

2003 No. 138

**REGISTERED HOMES AND SOCIAL CARE
WORKERS**

The Social Care Tribunals Rules (Northern Ireland) 2003

Made - - - - - *6th March 2003*

Coming into operation *1st April 2003*

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SCHEDULE 1 Notification of hearing of appeal under the Registered Homes (Northern Ireland) Order 1992

SCHEDULE 2 Notification of hearing of appeal under the Health and Personal Social Services Act (Northern Ireland) 2001

The Department of Health, Social Services and Public Safety(a), in exercise of the powers conferred on it by Article 33 of the Registered Homes Order (Northern Ireland) Order 1992(b) and of all other powers enabling it in that behalf, hereby makes the following Rules:

Citation, commencement and interpretation

1.—(1) These Rules may be cited as the Social Care Tribunals Rules (Northern Ireland) 2003 and shall come into operation on 1st April 2003.

(a) See S.I. 1999/283 (N.I.), Article 3(6)

(b) S.I. 1992/3204 (N.I. 20) as amended by S.I. 1995/755 (N.I. 2) and 2001. c. 3 (N.I.)

(2) In these Rules –

“the Council” means the Northern Ireland Social Care Council established under section 1 of the 2001 Act;

“the 1992 Order” means the Registered Homes (Northern Ireland) Order 1992;

“the 2001 Act” means the Health and Personal Social Services Act (Northern Ireland) 2001(a);

“registration authority” means the Board as defined in Article 2(2) of the 1992 Order or the Council;

“tribunal” means a Social Care Tribunal constituted under Part V of the Order(b).

Address for Service

2.—(1) An appellant shall state in the notice of appeal which he is required under the 1992 Order to give to a registration authority an address at which any notice, order or other document may be served upon him.

(2) The registration authority shall on receipt of the notice of appeal send it to the Department within seven days.

Appointment of tribunal

3.—(1) The Department shall on receipt of the notice of appeal –

- (a) request the Lord Chancellor to appoint the chairman; and
- (b) appoint the members of the tribunal.

(2) The Department shall appoint a person to act as secretary to the tribunal for the purposes of the appeal.

Notice of hearing etc.

4.—(1) The chairman of the tribunal shall –

- (a) so far as practicable within twenty-eight days of his appointment, fix a date, time and place for the hearing of the appeal;
- (b) not less than forty-two days before the date so fixed –
 - (i) serve on the appellant notice in the form set out in the Schedule, and
 - (ii) send a copy of the notice to the registration authority.

(2) Where the appeal is against a decision of the registration authority, the authority shall not less than thirty days before the date fixed for the hearing of the appeal –

- (a) send to the secretary of the tribunal four copies of the reason for the decision; and
- (b) serve a copy of the statement on the appellant.

(3) Where the appeal is against an order of a justice of the peace under Article 10 or, as the case may be, 23 of the 1992 Order, the registration authority shall not less than thirty days before the date fixed for the hearing send to the secretary of the tribunal four copies of the statement which supported the authority’s application for the order.

(4) The appellant shall not less than twenty-one days before the date fixed for the hearing send –

- (a) to the secretary of the tribunal, four copies of a statement, signed by or on behalf of the appellant, of the grounds of the appeal; and
- (b) to the registration authority, a copy of the statement.

(a) 2001 c. 3 (N.I.)

(b) See section 15(1) of the 2001 Act

Representation

5.—(1) The appellant may appear before the tribunal in person or he may be represented by counsel or a solicitor or by any other person authorised by him to act on his behalf.

(2) The registration authority may be represented before the tribunal by an officer or servant of the authority or by counsel or a solicitor.

Proceedings in public

6. The tribunal shall sit in public unless for any reason the tribunal determines that the hearing or any part of it shall be in private.

Adjournment of hearing

7.—(1) The tribunal may at any time, whether before or after the beginning of the hearing, adjourn the hearing and when so doing may either fix the date, time and places at which the hearing is to be resumed or leave the date, time and place to be determined later by the tribunal but the tribunal shall not be resumed at that date, time or place, unless the tribunal is satisfied that the appellant and the registration authority have been given at least fourteen days notice thereof.

(2) If either the appellant or the registration authority fails to appear or be represented by one of the persons referred to in rule 5 at the time fixed for the hearing of the appeal, the tribunal may take such action whether by proceeding with or adjourning the hearing or otherwise as may appear to the tribunal to be just and expedient.

Procedure at hearing

8.—(1) The appellant and the registration authority shall have the right to address the tribunal, to give evidence and to call witnesses and to examine, or cross-examine any person giving evidence before the tribunal.

(2) The chairman of the tribunal may require the attendance of further witnesses in addition to those called by or on behalf of the appellant and the registration authority.

(3) The chairman of the tribunal may permit evidence to be given by affidavit but may at any stage of the proceedings require the personal attendance of any deponent for examination and cross-examination.

Evidence

9.—(1) The provisions of sections 38(5) and 43 of the Arbitration Act 1996(a) (administration of oaths, securing the attendance of witnesses etc.) shall apply to proceedings before the tribunal, and the chairman of the tribunal shall have the same powers under those provisions as if he were an arbitrator or a party to a reference under an arbitration agreement.

