

**1999 No. 265**

**EDUCATION, ENGLAND AND WALES**

**The Education (Registered Inspectors of Schools Appeal Tribunal and Registered Nursery Education Inspectors Appeal Tribunal) (Procedure) Regulations 1999**

*Made* - - - - *4th February 1999*

*Laid before Parliament* *5th February 1999*

*Coming into force* *25th February 1999*

In exercise of the powers conferred on the Secretary of State by section 9(5) of, and paragraph 2 of Schedule 2 to, the School Inspections Act 1996<sup>(a)</sup> and section 122(1) of, and paragraph 10(2) of Schedule 26 to, the School Standards and Framework Act 1998<sup>(b)</sup>, and after consultation with the Council on Tribunals in accordance with section 8 of the Tribunals and Inquiries Act 1992<sup>(c)</sup> the Secretary of State for Education and Employment, in respect of England, and the Secretary of State for Wales, in respect of Wales, hereby make the following Regulations:

PART 1: GENERAL

**Citation, commencement and revocation**

1.—(1) These Regulations may be cited as the Education (Registered Inspectors of Schools Appeal Tribunal and Registered Nursery Education Inspectors Appeal Tribunal) (Procedure) Regulations 1998 and shall come into force on 25th February 1999.

(2) The Education (Registered Inspectors of Schools Appeal Tribunal) (Procedure) Regulations 1994<sup>(d)</sup> are revoked.

**Interpretation**

2. In these Regulations, unless the context otherwise requires—

“the 1996 Act” means the School Inspections Act 1996;

“the 1998 Act” means the School Standards and Framework Act 1998;

“appeal” means appeal by a person who is aggrieved, under either—

(a) section 9(1) of the 1996 Act<sup>(e)</sup>, or

(b) paragraph 10(1) of Schedule 26 to the 1998 Act;

“appellant” means a person who brings an appeal;

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(a) 1996 c. 57.

(b) 1998 c. 31.

(c) 1992 c. 53.

(d) S.I. 1994/717.

(e) Appeal under section 9(1) is available in relation to registration under section 7 of the 1996 Act, and to persons so registered, or, by virtue of section 3A(5) of that Act, in relation to enrolment under section 3A, and to persons so enrolled. Section 3A was inserted by paragraph 4(2) of Schedule 28 to the 1998 Act.

“Chairman” means the Chairman of the Tribunal;

“Chief Inspector” means—

- (a) in the case of an appeal under section 9(1) of the 1996 Act,
  - (i) relating to registration in the register, or as the case may be enrolment in the list, kept by the Chief Inspector for England, the Chief Inspector for England; and
  - (ii) relating to registration in the register, or as the case may be enrolment in the list kept by the Chief Inspector for Wales, the Chief Inspector for Wales;
- (b) in the case of an appeal under paragraph 10(1) of Schedule 26 to the 1998 Act,
  - (i) relating to registration in the register maintained by the Chief Inspector of Schools in England, the Chief Inspector of Schools in England; and
  - (ii) relating to registration in the register maintained by the Chief Inspector of Schools in Wales, the Chief Inspector of Schools in Wales;

“costs” includes fees, charges, disbursements, expenses and remuneration;

“disputed decision” means the matter in relation to which the appellant appeals or intending appellant desires to appeal to the Tribunal;

“proper officer” in relation to a regulation means an officer or servant of the Tribunal appointed by the Chairman to perform the duties of a proper officer under that regulation;

“the register” except in relation to the definition of Chief Inspector, means the register kept by a proper officer of the Tribunal;

“Registered Inspectors of Schools Appeal Tribunal” means a tribunal constituted in accordance with Schedule 2 to the 1996 Act to hear appeals under section 9 of that Act;

“Registered Nursery Education Inspectors Appeal Tribunal” means a tribunal constituted in accordance with paragraph 10(2) of Schedule 26 to the 1998 Act to hear appeals under sub-paragraph (1) of that paragraph;

“the Tribunal” means—

- (a) in the case of an appeal under section 9(1) of the 1996 Act, the Registered Inspectors of Schools Appeal Tribunal;
- (b) in the case of an appeal under paragraph 10(1) of Schedule 26 to the 1998 Act, the Registered Nursery Education Inspectors Appeal Tribunal.

