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STATUTORY RULES OF NORTHERN IRELAND

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**2010 No. 77**

**The Charity Tribunal Rules (Northern Ireland) 2010**

**PART 4**

**Hearings of appeals and applications**

**Fixing the time and place of the hearing of the appeal or application**

**21.**—(1) Unless the parties otherwise agree or the Tribunal otherwise directs, the Tribunal must give the parties not less than 28 days' notice of the time and place of the hearing of the appeal or application.

(2) Before fixing the time and place of a hearing under paragraph (1), the Tribunal must consider—

- (a) whether the appeal or the application should be dealt with as a matter of urgency; and
- (b) the convenience and the ability of any appellant to attend a hearing, which is to be heard at short notice.

**Intervention by Attorney General in appeals and applications**

**22.**—(1) Where the Attorney General has received papers sent in accordance with section 15(2) and (3) of the Act, the Attorney General must notify the Tribunal whether the Attorney General intends to intervene in the proceedings not later than 28 days after the date on which the Attorney General received those papers.

(2) Regardless of paragraph (1) the Attorney General may notify the Tribunal that the Attorney General intends to intervene in the proceedings at any time.

(3) When the Tribunal receives notification from the Attorney General under paragraphs (1) or (2) it must fix a directions hearing.

(4) The Attorney General and the parties will be given not less than 28 days' notice of the time and place of the hearing under paragraph (3) unless the Attorney General and parties agree to shorter notice.

(5) When the Attorney General intervenes in proceedings under paragraph (2) the Attorney General may request under rule 3 that the Tribunal send all the necessary papers in the proceedings to the Attorney General.

**Requests to the Attorney General for assistance**

**23.**—(1) A request by the Tribunal to the Attorney General to argue any question in the proceedings pursuant to section 15(4)(b) of the Act must be made in accordance with this rule.

(2) The Tribunal must provide the Attorney General with an account of—

- (a) the question the Tribunal thinks it is necessary that the Attorney General argue;
- (b) the proceedings to date; and

(c) the reasons the Tribunal considers it necessary to have the question argued.

(3) A request by the Tribunal under this rule must be accompanied by the documents it considers are necessary to enable the Attorney General to decide whether it is appropriate to provide assistance.

(4) The Attorney General must respond to a request by the Tribunal under this rule not later than 28 days after the date the Attorney General received the documents in paragraph (2).

(5) When the Tribunal has received a response from the Attorney General under paragraph (4), it must fix a directions hearing.

(6) The Tribunal must give the parties, and the Attorney General if the Attorney General agrees to argue the question, not less than 28 days' notice of a directions hearing under paragraph (5), unless the parties to that hearing agree to shorter notice.

### **Withdrawal of appeal or application and unopposed appeals or applications**

**24.**—(1) An appellant may withdraw his or her appeal or application, and in accordance with paragraphs (a) and (b) the Tribunal must dismiss that party's appeal or application where it is withdrawn—

(a) at any time before the hearing of the appeal or the application, without permission, by filing a notice in writing to that effect; or

(b) at the hearing of the appeal or the application, with the Tribunal's permission.

(2) The Commission may state that it does not oppose or is withdrawing its opposition to a party's appeal or an application—

(a) at any time before the hearing of the appeal or the application, without permission, by filing a notice to that effect; or

(b) at the hearing of the appeal or the application, with the Tribunal's permission.

(3) When the Tribunal dismisses or allows a party's appeal or application under this rule it must, as soon as is reasonably practicable, notify the parties of that decision.

(4) When the Tribunal dismisses or allows a party's appeal or application under this rule it may award costs in accordance with rule 33.

### **Determination without oral hearing**

**25.** The Tribunal may determine an appeal, an application, or any particular issue arising in an appeal or application, without an oral hearing if—

(a) the parties agree in writing; or

(b) the issue concerns a request for directions.

### **Public hearings and directions for private hearings**

**26.**—(1) In this rule, "hearing" means any oral hearing under these Rules except for a directions hearing that takes place without notice to the other parties under rule 15(2).