(2) The appellant, the registration authority or any witness may produce in evidence any document or information notwithstanding that such document or information would be inadmissible in a court of law and the tribunal may receive in evidence such document or information if the chairman of the tribunal is satisfied that it is desirable in the interests of justice to receive it.

(3) The chairman of the tribunal may before or after the beginning of the hearing call for such further information or reports, as he thinks desirable, and may give directions as to the manner in which and the persons by whom such material is to be furnished.

Decisions

10.—(1) The decision of the tribunal on any appeal shall be the decision of the majority.

(a) 1996 c. 23

(2) The chairman of the tribunal shall, as soon as possible after the hearing, notify the appellant and the registration authority in writing of the decision and the reasons for the decision.

(3) Where the appeal was against an order made by a justice of the peace under Article 10 or, as the case may be, 23 of the 1992 Order, the chairman of the tribunal shall also notify him in writing of the decision and the reason for the decision.

Withdrawal of appeal

11. An appellant may at any time give notice in writing to the secretary of the tribunal that he desires to withdraw his appeal and thereupon the appeal shall be deemed to be dismissed.

Multiple appeals

12.—(1) A tribunal may, with the consent of the appellant and the chairman of the tribunal, hear two or more appeals in respect of the same home together.

(2) A tribunal may also hear two or more appeals in respect of different homes together where –

- (a) the appellant in respect of each of the appeals is the same; and
- (b) both the appellant and the chairman of the tribunal consent to the appeals being heard together.

(3) For the purpose of hearing two or more appeals to be heard together, the tribunal may adjourn the proceedings in relation to any appeal.

Extension of time limits

13. The time appointed by these rules for the doing of any act may be extended by the chairman of the tribunal upon such terms (if any) as may seem just notwithstanding that the time appointed has expired before an application for extension is made.

General

14. Subject to the provisions of Part V of the 1992 Order and of these rules, the tribunal may regulate its own procedure.

Revocation

15. The Registered Homes Tribunals Rules (Northern Ireland) 1993(a) are hereby revoked.

Sealed with the Official Seal of the Department of Health, Social Services and Public Safety on 6th March 2003.

(L.S.)

Paul Martin

Senior Officer of the Department of Health, Social Services and Public Safety

(a) S.R. 1993 No. 76

SCHEDULE 1

Rule 4(1)

NOTIFICATION OF HEARING OF APPEAL

TAKE NOTICE that your appeal against –

(a) the decision of (*here insert the registration authority*) under the Registered Homes (Northern Ireland) Order 1992

or

(b) the order made by a justice of the peace under the Registered Homes (Northern Ireland) Order 1992

in relation to the premises at (*here insert the address of the premises*) will be heard by the Social Care Tribunal sitting at _____ on the _____ day of _____ 20____, at _____ o'clock.

(delete (a) or (b) as appropriate)

If for any reason you do not wish, or are unable to attend, at the above time and place, you should IMMEDIATELY inform me in writing at the address mentioned at the head of this notice stating the reasons for your inability to attend.

(Signed)
Chairman

SCHEDULE 2

Rule 4(1)

NOTIFICATION OF HEARING OF APPEAL

TAKE NOTICE that your appeal against –

the decision of the Northern Ireland Social Care Council under the Health and Personal Social Services Act (Northern Ireland) 2001

in respect of registration will be heard by the Social Care Tribunal sitting at _____ on the _____ day of _____ 20____, at _____ o'clock.

If for any reason you do not wish, or are unable to attend, at the above time and place, you should IMMEDIATELY inform me in writing at the address mentioned at the head of this notice stating the reasons for your inability to attend.

(Signed)
Chairman

EXPLANATORY NOTE

(This note is not part of the Rules.)

These rules prescribe the procedure to be followed in proceedings before a Social Care Tribunal constituted under Part V of the Registered Homes (Northern Ireland) Order 1992 (“the 1992 Order”) to hear appeals relating to:

- (a) the registration of residential care homes under Part II of, and nursing homes under Part III of, the 1992 Order;
- (b) the registration of social workers and social care workers under Part I of the Health and Personal Social Services Act (Northern Ireland) 2001.

The rules provide for an appellant to specify in his notice of appeal an address for service and for that notice to be forwarded to the Department, which on receipt, is required to appoint the expert members of the tribunal and request the Lord Chancellor to appoint the chairman of the tribunal to hear the appeal (rules 2 and 3); The rules also prescribe the form of notice to be given of a hearing and in addition, make provision for the time and place of hearing (rule 4); for representation at hearings (rule 5); for proceedings generally to be in public (rule 6); for adjournment of hearings (rule 7); for procedure and practice at hearings (rules 8 and 9); for majority decisions (rule 10); for withdrawal of appeals (rule 11); for multiple appeals (rule 12); for the extension of time limits (rule 13) and for the revocation of the Registered Homes Tribunals Rules (Northern Ireland) 1993 (rule 15). Subject to the requirements otherwise imposed by the rules, provision is also made for a tribunal to regulate its own procedure (rule 14).

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