

## Parochial Appeals Tribunal Rules of Procedure

### A. Procedure in relation to making an appeal

Schedule 1, paragraph 6(1) of the Parochial Administration Ordinance gives the Parochial Appeals Tribunal (the Tribunal) the discretion to make its own rules of procedure when hearing an appeal.

1. An appeal can be from person or body served with:

- a refusal of the competent authority to permit the erection or re-erection of a building under Article 36 or 37 of L'Ordonnance ayant rapport à la Construction de Maisons, Salles Publiques et Bâtiments, et au Tracement de Routes et Chemins, 1931;
- a warning notice under section 1A(1) of the Cutting of Hedges Ordinance, 1953;
- a civil penalty under section 1A(4) of the Cutting of Hedges Ordinance, 1953;
- a warning notice under section 8 of the Loi relative aux Douits, 1936;
- a civil penalty under section 8 of the Loi relative aux Douits, 1936;
- a notice under section 9 of the Loi relative aux Douits, 1936; and
- a demand for payment for work executed under section 9 of the Loi relative aux Douits, 1936.

2. The appeal periods are:

**Refusal of a bornement - 28 days** commencing with the date of the letter advising of the decision in respect of an application for a bornement made under Article 36 or 37 of L'Ordonnance ayant rapport à la Construction de Maisons, Salles Publiques et Bâtiments, et au Tracement de Routes et Chemins, 1931;

**Warning Notices for failure to cut a roadside hedge or clear a watercourse - 7 days** commencing with the date of any Warning Notices issued under section 1A(1) of the Cutting of Hedges Ordinance, 1953 and section 8 of the Loi relative aux Douits, 1936;

**Civil Penalties for failure to cut a roadside hedge or clear a watercourse - 14 days** commencing with the date of any Civil penalty issued under section 1A(4) of the Cutting of Hedges Ordinance, 1953 and section 8 of the Loi relative aux Douits, 1936;

**Notices advising of intention to carry out work on an uncleared watercourse - 7 days** commencing with the date of any notice issued under section 9 of the Loi relative aux Douits, 1936.

3. Appeals shall be made by service of a notice of appeal in the attached form on the President of the Tribunal ("the president") at the following address: President, Parochial Appeals Tribunal, Sir Charles Frossard House, La Charroterie, St. Peter Port, Guernsey, GY5 7SD.

**B. Appeal Fees**

4. An appeal fee of £25 must be paid when the notice of appeal is submitted. Cheques should be made payable to the "States of Guernsey".
5. The president shall not accept an appeal as being validly made until the completed notice of appeal and fee have been received. Both must be received within the appeal period set out at paragraph 2 above.

**C. Refusal by Tribunal to hear appeals**

6. The president may decline to determine an appeal –
  - (a) if he considers that the notice of appeal has not, in any respect, been duly made and served, or
  - (b) if the appeal appears to him to be frivolous or vexatious,

and he shall notify the parties in writing of such a decision as soon as practicable thereafter; provided that, where he considers that the notice of appeal has not been duly made, he shall invite the appellant to rectify any error in that notice and to resubmit it, if the appellant wishes to pursue the appeal.

**D. Procedure by the Tribunal on receipt of an appeal**

7. On receipt of an appeal, the president shall review the notice of appeal and, if satisfied that the appeal has been properly made, shall send a copy of the notice of appeal to the body or person that issued the decision ("the respondent").
8. The president shall request the respondent to prepare a written response to the appeal and include the date by which the written response must be submitted, which shall be at least 28 days from the date of the request.
9. On receipt of the written response from the respondent, the president shall send a copy to the appellant. If no such response is received within the time specified, the president may, at his discretion, treat the respondent as having conceded the appeal, or may take such other action as he thinks appropriate in all the circumstances of the case.
10. The president shall then set a date for the appeal to be heard and advise the parties of the date in writing. In making these arrangements, he shall have regard to the availability of the parties.
11. If the president considers that he has a direct or indirect pecuniary or other personal interest in the decision, or if he is unavailable, then subparagraphs (3) and (4) of paragraph 3 of Schedule 1 to the Parochial Administration Ordinance, 2013 (a copy of which Schedule

is attached to these Rules) apply to the performance of the functions at paragraphs 5 to 9 above as they apply to his functions under that Ordinance.

**E. Procedure in relation to the determination of an appeal by the Tribunal**

12. In addition to (and to be construed consistently with) the provisions of Schedule 1 to the Parochial Administration Ordinance, 2013:

- (a) the Tribunal may permit any interested party to appear at an appeal hearing,
- (b) the Tribunal may admit any evidence given for the purposes of the determination of the appeal notwithstanding any rule of law relating to hearsay or otherwise as to the admissibility of evidence,
- (c) a party may be represented at a hearing by any person, whether or not legally qualified, except that if in a particular case, the Tribunal is satisfied that there are good and sufficient reasons for doing so, it may refuse to permit a particular person, other than one who is legally qualified, to represent the party,
- (d) the Tribunal shall afford the parties a reasonable opportunity of replying to representations made by another party, either by appearing and being heard in person or (if the original representations were made in writing) by written representations,
- (e) the Tribunal shall have regard to all representations and replies submitted to it by the parties,
- (f) the Tribunal may at any time require any party to furnish further particulars in writing within such time as it may direct with regard to any question referred to it and shall afford any other party a reasonable opportunity of replying in writing,
- (g) the Tribunal may call for such documents and examine such persons on oath, affirmation or otherwise as appear likely to afford evidence which is relevant and material to any question to be determined by the Tribunal,
- (h) the Tribunal may adjourn any hearing from time to time as it thinks fit,
- (i) if it is proved to the satisfaction of the Tribunal that the parties have been notified of the place, date and time of a hearing and a party fails to appear at the hearing, the Tribunal may proceed to determine any matter in dispute in the absence of that party, and
- (k) the Tribunal may make such orders as to costs (including security for costs) as it thinks fit in all the circumstances of the case.

**F. Rules of Procedure**

The President of the Parochial Appeals Tribunal has reviewed and approved the rules of procedure.