## PART 2: MAKING AN APPEAL TO THE TRIBUNAL AND REPLY BY THE CHIEF INSPECTOR

### (A) THE APPELLANT

#### Method of appealing

**3.—**(1) An appeal to the Tribunal shall be made by written notice. A form approved by the Chairman of the Tribunal which may be used for making an appeal may be obtained from the offices of the Chief Inspector, or from the Tribunal. If a copy of the approved form is not for any reason available, the notice of appeal may be in such form as the Tribunal may accept.

(2) The notice of appeal shall state:

- (a) the name and address of the appellant;
- (b) the date and any reference number of the disputed decision and whether the disputed decision was taken by the Chief Inspector;
- (c) the grounds of the appeal;
- (d) where applicable, the special circumstances which the appellant considers justify the Tribunal’s accepting jurisdiction under regulation 4(2) below;
- (e) the name and address and (where applicable) the profession of the representative (if any) of the appellant and whether the Tribunal should send replies or notices concerning the appeal to the representative instead of the appellant.

(3) A copy of the disputed decision shall be attached to the notice of appeal.

(4) The appellant or his representative shall sign the notice of appeal.

(5) A proper officer of the Tribunal will acknowledge the receipt of the notice of appeal and will inform the appellant or his representative of any further steps which he must take to enable the tribunal to determine the appeal, and the time and place of the hearing of the appeal.

#### **Time limit for appealing**

4.—(1) Subject to paragraph (2) below, a notice of appeal shall not be valid unless it is served on the Tribunal within twenty-eight days of the date on which the notice or notification relating to the disputed decision was served on or given to the appellant.

(2) The Tribunal may accept a notice of appeal served after expiry of the period permitted by paragraph (1) above if it is of the opinion that, by reason of special circumstances, it is just and right to do so.

#### **Amendment of notice of appeal and delivery of supplementary grounds of appeal**

5.—(1) The appellant may, at any time before he is notified of the date of the hearing of the appeal, amend his notice of appeal or deliver a supplementary statement of grounds of appeal.

(2) The appellant may amend any notice of appeal or supplementary statement of grounds of appeal with the leave of the Tribunal at any time after he has been notified of the date of the hearing of the appeal or at the hearing itself. The Tribunal may grant such leave on such terms as it thinks fit, including the payment of costs.

(3) The appellant shall send a copy of every amendment and supplementary statement to the Tribunal.

#### **Application for directions**

6. The appellant may apply to the Tribunal to give directions about any matter relating to the hearing of his appeal. An application for directions shall be made in writing to the Tribunal with sufficient copies to enable the Tribunal to serve a copy on the other party.

#### **Withdrawal of appeal**

7.—(1) The appellant may:

- (a) at any time before the hearing of the appeal withdraw his appeal by sending to the Tribunal a notice stating that he withdraws his appeal, signed by him or his representative;
- (b) at the hearing of the appeal, with the leave of the Tribunal, withdraw his appeal.

(2) Where an appeal is withdrawn, a fresh appeal may not be brought in relation to the same decision except with the leave of the Tribunal.

#### **Action of appellant on receipt of notice of hearing**

8.—(1) A proper officer will serve on the appellant a notice informing him of the time and place of any oral hearing which is to be held which, unless the parties otherwise agree, shall not be earlier than twenty-one days after the date on which the notice is sent. Such notice will include, in a form approved by the Chairman, guidance regarding the rules of evidence and procedure which apply to the hearing.

(2) When he receives the notice of the time and place of hearing, the appellant shall inform the Tribunal whether or not he intends to attend or be represented at the hearing and whether or not he intends to call witnesses.

(3) If the appellant does not intend to attend or be represented at the hearing, he may send to the Tribunal additional written representations in support of his appeal.

#### **Representation at hearing**

9. At the hearing of an appeal, the appellant may conduct the case himself (with assistance from any person if he wishes) or may be represented by any person whom he may appoint for the

purpose, whether or not he has notified the Tribunal of that person's name and address under regulation 3(2)(c).

## **(B) THE REPLY BY THE CHIEF INSPECTOR**

### **Chief Inspector's reply**

**10.**—(1) On receipt of a copy of a notice of appeal the Chief Inspector shall deliver to the Tribunal a written reply acknowledging service of the notice of appeal and stating:—

- (a) whether or not the Chief Inspector intends to oppose the appeal and the grounds on which he relies in opposing the appeal;
- (b) the name and address and (where appropriate) the profession of the representative (if any) of the Chief Inspector and whether such address is the address for service of the Chief Inspector for the purposes of the appeal;
- (c) whether the Chief Inspector wishes a hearing to be held or not.

