

The Tourist Premises Appeal Tribunal

Homepage

Welcome to the website for The Tourist Premises Appeal Tribunal in the Isle of Man.

This Website is provided by the General Registry to give general guidance only in relation to the Tourist Premises Appeal Tribunal and is not, and should not be treated as, a complete and authoritative statement of the law. Advice from legal or other appropriate sources should be sought as necessary.

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General

1 What is the Tourist Premises Appeal Tribunal and what does it do?

The Tourist Premises Appeal Tribunal ('the Tribunal') is an independent judicial body established in law.

The principal function of the Tribunal is to hear and determine appeals brought under the provisions of the Tourist Act 1975 ('the Act') by any person aggrieved by:

- any refusal of the Department of Economic Development ("the Department") to register any land as tourist premises; or
- the cancellation of the registration of any tourist premises; or
- the grading, re-grading, classification or reclassification of any tourist premises; or
- any other matter which may be prescribed.

A copy of the Act can be accessed [here](#).

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2 Who sits on the Tribunal and how are they appointed?

The Chairperson and the four lay members are appointed by the Appointments Commission, established under the provisions of the Tribunals Act 2006.

Normally the Tribunal, at a hearing, comprises of a Chairperson and a minimum of two lay members.

The Chairperson is required to be a barrister, advocate or solicitor of not less than 7 years' standing.

Two of the four lay members are appointed after consultation with such body or bodies representative of persons engaged in the tourist industry as may be selected by the Appointments Commission.

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3 Who are the current persons appointed to the Tribunal?

The current appointments made by the Appointments Commission are:

Chairperson – Mr A L Vaughan-Williams

Panel of Lay Members – Mr I R Stone, Mrs J Elliott, Mr P Murphy and Miss G A Watterson

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4 What provision is made with regard to the procedure of the Tribunal?

Provision with regard to the procedure of the Tribunal is made at Schedule 2 to the Act.

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Making an Appeal

5 Who can lodge an appeal?

Section 15 of the Act provides that:

"Any person aggrieved by -

- (a) any refusal of the Department to register any land as tourist premises; or
- (b) the cancellation of the registration of any tourist premises; or

(c) the grading, regarding, classification or reclassification of any tourist premises; or
(d) any other matter which may be prescribed.

may appeal to the Appeal Tribunal"

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6 Is there a charge for bringing an appeal?

No – there is no charge for bringing an appeal.

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7 How do I appeal?

The person bringing an appeal is known as “the Appellant”.

Appeals are commenced by the Appellant lodging with the Clerk to the Tribunal (“the Clerk”) a petition addressed to the Chairman of the Tribunal stating the general grounds of appeal, which must be signed by the Appellant or by his Advocate on his behalf. There is no prescribed form to be used for this purpose.

Please ensure that you include your full name and address and, if possible, your telephone and email contact details.

The Appellant must also give notice of the appeal to the Department by serving a copy of the petition on the Secretary of the Department not later than 3 days next following the day on which the petition of appeal is lodged with the Clerk.

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8 How long do I have to lodge an appeal?

Appeals must be lodged with the Clerk within 14 days of receipt of the Department’s decision in respect of which the person is aggrieved.

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9 Who should I send my appeal to?

You should send your appeal to:

The Clerk to the Tourist Premises Appeal Tribunal
Tribunals Office
Isle of Man Courts of Justice
Deemster’s Walk, Bucks Road
Douglas, Isle of Man
IM1 3AR

Telephone: 685941 Fax: 685573 email: tribunals@gov.im

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10 Can I be represented in proceedings before the Tribunal?

The Appellant and the Department are entitled to be heard by the Tribunal at the hearing of the appeal, and may be represented by an Advocate or, in the case of the Department, either by an Advocate or by any member or officer of the Department.

You will be personally responsible for any professional fees charged by an Advocate who represents you.

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11 Is Legal Aid available for proceedings before the Tourist Premises Appeal Tribunal?

