
STATUTORY RULES OF NORTHERN IRELAND

1997 No. 315

**Special Educational Needs Tribunal
Regulations (Northern Ireland) 1997**

Part III

Preparation for a Hearing

Acknowledgement of appeal and service of documents by the Secretary of the Tribunal

16.—(1) Upon receiving a notice of appeal the Secretary of the Tribunal shall—

- (a) enter particulars of it in the records;
- (b) send to the parent—
 - (i) an acknowledgement of its receipt and a note of the case number entered in the records;
 - (ii) a note of the address to which notices and communications to the Tribunal or to the Secretary of the Tribunal should be sent; and
 - (iii) notification that advice about the appeal procedure may be obtained from the office of the Tribunal;
- (c) subject to paragraph (6), send to the board—
 - (i) a copy of the notice of appeal and any accompanying papers;
 - (ii) a note of the address to which notices and communications to the Tribunal or to the Secretary of the Tribunal should be sent; and
 - (iii) a notice stating the time for replying and the consequences of failure to do so.

(2) Where the Secretary of the Tribunal is of the opinion that, on the basis of the notice of appeal, the parent is asking the Tribunal to do something which it cannot, he may give notice to that effect to the parent stating the reasons for his opinion and informing him that the notice of appeal will not be entered in the records unless the parent notifies the Secretary of the Tribunal that he wishes to proceed with it.

(3) Where the Secretary of the Tribunal is of the opinion that there is an obvious error in the notice of appeal—

- (a) he may correct that error and if he does so shall notify the parent accordingly and such notification shall state the effect of sub-paragraph (b); and
- (b) unless within 5 working days the parent notifies the Secretary of the Tribunal that he objects to the correction, the notice of appeal as so corrected shall be treated as the notice of appeal for the purposes of these Regulations.

(4) An appeal, as respects which a notice has been given under paragraph (2), shall only be treated as having been received for the purposes of paragraph (1) when the parent notifies the Secretary of the Tribunal that he wishes to proceed with it.

(5) Subject to paragraph (6), the Secretary of the Tribunal shall forthwith send a copy of a reply by the board under regulation 12 and of a response by a parent under regulation 8 together with any amendments or supplementary statements, written representations, written evidence or other documents received from a party, to the other party to the proceedings.

(6) If a notice of appeal, reply by the board under regulation 12 or response by the parent under regulation 8 is delivered to the Secretary of the Tribunal after the time prescribed by these Regulations, the Secretary of the Tribunal shall defer the sending of the copies referred to in paragraph (1)(c) or (5) pending a decision by the President as to an extension of the time limit pursuant to regulation 41.

Enquiries by the Secretary of the Tribunal

17. The Secretary of the Tribunal shall, at any time after he has received the notice of appeal—
- (a) enquire of each party—
 - (i) whether or not the party intends to attend the hearing;
 - (ii) whether the party wishes to be represented at the hearing in accordance with regulation 11(4) or 15(1) and if so the name of the representative;
 - (iii) whether the party wishes the hearing to be held in public;
 - (iv) whether the party intends to call witnesses and if so the names of the proposed witnesses; and
 - (v) whether the party or a witness will require the assistance of an interpreter; and
 - (b) enquire of the parent whether he wishes any persons (other than a person who will represent him or any witness which he proposes to call) to attend the hearing if the hearing is to be held in private and if so the names of such persons.

Directions and summonses in preparation for a hearing

18.—(1) The President may at any time before the hearing give such directions, and issue such witness summonses, as are provided in this Part to enable the parties to prepare for the hearing or to assist the tribunal to determine the issues.

(2) Directions given pursuant to regulations 20 and 21 may be given on the application of a party or of the President's own motion.

(3) A witness summons issued pursuant to regulation 22 may only be issued on the application of a party.

(4) An application by a party for directions shall be made in writing to the Secretary of the Tribunal and, unless it is accompanied by the written consent of the other party, shall be served by the Secretary of the Tribunal on that other party. If the other party objects to the directions sought, the President shall consider the objection and, if he considers it necessary for the determination of the application, shall give the parties an opportunity of appearing before him.

- (5) Directions containing a requirement under this Part shall, as appropriate—
- (a) include a statement of the possible consequences for the appeal, as provided by regulation 23, of a party's failure to comply with the requirement within the time allowed by the President; and
 - (b) contain a reference to the fact that, under Article 23(5) of the 1996 Order, any person who without reasonable excuse fails to comply with any requirement in respect of discovery or inspection of documents, or a requirement imposed upon him to attend to give evidence and produce documents, shall be liable on summary conviction to a fine not exceeding level 3 on the standard scale and shall, unless the person to whom the direction is addressed

had an opportunity of objecting to the direction, contain a statement to the effect that that person may apply to the President under regulation 19 to vary or set aside the direction.