(2) The Chief Inspector shall include with his reply a statement summarising the facts relating to the disputed decision and, if the reasons for it were not communicated to the appellant at the same time as the decision itself, the reasons for it, together with copies of the documents on which he relied in making the disputed decision, and shall deliver to the Tribunal an additional copy of the reply and of those documents so that the proper officer can provide a copy of each of them to the appellant.

(3) Every such reply shall be signed by a member of the Chief Inspector's staff who has been authorised by him to sign such documents and shall be delivered to the Tribunal not later than twenty-eight days after the date on which the copy of the notice of appeal was received by the Chief Inspector from the Tribunal.

(4) The Chief Inspector may include in the reply, or in a separate notice to the Tribunal:—

- (a) a request for further particulars of the appeal;
- (b) a request for a determination of any question as a preliminary issue.

(5) The provisions of paragraph (3) of regulation 14 shall apply in relation to any document required by paragraph (2) above to be included with the reply.

### **Amendment of reply and application for directions by the Chief Inspector**

**11.**—(1) The Chief Inspector may at any time before he is notified of the date of the hearing of the appeal amend his reply or deliver a supplementary statement by way of reply.

(2) The Chief Inspector may amend any reply or supplementary statement with the leave of the Tribunal at any time after he has been notified of the date of the hearing of the appeal or at the hearing itself. The Tribunal may grant such leave on such terms as it thinks fit, including the payment of costs.

(3) The Chief Inspector may apply to the Tribunal to give directions as to any matter relating to the hearing of the appeal.

(4) The Chief Inspector shall send a copy of every amendment and supplementary statement to the Tribunal.

### **Failure to reply and absence of opposition**

**12.** If no reply is received by the Tribunal within the time appointed by regulation 10(3) or any extension of time allowed by the Tribunal, or if the Chief Inspector states in writing that he does not resist the appeal, or withdraws his opposition to the appeal, the Tribunal may determine the appeal on the basis of the notice of appeal without a hearing.

### **Representation at, and action of the Chief Inspector on notification of, hearing**

**13.**—(1) At the hearing of an appeal, the Chief Inspector may be represented by counsel or a solicitor or a member of his staff.

(2) When he receives a notice of the time and place of the hearing of the appeal, the Chief Inspector shall inform the Tribunal whether or not he intends to attend or be represented at the hearing, and whether or not he intends to call witnesses.

(3) If the Chief Inspector does not intend to attend or be represented at the hearing, he may send to the Tribunal additional written representations in support of his reply.

### PART 3: PREPARATION FOR A HEARING

#### **Acknowledgement and registration of appeal and service of documents by proper officer**

**14.**—(1) Upon receiving a notice of appeal, the proper officer shall:—

- (a) send to the appellant a notice of its receipt, which shall include a notification that advice in relation to the proceedings may be obtained from the office of the Tribunal; and
- (b) enter particulars of it in a register, and inform the parties in writing of the case number of the appeal entered in the register (which shall thereafter constitute the title of the proceedings) and of the address to which notices and other communications to the Tribunal shall be sent.

(2) Subject to paragraph (3), the proper officer shall forthwith serve a copy of a notice of appeal and of any reply, together with any amendments or supplementary statements, written representations or other documents received from a party, on the other party:

Provided that if any such matter is sent or delivered to the Tribunal after the time prescribed by these Regulations, the proper officer shall defer the service of such copies pending a decision by the Tribunal for the extension of the time limit.

(3) If any document referred to in paragraph (2) contains any matter that relates to intimate personal or financial circumstances, is commercially sensitive, or consists of information communicated or obtained in confidence and for that reason the Chief Inspector seeks to restrict its disclosure, he shall inform the Tribunal of that fact and of his reasons for seeking such a restriction. In any such case the proper officer shall serve the copies as provided in this regulation only in accordance with the directions of the Tribunal.