(2) All hearings must be in public except for the limited circumstances specified in this rule.

(3) The Tribunal may direct that all or part of a hearing is to be in private upon the request of any party, if it is satisfied that a hearing in private is necessary in the circumstances and would not prejudice the interests of justice.

(4) Before determining a request under paragraph (3), the Tribunal must give any other party an opportunity to make representations.

(5) Before giving a direction under paragraph (3) that all of a hearing should be in private, the Tribunal must consider whether it is only necessary that part of the hearing should be in private.

(6) The Tribunal may direct that any proceedings are to be held in private and may direct that any particular individual be excluded from those proceedings.

(7) The Tribunal may permit any individual to attend a hearing which is to be held in private.

(8) The Tribunal may exclude from the whole or part of any hearing any person whose conduct, in the opinion of the Tribunal, has disrupted or is likely to disrupt, the hearing.

(9) Subject to any direction under paragraph (10), the Tribunal must provide for the public inspection of—

(a) a daily list of all hearings; and

(b) information about the time and place fixed for the hearings.

(10) Where all or part of a hearing is held or is to be held in private, the Tribunal may direct that information about the whole or the relevant part of the proceedings before the Tribunal (including information that might help to identify any person) must not be made public.

(11) Where a direction is given under paragraph (10), the Tribunal must state what information (if any), is to be entered in the register or removed from it.

### **Representation at hearings**

**27.**—(1) Subject to paragraph (2), the parties may appear at a hearing and may be assisted or represented by any person, whether or not that person is a legal representative.

(2) If in any particular appeal or application the Tribunal is satisfied that there are good and sufficient reasons for doing so, it may refuse to permit a person to assist or represent a party at the hearing.

(3) Where a party intends to be represented or assisted by a person who has been the subject of an order under section 32 of the Judicature (Northern Ireland) Act 1978(1) that party must seek permission from the Tribunal to be represented or assisted by that person.

(4) A party must make all reasonable enquiries to find out whether an order has been made in the circumstances set out in paragraph (3) and inform the Tribunal in accordance with that paragraph.

### **Adjournment of hearing**

**28.**—(1) Where a party requests an adjournment of an appeal or an application hearing, that party must—

(a) notify all other parties of the request for an adjournment except where notification is not practicable;

(b) show good reason why an adjournment is necessary; and

(c) produce evidence of any fact or matter relied upon in support of the request for adjournment.

(2) The Tribunal must not adjourn a hearing of an appeal or application at the request of any party unless satisfied that the appeal or application cannot otherwise be justly determined.

(3) Where the hearing of an appeal or an application is adjourned, the Tribunal must fix a new hearing date which—

(a) must not be more than 28 days after the original hearing date, unless there are exceptional circumstances that mean the appeal or the application cannot be justly heard within that time; and

(b) must not be later than is strictly required by the circumstances necessitating the adjournment.

**Procedure at hearings**

**29.**—(1) Subject to the Act and these Rules, the Tribunal must conduct all hearings under these Rules in such manner as it considers most suitable to the clarification of the issues before it, and generally to the just, expeditious and economical determination of the proceedings.

- (2) Subject to any directions by the Tribunal, the parties may—
- (a) give evidence;
  - (b) make a request under rule 3 to present expert evidence;
  - (c) call witnesses;
  - (d) question any witnesses; and
  - (e) address the Tribunal on the evidence, and generally on the subject matter of the appeal or application.
- (3) Evidence may be admitted by the Tribunal—
- (a) whether or not it would be admissible in a civil trial in Northern Ireland; and
  - (b) whether or not it was available to the Commission when the Commission’s final decision was made.

