

Subsidiary Legislation made under ss. 110(10), 111 and 112.

Fair Trading (Appeals) Regulations 2023

LN.2023/280

Commencement

1.10.2023

ARRANGEMENT OF REGULATIONS

Regulation

Part 1

Commencement and Interpretation

1. Title and commencement.
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Part 2

Appeals to the Decision Making Committee

3. Appeals to the DMC.
4. Bundle of Documents.
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6. Setting down and notice of hearing.

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SCHEDULE

2023-27

Fair Trading

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Fair Trading (Appeals) Regulations 2023

In exercised of the powers conferred upon him by sections 110(10), 111 and 112 of the Fair Trading Act 2023, the Minister has made the following Regulations-

Part 1

Commencement and Interpretation

Title and commencement.

1. These Regulations may be cited as the Fair Trading (Appeals) Regulations 2023 and come into operation on 1 October 2023.

Interpretation.

2. In these Regulations, unless the context otherwise requires–

“the appellant” means the person bringing an appeal against a decision of the OFT;

“a decision” means a decision of the OFT made under the Act;

“Registrar” means the Registrar of the Supreme Court of Gibraltar;

“Secretary” means the Secretary of the DMC appointed under paragraph 4(8) of Schedule 2 to the Act.

Part 2

Appeals to the Decision Making Committee

Appeals to the DMC.

3. An appeal against a decision made by the Chief Executive on behalf of the OFT shall be instituted by the service on the Secretary of a notice of appeal in the form set out in Form 1 of the Schedule to these Regulations.

Bundle of Documents.

4. The appellant shall within 14 days of filing the notice of appeal file with the Secretary a bundle of documents containing a copy of the decision made by the Chief Executive being appealed together with copies of any representations or information which the appellant wishes to rely upon.

Default in filing the Bundle of Documents.

5. If the bundle of documents is not filed within the prescribed time and no sufficient ground is shown for the delay, the appeal may be dismissed by the DMC.

Setting down and notice of hearing.

6. Upon receipt of the bundle of documents prescribed by regulation 4 the Secretary shall fix a date and time for the hearing of the appeal by the DMC and shall give at least seven days' notice in writing to the appellant.

Part 3

Appeals to the Supreme Court

Notice of Appeal.

7.(1) Any person wishing to appeal to the court against a decision of the DMC shall, within 14 days of the date on which he is informed of the decision, file with the Registrar a notice of appeal in substantially the form set out in Form 2 of the Schedule to these Regulations.

(2) Every notice of appeal shall state whether it is intended to appeal against the whole or part only of the decision and, where it is intended to appeal against part only of the decision, shall specify that part.

(3) Upon filing the notice of appeal the appellant shall serve the OFT with a copy of the notice of appeal.

Record of Appeal.

8.(1) As soon as practicable after receiving a notice of appeal under regulation 7, the OFT shall prepare the record of appeal which shall include copies of—

(a) the documents in the case including, if applicable, the application made by the appellant and any evidence; and

(b) the decision of the DMC.

(2) The OFT shall file two copies of the record of appeal with the Registrar and shall serve a copy of the record of appeal on the appellant.

Memorandum of appeal.

9.(1) The appellant shall, within 10 days of receiving the record of appeal, file with the Registrar a memorandum of appeal in duplicate and in substantially the form set out in Form 3 of the Schedule to these Regulations and shall within that period serve a copy of the memorandum on the OFT.

(2) The memorandum of appeal shall set forth concisely and under distinct heads, without argument or narrative, the grounds of objection to the decision appealed against, specifying the points which are alleged to have been wrongly decided and the nature of the order for which he proposes to ask.

Setting down and notice of hearing.

10. On receipt of the memorandum of appeal the Registrar shall fix a date and time for the hearing of the appeal and shall give notice thereof in writing to the appellant and the OFT.

Representation.

11. At the hearing of any appeal, whether before the DMC or the Supreme Court, the appellant may appear in person and the OFT may appear by the Chief Executive or one of its members, and any party may be represented by counsel.

SCHEDULE

FORM 1
(Notice of Appeal to DMC)

Regulation 3.

NOTICE OF APPEAL

To: The Secretary of the Decision Making Committee of Office of Fair Trading

I... *[insert name]*of.....*[insert address]*.....was served with written notification that the Office of Fair Trading has made a decision in relation to a matter that concerns me.

The decision was.....*[insert summary of decision or attach a copy of the decision]*

I received the written notification on*[insert date]*

I wish to appeal to the Decision Making Committee on the following grounds:-

[insert grounds]

Dated this day of 20...

Signed:

Please print name:

For office use only

Date received:

Signed:

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FORM 2

(Notice of Appeal to Supreme Court)

Regulation 7.

IN THE SUPREME COURT OF GIBRALTAR
APPELLATE JURISDICTION

Civil Appeal No. _____ of 20__

IN THE MATTER OF the Fair Trading Act 2023 (“the Act”)

AND IN THE MATTER OF an appeal under Section 110 of the Act

BETWEEN:

[INSERT APPELLANT’S NAME]

Appellant

-and-

THE OFFICE OF FAIR TRADING

Respondent

NOTICE OF APPEAL

To: The Registrar of the Supreme Court of Gibraltar, Gibraltar Law Courts, 32-36, Town Range, Gibraltar

With a copy to: The Office of Fair Trading, Suite 975 Europort, Gibraltar.

TAKE NOTICE that _____ *[insert name]* _____, of _____ *[insert address]* _____
_____ being aggrieved by a decision of the Decision Making Committee of the Office of Fair Trading given on the ____ day of _____ 20__ intends to appeal to the Supreme Court against [the whole of the said decision]* OR [such part of the said decision as decides that _____]*

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The address of service of the appellant is _____[insert address for service]_____.

It is intended to serve a copy of this notice on the Secretary of the Office of Fair Trading.

Dated this ____ day of _____ 20__

.....
[Solicitors for the]* Appellant

Received by the Supreme Court on the ____ day of _____ 20__.

REGISTRAR

(*delete as appropriate)

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FORM 3
(Memorandum of Appeal)

Regulation 9.

IN THE SUPREME COURT OF GIBRALTAR
APPELLATE JURISDICTION

Civil Appeal No. _____ of 20__

IN THE MATTER OF the Fair Trading Act 2023 (“the Act”)

AND IN THE MATTER OF an appeal under Section 110 of the Act

BETWEEN:

[INSERT APPELLANT’S NAME]

Appellant

-and-

THE OFFICE OF FAIR TRADING

Respondent

MEMORANDUM OF APPEAL

The above-named appellant appeals to the Supreme Court of Gibraltar against [the whole of the said decision]* OR [such part of the said decision as decides that ____ *[insert details]* _____]* on the following grounds, namely:–

[insert grounds in numbered paragraphs]

and the appellant seeks the following order(s) from the Court:–

[set out the order sought]

Dated the ____ day of _____ 20__

.....
[Solicitors for the]* Appellant

(*delete as appropriate)