#### **Directions in preparation for a hearing**

**15.**—(1) The Tribunal may at any time, on the application of a party or of its own motion, give such directions (including the issue of a witness summons) as are provided in this Part of these Regulations to enable the parties to prepare for the hearing or to assist the Tribunal to determine the issues:

Provided that:—

- (a) no person shall 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 in England or Wales; and
- (b) in exercising the powers conferred by this regulation, the Tribunal shall take into account the need to protect any matter that relates to intimate personal or financial circumstances, is commercially sensitive, or consists of information communicated or obtained in confidence.

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

(3) A direction shall include a statement of the possible consequences for the appeal, as provided by regulation 19, of a party's failure to comply with the direction within the time allowed by the Tribunal.

#### **Particulars and supplementary statements**

**16.** The Tribunal may give directions requiring either party to provide any particulars or supplementary statements as may be reasonably required for the determination of the appeal within such time as the Tribunal may allow.

#### **Disclosure of documents and other material**

**17.** The Tribunal may give directions requiring a party to deliver to the Tribunal within such time as the Tribunal may allow any document or other material which the Tribunal may require

and which it is in the power of the party to deliver. The Tribunal shall make such provision as it thinks necessary to supply copies of any document obtained under this regulation to the other party, and it shall be a condition of such supply that a party shall use such a document only for the purposes of the appeal.

### **Summoning of witnesses**

**18.**—(1) The Tribunal may by summons require any person in England or Wales to attend as a witness at a hearing of an appeal at such time and place as may be specified in the summons and, subject to the proviso to regulation 15(1), at the hearing to answer any questions or produce any documents in his custody or under his control which relate to any matter in question in the appeal:

Provided that:—

- (a) no person shall be required to attend in obedience to such a summons unless he has been given at least seven days' notice of hearing or, if less than seven days, has informed the Tribunal that he accepts such notice as he has been given; and
- (b) no person, other than the appellant or the Chief Inspector or a member of his staff, shall be required in obedience to such a summons to attend and give evidence or produce any document unless the necessary expenses of his attendance are paid or tendered to him.

### **Failure to comply with certain directions**

**19.** If any directions given to a party under this Part of these Regulations are not complied with by that party, the Tribunal may, before or at the hearing, dismiss the whole or part of the appeal or, as the case may be, strike out the whole or part of the Chief Inspector's reply and, where appropriate, direct that the Chief Inspector shall be debarred from contesting the appeal altogether:

Provided that the Tribunal shall not so dismiss or strike out or give such a direction unless it has sent notice to the party who has not complied with the direction giving him an opportunity within a period of not less than twenty-one days to explain why it should not do so.

### **Varying or setting aside of directions**

**20.** Where a person to whom a direction (including any summons) issued under this Part of these Regulations is addressed had no opportunity of objecting to the making of such direction, he may apply to the Tribunal to vary it or set it aside, but the Tribunal shall not do so without first notifying the person who applied for the direction and considering any representations made by him.

### **Notice of place and time of hearing**

**21.**—(1) A proper officer shall, with due regard to the convenience of the parties, appoint a time and place for an oral hearing and, not less than twenty-one days before the date so fixed (or such shorter time as the parties agree), send to each party a notice of the hearing at such time and place.

(2) The proper officer shall include in or with the notice of hearing:

- (a) information and guidance, in a form approved by the Chairman, as to attendance at the hearing of the parties and witnesses, the bringing of documents, and the right of representation by another person;
- (b) a statement of the right of the parties to ask for and to receive reasons in writing for a decision of the Tribunal;
- (c) a statement explaining the possible consequences of non-attendance and of the right of any party who does not attend and is not represented, to make representations in writing.

(3) The Tribunal may alter the time and place of any oral hearing and the proper officer shall give the parties not less than seven days (or such shorter time as the parties agree) notice of any such alteration:

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

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

### **Public notice of hearings**

22. The proper officer shall provide for public inspection at the principal office of the Tribunal a list of all appeals for which an oral hearing is to be held and of the time and place fixed for the hearing.

## **PART 4: DETERMINATION OF APPEALS**

### **Power to determine an appeal without a hearing**

23.—(1) The Tribunal may determine an appeal, or any particular issue, without an oral hearing—

- (a) if both parties so agree in writing; or
- (b) in the circumstances described in regulation 12; or
- (c) if it appears to the Tribunal that the issues raised on the appeal have been determined on a previous appeal brought by the appellant on the basis of facts which did not materially differ from those to which the appeal relates and the Tribunal has given the parties an opportunity of making representations to the effect that the appeal ought not to be determined without a hearing.