No – Legal Aid is not available for proceedings before the Tribunal, although very limited assistance may be available (should your means be such as to comply with the rules) under what is termed the Green Form Scheme. This enables persons to obtain legal advice from an Advocate, but this does not include representation at a Tribunal hearing.

Advice on the Green Form Scheme should be sought from an Advocate, a list of which is available at the Isle of Man Law Society, 27 Hope Street, Douglas. Their website is www.iomlawsociety.co.im

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Before the Hearing

12 How will my appeal be progressed?

Having lodged an appeal, you will be referred to as “the Appellant.” The Clerk will acknowledge receipt of your appeal in writing.

It is **your responsibility** to give notice of your appeal to the Department, not later than 3 days next following the day on which you lodged your appeal with the Tribunal’s Office, by serving a copy of the petition on the Secretary to the Department.

Within 14 days of the service of the petition of appeal upon it, the Department shall state and sign a case setting forth the facts and ground of its decision, and lodge same with the Clerk. The **Department is responsible** for serving a copy on the Appellant.

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13 What if I have any further information to add to my appeal?

Any further information you may wish to add to your appeal will be forwarded to the Chairperson for their consideration. If the Tribunal and the other party have not had enough opportunity to consider the information supplied the hearing may be adjourned. In order to avoid delays, it is therefore important that you make every effort to include all the information, and supporting documentation that you wish the Tribunal to consider, as part of your initial appeal wherever possible – where it is not possible to lodge all the information as part of the appeal, you should forward the additional information as soon as you can.

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14 When will I be advised of the date for the hearing before the Tribunal?

The Tribunal Chairperson will fix a date, time and place for the hearing of the Appeal and the Clerk will send notice of such to the parties. The Act requires that at least eight days notice of the hearing date must be provided to the parties.

Our main aim is to organise a date for your appeal to be heard as soon as possible.

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15 What if my address, or that of my representative, changes after my appeal is submitted?

In the event that there is a change of address or telephone number for you, or your representative, it is vitally important that such is communicated immediately in writing to the Clerk to the Tribunal.

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16 Can I ask for a postponement?

Yes, although any request must be made in writing prior to the hearing and should clearly explain the reason(s) why you are asking for a postponement. The request should be forwarded to the Clerk, who in turn will bring it to the attention of the Chairperson for their consideration.

If, after considering your application, the Chairperson decides to grant an adjournment, the Clerk will notify you accordingly and will arrange a new date for the appeal to be considered.

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17 What if I do not wish to attend the hearing?

Although you do not have to attend the hearing, it is important that you do try to attend; the Tribunal will have considered the written evidence but that alone may not tell the whole story. By attending the actual hearing you will be offered the opportunity to put your side of the story forward, as well as calling any witnesses you may wish to give relevant evidence, and answer any questions the Tribunal may have, all information which may lead to the Tribunal reaching a decision in your favour. You will also be able to ask questions of the Presenting Officer for the Department of Economic Development and any witnesses they call. You may bring anyone you choose to attend the appeal hearing with you, even if it is just a friend or relative for moral support, although please note that only an Advocate will be able to represent you if you do not wish to represent yourself.

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18 If an appeal is made can it be withdrawn?

Yes – an Appellant may withdraw his appeal by giving notice in writing, **not later than the third day** before the date fixed for the hearing of the appeal, addressed to the Chairman of the Tribunal and to the Secretary of the Department.

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19 What about travel and parking arrangements for the hearing?

Each party will have been notified of the date, time and place of the hearing and will normally be asked to arrive 15 minutes before the hearing is due to commence. It is important that consideration is given to travel arrangements, parking etc so as to ensure that a party arrives on time. If you are not sure as to the location of the hearing, or indeed any other matters, please contact the Clerk.

Arrangements for car parking should be made, by both parties and witnesses, for sufficient time to avoid parking penalties being incurred whilst the hearing proceeds. Please note parties and witnesses are responsible for their own parking fees, and indeed any parking penalties incurred.

