

SCHEDULE 4

Industrial Tribunals (Improvement and Prohibition Notices Appeals) Rules of Procedure 1996 *For use in proceedings on an appeal against an improvement notice or prohibition notice*

Power to require further particulars and attendance of witnesses and to grant discovery

5.—(1) A tribunal may on the application of a party made either by notice to the Secretary or at the hearing of the appeal or of its own motion make an order as may be granted by a county court to—

- (a) require a party to furnish in writing to the person specified by the tribunal further particulars of the grounds on which that party relies and of any facts and contentions relevant thereto;
- (b) require one party to grant to another discovery or inspection (including the taking of copies) of documents,

and may appoint the time at or within which and the place at which any act required in pursuance of this rule is to be done.

Provided that the tribunal shall not under this rule require the production of any document certified by the Secretary of State as being a document of which the production would be against the interests of national security.

(2) A tribunal may, on the application of a party made either by notice to the Secretary or at the hearing of the appeal, or of its own motion, make an order—

- (a) to require the attendance of any person, including a party, as a witness, wherever such person may be within Northern Ireland; and
- (b) if it does so require the attendance of a person, to require him to produce any document in his possession or power relating to the matter to be determined,

and may appoint the time and place at which the person is to attend and, where appropriate, the time at or within which and the place at which any such document is to be produced.

(3) A tribunal may, on the application of a party made by notice to the Secretary or of its own motion, impose a requirement on a party to furnish to the tribunal a written answer to any question if it considers—

- (a) that the answer of the party to that question may help to clarify any issue likely to arise for determination in the proceedings; and
- (b) that it would be likely to assist the progress of the proceedings for that answer to be available to the tribunal before the hearing,

and may appoint the time within which the written answer is to be furnished. Where a requirement is imposed under this paragraph, the Secretary shall send to each other party a copy of such requirement and a copy of the written answer furnished to the tribunal.

(4) The tribunal shall take account of a written answer furnished pursuant to paragraph (3) in the same way as it takes account of representations in writing submitted by a party pursuant to rule 7(4).

(5) Where a requirement has been imposed under paragraph (1), (2) or (3)—

- (a) on a party in his absence; or
- (b) on a person other than a party,

that party or person may make an application to the tribunal to vary or set aside the requirement by notice to the Secretary given before the time at which or, as the case may be, the expiration of the time within which the requirement is to be complied with; and the Secretary shall give notice of the application to each party or, where applicable, to each other party.

Status: *This is the original version (as it was originally made). This item of legislation is currently only available in its original format.*

(6) Every document containing a requirement imposed under paragraph (1)(b) or (2) shall contain a reference to the fact that, under Article 59(11) of the No. 1 Order, any person who without reasonable excuse fails to comply with any such requirement shall be liable on summary conviction to a fine and the document shall state the amount of the current maximum fine.

(7) If a requirement imposed under paragraph (1) or (3) is not complied with, a tribunal, before or at the hearing, may strike out the whole or part of the notice of appeal, and, where appropriate, direct that a respondent shall be debarred from defending altogether; but a tribunal shall not so strike out or direct unless it has sent notice to the party who has not complied with the requirement giving him an opportunity to show cause why the tribunal should not do so.