(2) The provisions of regulations 25(2) and 26(5) shall apply in respect of the determination of an appeal, or any particular issue, under this regulation.

### **Hearings to be in public: exceptions**

24.—(1) The hearing of an appeal shall be in public unless, having regard to all the circumstances, the Tribunal directs that the hearing or any part of the hearing shall take place in private.

(2) In exercising the power conferred by paragraph (1) the Tribunal shall take into account the need to protect any matter that relates to intimate personal or financial circumstances, is commercially sensitive, or consists of information communicated or obtained in confidence.

(3) The following persons may attend the hearing of an appeal notwithstanding that it is in private—

- (a) a member of the Council on Tribunals in his capacity as such; and
- (b) any other person with the leave of the Tribunal and the consent of the parties present.

—and the member of the Council on Tribunals may remain with the Tribunal during, but may take no part in, their deliberations as to their decision, notwithstanding that other persons present at the hearing have been required to withdraw.

(4) Without prejudice to any other powers it may have, the Tribunal may exclude from the hearing, or part of it, any person whose conduct has disrupted or is likely, in the opinion of the Tribunal, to disrupt the hearing.

### **Failure of parties to attend at hearing**

25.—(1) If a party fails to attend or be represented at a hearing of which he has been duly notified, the Tribunal may:—

- (a) unless it is satisfied that there is sufficient reason for such absence, hear and determine the appeal in the party's absence; or
- (b) adjourn the hearing;

and may make such order as to costs as it thinks fit.

(2) Before deciding to dispose of any appeal in the absence of a party, the Tribunal shall consider any representations in writing submitted by that party in response to the notice of hearing and, for the purpose of this regulation, the notice of appeal and any reply shall be treated as representations in writing.

(3) Where an appellant has failed to attend a hearing of which he was duly notified, and the Tribunal has disposed of the appeal, no fresh appeal may be made by the appellant to the Tribunal against the same disputed decision without the prior leave of the Tribunal.

Provided that nothing in this paragraph shall preclude the appellant making an application for a review of the Tribunal's decision under regulation 29.

### **Procedure at hearing**

**26.—**(1) At the beginning of the hearing the Chairman shall explain the order of proceeding which the Tribunal proposes to adopt.

(2) Subject to this regulation, the Tribunal shall conduct the hearing in such manner as it considers most suitable to the clarification of the issues before it and generally to the just handling of the proceedings; it shall so far as appears to it appropriate seek to avoid formality in its proceedings.

(3) The parties shall be heard in such order as the Tribunal shall determine. They shall be entitled to give evidence, to call witnesses, to question any witnesses and to address the Tribunal both on the evidence and generally on the subject matter of the appeal.

(4) Evidence before the Tribunal may be given orally or, if the Tribunal so orders, by affidavit or written statement, but the Tribunal may at any stage of the proceedings require the personal attendance of any deponent or maker of a written statement.

(5) The Tribunal may receive evidence of any fact which appears to the Tribunal to be relevant notwithstanding that such evidence would be inadmissible in proceedings before a court of law, but shall not refuse to admit any evidence which is admissible at law and is relevant.

(6) At any hearing the Tribunal may, if it is satisfied that it is just and reasonable to do so, permit a party to rely on grounds not stated in his notice of appeal or, as the case may be, his reply and to adduce any evidence not presented to the Chief Inspector before or at the time he took the disputed decision.

(7) A Tribunal may require any witness to give evidence on oath or affirmation and for that purpose there may be administered an oath or affirmation in due form.

### **Expert evidence**

**27.** The Tribunal may, where it considers it desirable to do so, request any person to assist it at a hearing by attending to give expert evidence on payment to him of such fee as the Tribunal considers reasonable.

### **Decision by Tribunal**

**28.—**(1) A decision of the Tribunal may be taken by a majority and the decision shall record whether it was unanimous or taken by a majority:

Provided that where in accordance with regulation 33 the Tribunal is constituted by two members, the Chairman shall have a second or casting vote.

(2) The decision of the Tribunal may be given orally at the end of a hearing or reserved and, in any event, whether there has been a hearing or not, the decision shall be recorded in a document which, save in the case of a decision by consent, shall contain a statement of the reasons for the decision, and shall be signed and dated by the Chairman.

