

The Copyright Tribunal (Amendment) Rules 1991

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1991 No. 201

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The Copyright Tribunal (Amendment) Rules 1991

Made 5th February 1991

Laid before Parliament 8th February 1991

Coming into force 1st March 1991

The Lord Chancellor in exercise of the powers conferred upon him by sections 150 and 152(2) and (3) of, and paragraph 34 of Schedule 1 to, the Copyright, Designs and Patents Act 1988, after consultation with the Lord Advocate, with the approval of the Treasury as to the fees chargeable under these Rules in respect of proceedings before the Copyright Tribunal, and after consultation with the Council on Tribunals in accordance with section 10(1) of the Tribunals and Inquiries Act 1971, hereby makes the following Rules:—

Citation and commencement ➡

1. These Rules, which amend the Copyright Tribunal Rules 1989[3] ("the Principal Rules"), may be cited as the Copyright Tribunal (Amendment) Rules 1991 and shall come into force on 1st March 1991.
2. The Principal Rules are amended as follows:—
 - a. there shall be inserted in rule 2(1)—
 - i. after the definition of "the Act" and before the definition of "applicant",
"the 1990 Act" means the Broadcasting Act 1990[4];"

- ii. in the definition of "intervener", in place of the numbered rules there mentioned, a reference to rule 7, 23, 26, 26D, 30, 33, 37, 41, 41 D or 44;
 - iii. after the definition of "proceedings" and before the definition of "the Secretary",

"programme service" has the meaning given to it by section 201 of the 1990 Act;" .
- b. there shall be inserted after rule 26—
- "Applications and references with respect to use as of right of sound recordings in broadcasts and cable programme services

Commencement of proceedings (Forms 10A, 10B & 10C) ➡

26A.—

1. Proceedings with respect to use as of right of sound recordings in broadcasts or cable programme services shall be commenced by the service on the Secretary by the applicant of a notice—
 - a. in Form 10A in the case of an application to settle terms of payment under section 135D of the Act,
 - b. in Form 10B in the case of a reference under section 135E of the Act,
 - c. in Form 10C in the case of an application for a review of an order under section 135F of the Act,

together with a statement of the applicant's case.

2. As soon as practicable after receipt of the notice, the Secretary shall serve a copy of the same (with a copy of the applicant's statement) on the licensing body named in the notice and, in the case of an application for review of an order under section 135F, on every person who was a party to the proceedings when the original order of the Tribunal was made.
3. Except where the Chairman otherwise directs, the Secretary shall give notice by advertisement in such manner as the Chairman may think fit of every reference or application under section 135D, 135E or 135F of the Act.

Application for special leave (Form 3) ➡

26B.—

1. An application under section 135F (2) of the Act for the special leave of the Tribunal for the review of its order under that section shall be made by the service on the Secretary by the applicant of a notice in Form 3 together with a statement of the grounds for the application. The applicant shall serve a copy of the notice and statement on every person who was a party to the application or reference on which the Tribunal made the last previous order with respect to the licence.
2. Within 14 days of the service upon him of such notice, any such party may make representations in writing to the Tribunal regarding the application for special leave, and he shall serve a copy of any such representations on the applicant and inform the Secretary of the date of such service.
3. The Tribunal, after considering the application and any representations and, if it considers necessary, after having given the applicant and any such party who has made such representations an opportunity of being heard, shall grant or dismiss the application (with such order as to costs) as it may think fit, and if it grants the application it may give such directions as to the taking of any steps required or authorised under these Rules or as to any further matter as the Tribunal thinks fit.
4. The decision of the Tribunal shall be in writing and shall include a statement of its reasons, and the Secretary shall serve a copy thereof on the applicant and on any party who made representations.

Procedure, and decision of Tribunal ➡

26C.—

1. Within 21 days of the service of the notice under rule 26A, the licensing body or other person shall serve on the Secretary his written answer to the applicant's statement, and shall serve a copy of the same on the applicant and inform the Secretary of the date of such service.
2. Rules 10 to 16 shall apply to proceedings in respect of a reference or application under rules 26A and 26B as they apply to proceedings in respect of a reference or an application under rule 3.
3. The final decision of the Tribunal on a reference or an application under rule 26A shall be given in writing and shall include a statement of the Tribunal's reasons and there shall be annexed to the decision a copy of the order and, where the Tribunal has varied a previous order, a copy of that order as varied.
4. The Secretary shall as soon as practicable serve on every party to the proceedings a copy of the Tribunal's decision. Rule 18 shall apply with regard to the publication of the decision.

Intervener's application (Forms 5 &6) ➡

26D. A person or organisation who claims to have a substantial interest in proceedings in respect of a reference or an application under rule 26A may, in accordance with rule 23,

apply to the Tribunal to be made a party to that reference or application and that rule shall apply to proceedings in respect of such an application as it applies to proceedings in respect of an application under rule 20." .

