



TO PROMOTE THE EFFICIENT AND EFFECTIVE LISTING, HEARING AND DISPOSAL OF APPEALS BROUGHT UNDER THE PROVISIONS OF THE PROHIBITED GOODS ORDINANCE IN THE MAGISTRATES COURT AND THE SUMMARY COURT OF THE BRITISH OVERSEAS TERRITORY OF THE FALKLAND ISLANDS

Introduction

1. At hearings in relation to these matters there has been considerable confusion as to what procedure should be followed.
2. This practice direction has therefore been issued in order to assist those appearing in such matters.

Practice Direction

The following procedure is to be adopted in relation to Appeals brought under the Prohibited Goods Ordinance in the Magistrate's Court and, when appropriately certified, in the Summary Court:

1. Section 3(6) of the Prohibited Goods Ordinance states that where a person has been served with a notice under section 3(1) they may within 2 days of it's service upon them appeal to the Magistrate's Court against the seizure by notice in writing.
2. The Appeal is therefore to be commenced in the Magistrate's Court.
3. In the absence or unavailability of the Senior Magistrate the case can be dealt with by the Summary Court if the Chief Executive issues a certificate under section 8 of the Ordinance. In such circumstances the Court will request such a certificate.
4. The 2 days in which to appeal is 2 clear days and so does not include the day the notice under section 3(1) was served on the Appellant or the day in which any notice of appeal under section 3(6) of the Ordinance was delivered to the Court. Any day on which the Court Office is not open (i.e. weekends, public or Government holidays) does not count towards the computation of this time.
5. As this is a Civil matter and there is specific legislation dealing with fees in the Magistrate's Court (as set out in the Civil Cases (Fees) Rules (Title 16.1.1)) these fees will apply. The fee for filing an appeal is therefore £75.
6. Upon receipt of the written notice of appeal the Court will as soon as is reasonably practicable inform by email:
 - (i) the Attorney General's Chambers (whether through the Attorney General personally or through Principal Crown Counsel, Senior Crown Counsel or Crown Counsel).
 - (ii) the Collector of Customsof the fact of the receipt of the notice of appeal.
7. The email will also direct that the Customs and Immigration Department shall retain and keep safe and unharmed each and all goods seized and that they shall make all such items available for inspection or testing as the Court shall direct.
8. Both the Attorney General's Chambers and the Collector of Customs will acknowledge receipt of the email and confirm that the direction given is understood and will be complied with.
9. The Court will prepare a formal Order in writing and serve it as soon as is practicable on the Attorney General by leaving it with an appropriate person at his Chambers and by email and on the Collector of Customs by post and email. The Order shall remain in force until the final determination of the Appeal or further order.
10. The notice of appeal in writing shall stand as a Civil Complaint. The Court will issue a Summons requiring that the Collector of Customs do attend to answer the complaint. The Summons together with a copy of the notice of appeal will be served on the Attorney General by leaving it with an appropriate person at his

Chambers. A copy will be sent to the Collector of Customs by post.

11. If either party is represented by a legal practitioner they shall be deemed to be present at any hearing.
12. Section 3(7) of the Ordinance requires that the Court determine the Appeal as expeditiously as possible. The Court will therefore seek to list the case for hearing on the first available date after 7 days of issue of the Summons. The Summons will contain the date of the hearing. The Court will notify the Appellant accordingly by post.
13. At the hearing the Collector of Customs or the lawyer appearing on their behalf should be in a position to confirm to the Court that no proceedings as are referred to in Sections 3(2) and 3(4) are to be brought or might be brought in relation to the items seized. In the absence of such confirmation it is likely that the case will have to be adjourned.
14. The matter will proceed as far as is possible and appropriate in accordance with the practice and procedure relating to a Civil Complaint (see s.53 of the Magistrates' Courts Act 1980 and Rules 34 and s.14 of the Magistrates' Courts Rules 1981).
15. It is likely that the first hearing in Court will be treated as a directions hearing although bearing in mind section 3(7) of the Ordinance any adjourned full hearing is likely to take place shortly thereafter.