(3) Subject to paragraph (4), every document referred to in this regulation shall, as soon as may be, be entered in the register and the proper officer shall send a copy of the entry to each party.

(4) Where any such document refers to any evidence that has been heard in private, only a summary of the document, omitting such material, shall be entered in the register as the Tribunal may direct, but copies of the complete document shall be sent to the parties together with a copy of the entry.

(5) Except where a decision has been announced at the conclusion of a hearing, it shall be treated as having been made on the date on which the copy is sent to the appellant.

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

**29.—**(1) If, on the application of a party or of its own motion, a Tribunal is satisfied that:—

- (a) its decision was wrongly made as a result of an error on the part of the Tribunal staff;
- (b) a party, who was entitled to be heard at a hearing but failed to appear or be represented, had good and sufficient reason for failing to appear;

- (c) new evidence has become available since the making of the decision, provided that its existence could not have been reasonably known of or foreseen; or
- (d) the interests of justice require,

the Tribunal may review and, by certificate under the Chairman's hand, set aside or vary the relevant decision.

(2) An application for the purposes of paragraph (1) may be made immediately following the decision at the hearing. If an application is not made at the hearing, it shall be made not later than fourteen days after the date on which the decision was sent to the parties, and shall be in writing stating the grounds in full. When the Tribunal proposes to review its decision of its own motion, it shall serve notice of that proposal on the parties within the same period.

(3) The parties shall have an opportunity to be heard by the Tribunal on any application or proposal for review under this regulation and the review shall be determined by the Tribunal which decided the case or, where it is not practicable for it to be heard by that Tribunal, by a Tribunal appointed by the Chairman; and if, having reviewed the decision, the decision is set aside, the Tribunal shall substitute such decision as it thinks fit or order a rehearing before either the same or a differently constituted Tribunal.

(4) The certificate of the Chairman as to the setting aside and substitution of the Tribunal's decision under this regulation shall be sent to the proper officer, who shall immediately make such correction as may be necessary in the register and shall send a copy so corrected to each of the parties.

### **Costs**

**30.**—(1) In any appeal before the Tribunal, including one withdrawn under regulation 7 above, the Tribunal may make an order awarding costs—

- (a) against the appellant and in favour of the Chief Inspector where it considers that the appeal was manifestly unreasonable;
- (b) against the Chief Inspector and in favour of the appellant where it considers that the disputed decision was manifestly unreasonable;
- (c) where it considers that a party has been responsible for frivolous, vexatious, improper or unreasonable action or for any delay which with diligence could have been avoided, against that party and in favour of the other;

but the Tribunal shall not make an order awarding costs against a party without first giving that party an opportunity of making representations against the making of the order.

(2) An order under paragraph (1) above may be to the party at fault to pay to the other party either a specified sum in respect of the costs incurred by that other party in connection with the proceedings or the whole or part of such costs.

## **PART 5: ADDITIONAL POWERS OF, AND PROVISIONS RELATING TO, THE TRIBUNAL**

### **Miscellaneous powers of Tribunal**

**31.**—(1) Subject to the provisions of the Act and these Regulations, the Tribunal may regulate its own procedure.

(2) The Tribunal may, if it thinks fit:—

- (a) extend the time appointed by or under these Regulations for doing any act, notwithstanding that the time appointed may have expired;
- (b) if the appellant shall at any time give notice of the withdrawal of his appeal, dismiss the proceedings;
- (c) if both the parties agree in writing upon the terms of a decision to be made by the Tribunal, decide accordingly (and in making any such decision, it shall not be necessary for the Tribunal to give reasons);
- (d) subject to the proviso below, at any stage of the proceedings order to be struck out or amended any notice, reply, supplementary statement or written representation on the grounds that it is scandalous, frivolous or vexatious;

(e) subject to the proviso below, order any appeal to be struck out for undue delay:

Provided that before making any order under sub-paragraphs (d) or (e) above, the Tribunal shall send notice to the party against whom it is proposed that any such order should be made giving him an opportunity to explain why such an order should not be made.

### **Irregularities**

**32.**—(1) Any irregularity resulting from failure to comply with these Regulations before the Tribunal has reached its decision shall not by itself render the proceedings void, but after giving the parties the opportunity within a period of not less than twenty-one days to make representations about the irregularity, the Tribunal may, and shall if it considers that any person may have been prejudiced, take such steps as it thinks fit before reaching its decision to cure the irregularity, whether by amendment of any document, the giving of any notice or otherwise.