**Failure to attend a hearing**

**30.**—(1) If a party fails to attend or be represented at any hearing of which that party has been duly notified, the Tribunal may, if it is satisfied that there is no sufficient reason for the absence—

- (a) hear and determine the appeal or application in that party’s absence; or
  - (b) adjourn the hearing.
- (2) The Tribunal may give any necessary directions when it takes one of the steps in paragraph (1).
- (3) A party may make a written request to the Tribunal to set a decision aside where that party was entitled but failed to attend or be represented at the hearing at which the decision was made.
- (4) When a request is made under paragraph (3) the Tribunal may set the decision aside if the party making the request shows good reason for failure to attend or be represented.

**Publication of decisions of the Tribunal**

**31.**—(1) The Tribunal must publish its decisions and the reasons for those decisions except where it considers that there are circumstances that make it necessary to impose restrictions on publication.

(2) Subject to any restrictions on publication imposed by the Tribunal, the Tribunal must keep a register which allows the public access without charge to—

- (a) the Tribunal’s decisions and the reasons for those decisions; and
  - (b) details about appeals and applications.
- (3) A restriction on the publication of Tribunal proceedings may be imposed by the Tribunal—
- (a) on its own initiative; or
  - (b) in response to a request by a party for a direction under rule 3.
- (4) If the Tribunal decides that a restriction on publication is necessary, it may take any steps, including any one or more of the steps specified in paragraph (6).
- (5) Any step taken under paragraph (4) must be taken with a view to ensuring the minimum restriction on publication that is consistent with the need for the restriction.
- (6) The specified steps that may be taken by the Tribunal under paragraph (4) are—
- (a) anonymising the decision;

- (b) editing the text of the decision; and
- (c) declining to publish the whole or part of the decision.

(7) Before reaching a decision on whether to impose restrictions on publication the Tribunal must invite the parties, and any other person that the Tribunal considers necessary, to make representations.

#### **Notification of the Tribunal's decision**

- 32.**—(1) The Tribunal must as soon as may be practicable—
- (a) send a notification of a decision and the reasons for reaching it to each of the parties to the appeal or the application; and
  - (b) subject to any steps taken under the Rules to restrict publication of a decision, enter the decision and the reasons for reaching it in the register.
- (2) Every notification under paragraph (1)(a) must be accompanied by a notification of—
- (a) the right to appeal from the Tribunal to the Court; and
  - (b) the time within which, and the place at which, an application for permission to appeal is to be made.

#### **Costs**

- 33.**—(1) No costs order may be made by the Tribunal under section 13(6) or (7) of the Act or under rule 24 without first giving the paying party an opportunity to make representations against the making of an order.
- (2) Where the Tribunal makes a costs order it may make an order—
- (a) that an amount fixed by the Tribunal must be paid by the paying party to the receiving party; or
  - (b) that the costs are to be assessed by the Tribunal on such basis as it specifies.

#### **Review of the Tribunal's decision**

- 34.**—(1) If, at the request of a party or at the Tribunal's own initiative, the Tribunal is satisfied that its decision was wrongly made as a result of an administrative error on the part of the Tribunal or staff, it may review that decision.
- (2) When the Tribunal reviews a decision under paragraph (1) it may set aside that decision.
- (3) A request by a party under paragraph (1) must state the grounds on which the request is made and must be made—
- (a) orally at the hearing immediately following the announcement of the decision; or
  - (b) by way of written application filed not later than 14 days after the date on which notification of the decision was sent by the Tribunal.
- (4) Where the Tribunal proposes to review its decision on its own initiative, the Tribunal must notify the parties of that proposal within 14 days of the date on which the decision was notified to the parties under rule 32.
- (5) The parties must have an opportunity to make representations in relation to any request or proposal for review under this rule.
- (6) A review under this rule is to be heard either by the same members of the Tribunal who made the decision or by a differently constituted Tribunal.
- (7) The decision of the Tribunal whether or not to set aside the decision must be recorded in a certificate signed by the Tribunal.

- (8) If the Tribunal sets the decision aside, it must—
  - (a) substitute such decision as it thinks fit;
  - (b) make such correction as may be necessary in the register; and
  - (c) send a copy of the entry so corrected to the parties.
- (9) The Tribunal must notify the parties in writing of its decision.