

CHAPTER 32A

TRANSFER OF CAUSES TO AND FROM THE COMPETITION APPEAL TRIBUNAL

Transfers to the Competition Appeal Tribunal

32A.1.-(1) An application to transfer a cause to the Competition Appeal Tribunal shall be made by motion.

(2) Where a cause is transferred to the Competition Appeal Tribunal, the Deputy Principal Clerk of Session shall, within four days after the interlocutor transferring the cause has been pronounced, transmit the process to the party on whose motion the transfer was made together with a certified copy of the interlocutor granting the motion under paragraph (1).

(3) When transmitting a process under paragraph (2), the Deputy Principal Clerk shall –

(a) give written intimation of the transmission to –

(i) the other parties;

(ii) the Registrar of the Competition Appeal Tribunal; and

(b) certify on the interlocutor sheet that such written intimation has been given.

(4) A failure by the Deputy Principal Clerk to comply with paragraph (3) shall not affect the validity of any transfer of a cause.

Receipt of transfers from the Competition Appeal Tribunal

32A.2. On receipt of documentation in respect of a claim which has been directed to be transferred to the court by the Competition Appeal Tribunal, the Deputy Principal Clerk of Session shall –

(a) mark the first page of the documentation or, as the case may be, the interlocutor sheet, with the date of receipt; and

(b) give written intimation of that date to each party.

Motion for further procedure and lodging of process in transfers from the Competition Appeal Tribunal

32A.3.-(1) Within 14 days after the date of receipt of documentation referred to in rule 32A.2 (receipt of transfers from the Competition Appeal Tribunal)-

(a) the party at whose request the transfer was directed, or

- (b) in proceedings in which the transfer was directed by the Tribunal at its own initiative, the party who initiated the proceedings,

shall apply by motion for an order for such further procedure as he desires; and the cause shall proceed as if it had been an action in the court initiated by summons.

(2) On applying by motion under paragraph (1) the party shall make up and lodge a process incorporating the documentation referred to in rule 32A.2 (receipt of transfers from the Competition Appeal Tribunal) unless the documentation includes a process previously transferred to the Competition Appeal Tribunal under rule 32A.1 (transfers to the Competition Appeal Tribunal).

- (3) A motion under paragraph (1) shall be disposed of by the Lord Ordinary.

Reponing against a failure to comply with rule 32A.3(1) or (2)

32A.4.-(1) Where –

- (a) the party at whose request the transfer was directed; or

(b) in proceedings in which the transfer was directed by the Tribunal at its own initiative, the party who initiated the proceedings, fails to comply with the requirements of rule 32A.3(1) or (2) (motion for further procedure and lodging of process), he may, within seven days after the expiry of the period specified in rule 32A.3(1), apply by motion to be reponed.

(2) The party enrolling a motion under paragraph (1), where the failure is a failure to lodge a process under rule 32A.3, shall on enrolling the motion, lodge such a process and shall apply by motion for an order for such further procedure as he desires.

(3) A motion under paragraph (1) shall be granted only on cause shown and on such conditions, if any, as to expenses or otherwise as the court thinks fit.

Insistence in transfer by another party

32A.5. Where –

- (a) the party at whose request the transfer was directed; or

(b) in proceedings in which the transfer was directed by the Tribunal at its own initiative, the party who initiated the proceedings, has failed to comply with the requirements of paragraph (1) or (2) of rule 32A.3 (motion for further procedure and lodging of process), any other party to the proceedings may, within seven days after the expiry of the period specified in rule 32A.3(1), comply with the requirements of those paragraphs himself and insist in the transfer.

Re-transmission to Registrar of the Competition Appeal Tribunal

32A.6. Where, on the expiry of 21 days after the receipt of the documentation referred to in rule 32A.2 (intimation of the date of receipt of documentation), no motion has been enrolled under rule 32A.4 (reponing against failure to comply with rule 32A.3(1) or (2)) and no motion has been enrolled under rule 32A.5 (insistence on transfer by another party), the transfer shall be deemed to be abandoned and the Deputy Principal Clerk shall –

- (a) write on the first page of the documentation or, as the case may be, the interlocutor sheet the words “Re-transmitted in respect that transfer has been abandoned.”;
- (b) add his signature and the date; and
- (c) transmit the documentation to the Registrar of the Competition Appeal Tribunal.