

Subsidiary Legislation made under s.91.

Fair Trading (Appeal) Regulations 2015

Repealed by Act.2023-27 as from 1.10.2023¹

LN.2015/172*Commencement***7.10.2015**

ARRANGEMENT OF REGULATIONS**Regulation**

1. Title and commencement.
2. Interpretation.
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6. Magistrate to set matter down for hearing.
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¹ For Savings and transitional provisions refer to s.120 of the Fair Trading Act 2023 (2023-27)

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In exercise of the powers conferred upon him by section 91 of the Fair Trading Act 2015, and of all other enabling powers, the Minister with responsibility for commercial and consumer affairs has made the following Regulations—

Title and commencement.

1. These Regulations may be cited as the Fair Trading (Appeal) Regulations 2015 and shall take effect and come into operation as law on their date of publication.

Interpretation.

2. In these Regulations unless the context otherwise requires “magistrate” means a stipendiary magistrate within the meaning of the Magistrates’ Court Act.

Time for appeal.

3. Any person wishing to appeal against the decision of the Business Licensing Authority upon an application made by such person shall give notice of appeal to the magistrate as in Form 1 of the Schedule within twenty-eight days of the decision of the Business Licensing Authority.

Notice.

4.(1) On giving notice of appeal to the magistrate the appellant shall serve the Business Licensing Authority with a copy of the notice of appeal.

(2) On receiving notice of appeal the Business Licensing Authority shall, within fourteen days, furnish to the magistrate and the appellant a notice as in Form 2 of the Schedule.

(3) There shall be attached to such notice a copy of the application made to the Business Licensing Authority by the appellant.

Extension of time.

5. The magistrate may, having considered all the circumstances of the case, extend the time periods specified in Regulations 3 and 4 if he considers that it is just and equitable to do so.

Magistrate to set matter down for hearing.

6. Upon receiving notice of the Business Licensing Authority’s reasons the magistrate shall set the matter down for hearing on a day being not less than twenty-one days after he has received such notice and shall inform the appellant and the Business Licensing Authority of the time, date and place of hearing as in Form 3 of the Schedule.

Merits of appeal.

7. On hearing an appeal the magistrate shall consider the matter on its merits and shall have all the powers of the duties and obligations of the Business Licensing Authority under sections 77, 78, 81 and 82 of the Fair Trading Act 2015.

Representation.

8. At the hearing of any appeal the appellant may appear in person and the Business Licensing Authority may appear by one of its members and a party may be represented by counsel.

Privacy.

9. Except with the agreement of all parties, appeals shall be heard in public.

Evidence.

10. On the hearing of an appeal both parties may adduce evidence on oath or affirmation in support of their case.

Licence to be issued when appeal allowed.

11.(1) Where an appeal against the refusal of a licence has been allowed, a licence shall be issued, subject to any conditions as may have been imposed by the magistrate, in accordance with the provisions of section 60 of the Fair Trading Act 2015.

(2) Where an appeal against any conditions imposed by the Business Licensing Authority is allowed the licence shall be amended accordingly.

Costs.

11.(1) The magistrate may award such sum by way of costs not exceeding £500 as may to him seem appropriate.

(2) The amount of any sum ordered to be paid under subregulation (1) shall be specified in the order.

(3) Costs ordered to be paid under this section shall be enforceable as a civil debt.

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SCHEDULE

FORM 1

Regulation 3

FAIR TRADING ACT 2015

FAIR TRADING (APPEAL) REGULATIONS 2015

NOTICE OF APPEAL

To : Stipendiary Magistrate, Gibraltar Law Courts, 32-36, Town Range, Gibraltar;
and

With a copy to: Business Licensing Authority Secretary, Business Licensing Authority,
Suite 975 Europort, Gibraltar.

I, _____, of
_____ being aggrieved by a decision of the Business Licensing
Authority given on the ____ day of _____ 20__ wherein the Business Licensing
Authority:

- (a) refused to issue a new licence*;
- (b) refused to grant an extension to my licence*;
- (c) refused to consent to the transfer of my licence to other premises*;
- (d) refused to consent to the transfer of a licence remaining on the same premises*;
- (e) refused to issue a duplicate licence*; or
- (f) granted a licence subject to onerous conditions*;

hereby appeal against such decision.

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Dated this ____ day of _____ 20__

Appellant Signature

Appellant Name

(*delete as appropriate)

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FORM 2

Regulation 4(2).

FAIR TRADING ACT 2015

FAIR TRADING (APPEAL) REGULATIONS 2015

NOTICE OF REASONS FOR DECISION OF BUSINESS LICENSING AUTHORITY

To : Stipendiary Magistrate, Gibraltar Law Courts, 32-36, Town Range, Gibraltar;
and

With a copy to: (_____), _____ of
(_____)
(the appellant).

The reasons for the Business Licensing Authority having:

- (a) refused to issue a new licence*;
- (b) refused to grant an extension to a licence*;
- (c) refused to consent to the transfer of a licence to other premises*;
- (d) refused to consent to the transfer of a licence remaining on the same premises*;
- (e) refused to issue a duplicate licence*; or
- (f) granted a licence subject to conditions*;

to the appellant are as follows:

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A copy of the refused application or licence issued subject to conditions (as the case may be) is appended hereto.

Dated this ____ day of _____ 20__

Chairman

Business Licensing Authority

(*delete as appropriate)

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FORM 3

Regulation 6

FAIR TRADING ACT 2015

FAIR TRADING (APPEAL) REGULATIONS 2015

NOTICE OF HEARING OF APPEAL

To : (_____), of (_____)
(the appellant); and

Business Licensing Authority Secretary, Business Licensing Authority, Suite
975 Europort, Gibraltar .

Take note that at ___ : ___ am/pm on the ___ day of _____ 20__ at the
Magistrates' Court ___, Gibraltar Law Courts, 32-36, Town Range, Gibraltar, I will hear the
appeal by the appellant against the decision of the Business Licensing Authority given on the
___ day of _____ 20__ whereby the Business Licensing Authority:

- (a) refused to issue a new licence*;
- (b) refused to grant an extension to a licence*;
- (c) refused to consent to the transfer of a licence to other premises*;
- (d) refused to consent to the transfer of a licence remaining on the same premises*;
- (e) refused to issue a duplicate licence*; or
- (f) granted a licence subject to conditions*.

Dated this ___ day of _____ 20__

Stipendiary Magistrate

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(*delete as appropriate)