(c) there shall be inserted after rule 41—

"Use of information as of right: application to settle terms of payment

Commencement of proceedings (Forms 16A & 16B) ➡

41A.—

1. Proceedings under Schedule 17 to the 1990 Act for the settlement of terms of payment to be made by a publisher to a proceedings person providing a programme service shall be commenced by the service on the Secretary by the applicant of a notice—
 - a. in Form 16A, in the case of an application under paragraph 5(1) of Schedule 17 to the 1990 Act,
 - b. in Form 16B, in the case of an application for a review of an order under paragraph 6(1) of that Schedule,together with a statement of the applicant's case.
2. As soon as practicable after receipt of the notice, the Secretary shall serve a copy of the same (with a copy of the applicant's statement) on the person providing the programme service named in the notice and, in the case of an application for review of an order under paragraph 6(1) of Schedule 17 to the 1990 Act, on every person who was a party to the proceedings when the original order of the Tribunal was made.
3. Except where the Chairman otherwise directs, the Secretary shall give notice by advertisement in such manner as the Chairman may think fit of every reference or application under paragraph 5(1) or 6(1) of Schedule 17 to the 1990 Act.

Application for special leave (Form 3) ➡

41B.—

1. An application for the special leave of the Tribunal for the review of an order under paragraph 6(2) of Schedule 17 to the 1990 Act shall be made by serving on the Secretary a notice in Form 3, together with a statement of the grounds for the application. The applicant shall serve a copy of the notice and statement on every person who was a party to the application when the order of the Tribunal was made.
2. Within 14 days of the service upon him of a copy of the notice under that rule, the other party may make representations in writing to the Tribunal regarding the application for special leave, and he shall serve a copy of any such representations on

every other party to the proceedings and inform the Secretary of the date of such service.

3. The Tribunal, after considering the application and any representations and, if it considers necessary, after having given the applicant and any such party who has made representations an opportunity of being heard, shall grant or dismiss the application for special leave (with such order as to costs) as it may think fit, and if it grants the application it may give such directions as to the taking of any steps required or authorised under these Rules or as to any further matter as the Tribunal thinks fit.
4. The decision of the Tribunal shall be in writing and shall include a statement of its reasons, and the Secretary shall serve a copy thereof on the applicant and on any party who made representations.

Procedure, and decision of Tribunal ➡

41C.—

1. Within 21 days of the service of the notice under rule 41A, the other party shall serve on the Secretary a written answer to the applicant's statement, and shall serve a copy of the same on the applicant and inform the Secretary of the date of service.
2. Rules 10 to 16 shall apply in respect of an application under rules 41A and 41B as they apply to proceedings in respect of an application under rule 3.
3. The final decision of the Tribunal on an application under rule 41A shall be given in writing and shall include a statement of the Tribunal's reasons, and there shall be annexed to the decision a copy of the order and where the Tribunal has varied a previous order, a copy of that order as varied, and the Secretary shall as soon as practicable serve on every party to the proceedings a copy of the Tribunal's decision. Rule 18 shall apply with regard to the publication of the decision.

Intervener's application (Forms 5 & 6) ➡

41D. A person or organisation who claims to have a substantial interest in the proceedings in respect of any application under rule 41A may, in accordance with rule 23, apply to the Tribunal to be made a party to that application and that rule shall apply to proceedings in respect of such an application as it applies to proceedings in respect of an application under rule 20." .

(d) there shall be inserted after rule 50—

"Notice of intention to exercise right

50A. Notice of an intention to exercise rights conferred by section 135C of the Act or paragraph 4 of Schedule 17 to the 1990 Act to be given to the Tribunal under section 135B(3)(a) of the Act and paragraph 3(2)(a) of Schedule 17 to the 1990 Act may be effected by service on the Secretary of such notice and rule 50(1) shall apply to such service as it applies to any notice required to be served on the Secretary by these Rules." .

3. Schedule 1 to the Principal Rules shall be replaced by the following:—

SCHEDULE 1 Rule 49

TABLE OF FEES ➡

1. On serving notice in Forms 1, 2, 7, 8, 10A, 10B, 12, 14, 15, 16 or 16A. £30
2. On serving notice in Forms 3, 4, 5, 6, 9, 10, 10C, 11, 13, 16B, 17 or 18. £15
3. On every application for directions under rule 12. £10

4. Schedule 3 to the Principal Rules shall be amended as follows:—

- a. the forms numbered 3, 5 and 6 in that Schedule shall be replaced by the forms so numbered and set out in Part I of the Schedule to these Rules;
- b. there shall be inserted in that Schedule in the appropriate numerical order those forms referred to in these Rules numbered 10A, 10B, 10C, 16A and 16B as so numbered and set out in Part II of the Schedule to these Rules.