Varying or setting aside of directions and summonses

19.—(1) Where a person to whom a direction given under this Part is addressed had no opportunity to object to the giving of such direction, he may apply to the President, by notice to the Secretary to the Tribunal, to vary it or set it aside, but the President shall not so do without first notifying the person who applied for the direction and considering any representations made by him.

(2) Where a person on whom a witness summons under this Part is served had no opportunity to object to the service of such summons, he may apply to the President, by notice to the Secretary to the Tribunal, to vary it or set it aside, but the President shall not so do without first notifying the person who applied for the summons and considering any representations made by him.

Particulars and supplementary statements

20. The President may give directions requiring any party to provide such particulars or supplementary statements as may be reasonably required for the determination of the appeal.

Disclosure of documents and other material

21.—(1) The President may give directions requiring a party to deliver to the tribunal any document or other material which the tribunal may require and which it is in the power of that party to deliver. The President shall make such provision as he thinks necessary to supply copies of any document obtained under this paragraph to the other party to the proceedings, and it shall be a condition of such supply that that party shall use such a document only for the purposes of the appeal.

(2) The President may grant to a party such discovery or inspection of documents (including the taking of copies) as might be granted by a county court.

Summoning of witnesses

22. The President may by summons require any person in Northern Ireland to attend as a witness at a hearing of an appeal at such time and place as may be specified in the summons and at the hearing to answer any questions or produce any documents or other material in his custody or under his control which relate to any matter in question in the appeal:

Provided that—

- (a) a person shall not be compelled to give any evidence or produce any document or other material that he could not be compelled to give or produce at a trial of an action in a Court of law;
- (b) in exercising the powers conferred by this regulation, the President shall take into account the need to protect any matter that relates to intimate personal or financial circumstances or consists of information communicated or obtained in confidence;
- (c) a person shall not be required to attend in obedience to such a summons unless he has been given at least 5 working days' notice of the hearing or, if less than 5 working days, he has informed the President that he accepts such notice as he has been given; and
- (d) no person shall be required in obedience to such a summons to attend and give evidence or to produce any document unless the necessary expenses of his attendance are paid or tendered to him.

Failure to comply with directions

23.—(1) If a party has not complied with a direction to it under this Part of these Regulations within the time specified in the direction the tribunal may—

- (a) where the party in default is the parent, dismiss the appeal without a hearing;
- (b) where the party in default is the board, determine the appeal without a hearing; or
- (c) hold a hearing (without notifying the party in default) at which the party in default is not represented or, where the parties have been notified of the hearing under regulation 24, direct that neither the party in default nor any person whom he intends should represent him be entitled to attend the hearing.

(2) In this regulation “the party in default” means the party which has failed to comply with the direction.

Notice of place and time of hearing and adjournments

24.—(1) Subject to the provisions of regulation 25, the Secretary of the Tribunal shall, after consultation with the parties, fix the time and place of the hearing and send to each party a notice that the hearing is to be at such time and place.

(2) The notice referred to in paragraph (1) shall be sent—

- (a) not less than 5 working days before the date fixed for the hearing where the hearing is held under regulation 14, 31 or 36;
- (b) not less than 10 working days before the date fixed for the hearing in any other case,

or within such shorter period before the date fixed for the hearing as the parties may agree.

(3) The Secretary of the Tribunal shall include in or with the notice of hearing—

- (a) information and guidance, in a form approved by the President, as to attendance at the hearing of the parties and witnesses, the bringing of documents, and the right of representation or assistance as provided by regulation 11(4) or 15(1); and
- (b) a statement explaining the possible consequences of non-attendance and of the right of—
 - (i) a parent; and
 - (ii) the board, if it has presented a reply,

who does not attend and is not represented, to make representations in writing.

(4) The tribunal may alter the time and place of any hearing and the Secretary of the Tribunal shall give the parties not less than 5 working days (or such shorter time as the parties agree) notice of the altered hearing date:

Provided that any altered hearing date shall not (unless the parties agree) be before the date notified under paragraph (1).

(5) The tribunal may from time to time adjourn the hearing and, if the time and place of the adjourned hearing are announced before the adjournment, no further notice shall be required.

(6) Nothing in paragraph (1) or (4) shall oblige the Secretary of the Tribunal to consult, or send a notice to any party who by virtue of any provision of these Regulations is not entitled to be represented at the hearing.

(7) In this regulation, “working day” means any day other than a Saturday, a Sunday or a public holiday.