
STATUTORY RULES OF NORTHERN IRELAND

2002 No. 403

The Tax Credits (Appeals) Regulations (Northern Ireland) 2002

PART III

APPEAL TRIBUNALS FOR TAX CREDITS

CHAPTER IV

Oral hearings

Procedure at oral hearings

18.—(1) Subject to the following provisions of this Part, the procedure for an oral hearing shall be such as the chairman, or in the case of an appeal tribunal which has only one member, such as that member, shall determine.

(2) Except where paragraph (4) applies, not less than 14 days' notice (beginning with and including the day on which notice is given and ending on the day before the hearing of the appeal or application for a direction is to take place) of the time and place of any oral hearing of an appeal or an application for a direction shall be given to every party to the proceedings.

(3) If such notice has not been given to a person to whom it should have been given under the provisions of paragraph (2) the hearing may proceed only with the consent of that person.

(4) Any party to the proceedings may waive his right under paragraph (2) to receive not less than 14 days' notice of the time and place of any oral hearing by giving notice to the clerk to the appeal tribunal.

(5) If a party to the proceedings to whom notice has been given under paragraph (2) fails to appear at the hearing the chairman or, in the case of an appeal tribunal which has only one member, that member, may, having regard to all the circumstances including any explanation offered for the absence—

- (a) proceed with the hearing notwithstanding his absence; or
- (b) give such directions with a view to the determination of the appeal or application for a direction as he may think proper.

(6) If a party to the proceedings has waived his right to be given notice under paragraph (2) the chairman or, in the case of an appeal tribunal which has only one member, that member, may proceed with the hearing notwithstanding his absence.

(7) An oral hearing of an appeal, application for a direction or penalty proceedings shall be in public except where the chairman or, in the case of an appeal tribunal which has only one member, that member, is satisfied that it is necessary to hold the hearing, or part of the hearing, in private—

- (a) in the interests of national security, morals, public order or children;
- (b) for the protection of private or family life of one or more parties to the proceedings; or
- (c) in special circumstances, because publicity would prejudice the interests of justice.

(8) At an oral hearing—

- (a) any party to the proceedings shall be entitled to be present and be heard; and
- (b) the following persons may be present by means of a live television link—
 - (i) any party to the proceedings or his representative or both, or
 - (ii) where an appeal tribunal consists of more than one member, a tribunal member other than the chairman,

provided that the chairman or, in the case of an appeal tribunal which has only one member, that member, gives permission and the appellant, the applicant for a direction or the person who is subject to penalty proceedings consents.

(9) A person who has the right to be heard at a hearing may be accompanied and may be represented by another person whether having professional qualifications or not and, for the purposes of the proceedings at the hearing, any such representative shall have all the rights and powers to which the person whom he represents is entitled.

(10) The following persons shall also be entitled to be present at an oral hearing (whether or not it is otherwise in private) but shall take no part in the proceedings—

- (a) the President;
- (b) any person undergoing training as a panel member or as a clerk to an appeal tribunal;
- (c) any person acting on behalf of the President in the training or supervision of panel members or in the monitoring of standards of decision-making by panel members; and
- (d) with the leave of the chairman or, in the case of an appeal tribunal which has only one member, with the leave of that member, any other person.

(11) Nothing in paragraph (10) affects the rights of—

- (a) any person mentioned in sub-paragraphs (a) and (b) of that paragraph where he is sitting as a member of the tribunal or acting as its clerk; or
- (b) the clerk to the tribunal,

and nothing in this regulation prevents the presence at an oral hearing of any witness or of any person whom the chairman or, in the case of an appeal tribunal which has only one member, that member, permits to be present in order to assist the appeal tribunal or the clerk.

(12) Any person entitled to be heard at an oral hearing may address the tribunal, may give evidence, may call witnesses and may put questions directly to any other person called as a witness.

(13) For the purpose of arriving at its decision an appeal tribunal shall, and for the purpose of discussing any question of procedure may, notwithstanding anything contained in these Regulations, order all persons not being members of the tribunal, other than the person acting as clerk to the appeal tribunal, to withdraw from the hearing except that—

- (a) the President or any other person mentioned in paragraph (10)(c); and
- (b) with the leave of the chairman or, in the case of an appeal tribunal which has only one member, with the leave of that member, any person mentioned in paragraph (10)(b) or (d),

may remain present at any such sitting.

(14) In this regulation “live television link” means a live television link or other facilities which allow a person who is not physically present at an oral hearing to see and hear the proceedings and be seen and heard by those physically present.

Manner of providing expert assistance

19.—(1) Where an appeal tribunal requires one or more experts to provide assistance to it in dealing with a question of fact of special difficulty under Article 8(4) of the Order, such an expert

shall, if the chairman or, in the case of an appeal tribunal which has only one member, that member, so requests, attend at the hearing and give evidence.

(2) If the chairman or, in the case of an appeal tribunal which has only one member, that member, considers it appropriate the expert shall enquire into and provide a written report on the question to be dealt with in accordance with paragraph (1).

(3) A copy of any written report received from an expert in accordance with paragraph (2) shall be supplied to every party to the proceedings.

Postponement and adjournment

20.—(1) Where a person to whom—

- (a) notice of an oral hearing is given; or
- (b) in the case of penalty proceedings, a summons has been issued under paragraph 3(2) of Schedule 2 to the Act,

wishes to request a postponement of that hearing he shall do so in writing to the clerk to the appeal tribunal stating his reasons for the request, and the clerk to the appeal tribunal may grant or refuse the request as he thinks fit or may pass the request to a legally qualified panel member who may grant or refuse the request as he thinks fit.

(2) Where the clerk to the appeal tribunal or, as the case may be, the legally qualified panel member refuses a request to postpone the hearing he shall—

- (a) notify in writing the person making the request of the refusal; and
- (b) place before the appeal tribunal at the hearing both the request for the postponement and notification of its refusal.

(3) The legally qualified panel member or the clerk to the appeal tribunal may of his own motion at any time before the beginning of the hearing postpone the hearing.

(4) An oral hearing may be adjourned by the appeal tribunal at any time on the application of any party to the proceedings or of its own motion.