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The Hearing

20 Who will be present in the hearing room?

As well as the Tribunal Chairperson and members, the Clerk to the Appeal Tribunal will also be present as the Clerk is responsible for recording the hearing. Prior to the hearing, if you have any questions, please do not hesitate to contact the Clerk who will do their utmost to assist you. However, please bear in mind the Clerk will not be able to provide you with legal advice or comment on the merit of your appeal.

A representative will attend on behalf of the Department and you will be given the opportunity to ask them questions; they will also have the opportunity to ask you questions.

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21 What happens at the hearing?

The Clerk to the Tribunal will come to collect you from the waiting area as soon as the Tribunal is ready to hear your appeal. Please bring your case papers with you as you will need to refer to them from time to time.

The Chairperson will introduce everyone and explain the procedure, however please do not hesitate to ask if you are unsure about anything.

The length of the hearing will be entirely dependent on the complexity of the individual case.

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22 Is the hearing recorded?

Yes - the Clerk will ensure that the hearing is recorded and parties will see microphones for this purpose located on each of the tables.

Although copies of the recording may be purchased following the hearing (it usually takes a few days for copy discs to be made available), on payment of the prescribed fee, it is the responsibility of parties to take their own notes for their use during the proceedings.

Apart from the Clerk, it is **not permitted** for any other person in attendance at the hearing to use any form of recording equipment.

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23 Are members of the public allowed to attend the hearing?

Yes - the hearing of an appeal shall be in public.

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24 How do parties address the Chairperson and members of the Tribunal?

It is customary to address the Tribunal via the Chairperson who should be called either 'Sir' or 'Madam', as applicable. If it is necessary to address either of the lay members directly they may be referred to as 'Sir' or 'Madam', as applicable, or alternatively by name.

Tribunal hearings are less formal than, for example, in the High Court so there are no wigs and gowns worn. It is not necessary to bow to the Tribunal upon entering and leaving the hearing room and it is not necessary to stand to address the Tribunal, unless of course a party prefers to do so.

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25 Can a party be liable for costs in proceedings before the Tribunal?

The costs of an Appeal to the Tribunal shall be in the discretion of the Tribunal, which may direct to and by whom those costs, or any part thereof, shall be paid, and those costs may be recovered as a civil debt.

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The Decision

26 When will I be given a decision?

After closing statements by the parties summing up their respective cases, the Tribunal will adjourn briefly to consider the appeal and reach a decision; the decision will be confirmed in writing, including the reasons for the decision in full and signed by the Chairperson, as soon as is practicable after the hearing. In practice, this is normally within 1 to 2 weeks after the hearing date.

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27 Does the decision have to be unanimous?

No – a decision of the Tribunal may be taken by a majority.

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Appeals against the Tribunal's decision

28 Can I appeal against the Tribunal's decision?

Yes, **but only on a point of law**. The usual period allowed for bringing such an appeal, which lies to the Staff of Government Division, is 6 weeks. Any person considering an appeal from a decision of the Tribunal should seek legal advice.

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29 Can the Department of Economic Development appeal against the decision?

Yes, the Department of Economic Development may also appeal a decision to the Staff of Government Division but again only where the decision involves a question of law. The usual period allowed for bringing such an appeal is 6 weeks.

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Contacting the Tribunal

30 What is the address for the Tourist Premises Appeal Tribunal?

The address to which correspondence should be sent is:

**Clerk to the Tourist Premises Appeal Tribunal
Tribunals Office
Isle of Man Courts of Justice
Deemsters Walk, Bucks Road
Douglas
Isle of Man, IM1 3AR**

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31 How do I contact the Clerk to the Tourist Premises Appeal Tribunal?

If a person wishes to contact the Clerk they can do so during normal office hours (Monday - Friday 9am to 5pm) on:

Tel: 685941 Fax: 685573 or Email: tribunals@gov.im

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Useful Links

Department of Economic Development website: www.gov.im/ded

Isle of Man Law Society website: www.iomlawsociety.co.im

The Tribunals Office is not responsible for the content of external internet sites.