed to any officer of the Minister for the time being authorised by the Minister for the purpose.

In witness whereof the Official Seal of the Minister of Agriculture, Fisheries and Food is hereunto affixed on

John Selwyn Gummer

Minister of Agriculture, Fisheries and Food

19th November 1992.

Cumberlege

Parliamentary Under Secretary of State for Health

17th November 1992

Hector Monro

Parliamentary Under Secretary of State, Scottish Office

17th November 1992

David Hunt

Secretary of State for Wales

17th November 1992

EXPLANATORY NOTE

(This note is not part of the Regulations)

These Regulations prescribe the procedure for the purpose of a hearing before a Meat Hygiene Appeals Tribunal in respect of a refusal to license premises or in respect of unacceptable conditions in a licence or of the revocation of a licence issued to the occupier of premises, pursuant to the Fresh Meat (Hygiene and Inspection) Regulations 1992, the Poultry Meat (Hygiene) Regulations 1976 and the Poultry Meat (Hygiene) (Scotland) Regulations 1976.

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Notes:

[1] 1990 c. 16. [back](#)

[2] 1992 c. 53. [back](#)

[3] S.I. 1992/2037. [back](#)

[4] S.I. 1976/1209; the relevant amending instrument is S.I. 1992/2036. [back](#)

[5] S.I. 1976/1221; the relevant amending instrument is S.I. 1992/2061. [back](#)

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