(2) Clerical mistakes in the document referred to in regulation 28, or errors arising in such document from an accidental slip or omission, may at any time be corrected by the Chairman by certificate under his hand.

### **Absence of member of Tribunal**

**33.** If, after the commencement of any hearing, a member other than the Chairman is absent, the appeal may, with the consent of the parties, be heard by the other two members and, in that event, the Tribunal shall be deemed to be properly constituted.

### **Power of Chairman to exercise powers of Tribunal**

**34.** Any act required or authorised by these Regulations other than the decision of an appeal (not being a decision on an unopposed appeal) or the making of an order disposing of the appeal following a review under regulation 29 may be done by the Chairman:

Provided that where an order is made by the Chairman under paragraph (2)(d) or (e) of regulation 31, it shall not have effect unless it is confirmed by the Tribunal.

## **PART 6: MISCELLANEOUS**

### **Proof of documents and certification of decisions**

**35.**—(1) Any document purporting to be a document duly executed by a proper officer on behalf of the Tribunal shall, unless the contrary is proved, be deemed to be a document so executed or issued as the case may be.

(2) A document purporting to be certified by a proper officer to be a true copy of any entry of a decision in the register shall, unless the contrary is proved, be sufficient evidence of the entry and of matters contained in it.

### **Method of sending, delivering or serving documents, etc.**

**36.**—(1) Any document required or authorised by these Regulations to be sent or delivered to, or served on any person or authority shall be duly sent, delivered or served on that person:—

- (a) if it is sent to him at his proper address by post in a registered letter or by recorded delivery;
- (b) if it is sent to him at that address by facsimile, telex or other similar means which produce a document containing a text of the communication, in which event the document shall be regarded as sent when it is received in a legible form;
- (c) if it is delivered to him or left at his address.

(2) If a notice of appeal is sent by registered post or recorded delivery, it shall be treated as if it had been received by the Tribunal on the day after the date on which it is received for despatch by the Post Office.

(3) An appellant may at any time by notice to the Tribunal change his address for service under these Regulations with effect from the date when that notice is received by a proper officer of the Tribunal.

**Time**

37. Where the time prescribed by these Regulations for doing any act expires on a Sunday or public holiday, the act shall be in time if done on the next following day which is not a Sunday or public holiday.

Signed by authority of the Secretary of State.

1st February 1999

*Margaret Hodge*  
Parliamentary Under Secretary of State,  
Department for Education and Employment

4th February 1999

*Peter Hain*  
Parliamentary Under Secretary of State,  
Welsh Office

## EXPLANATORY NOTE

*(This note is not part of the Regulations)*

These regulations replace the Education (Registered Inspectors of Schools Appeal Tribunal) (Procedure) Regulations 1994 (S.I. 1994/717) and make provision in materially the same terms for appeals against decisions of the Chief Inspector for England and the Chief Inspector for Wales conferred, on the one hand, by section 9 of the School Inspections Act 1996 and, on the other hand, by paragraph 10 of Schedule 26 to the School Standards and Framework Act 1998.

These Regulations have been prepared after consultation with the Council on Tribunals.

Part 1 contains general provisions only.

Part 2 contains provisions relating to the making of an appeal to the Tribunal and the reply by the Chief Inspector.

Regulation 3 provides for written notices of appeal and regulation 4 for a time limit of twenty-eight days of appeal, which may be extended by the Tribunal. The grounds of appeal may be amended or supplemented (regulation 5). The appellant may apply for directions (regulation 6). Regulation 7 provides for the withdrawal of appeals. Regulation 8 governs the action to be taken by the appellant on receiving notice of the hearing. The appellant may conduct his own case (with assistance from any person if he wishes) or may be represented by any person (regulation 9).

The Chief Inspector must deliver a written reply accompanied by relevant documents within twenty-eight days (regulation 10). The Chief Inspector may amend his reply or apply for directions (regulation 11). No hearing is required in the circumstances set out in regulation 12. Regulation 13 governs the representation of the Chief Inspector at the hearing.

Part 3 contains provisions relating to the preparation for the hearing.

A proper officer of the Tribunal must acknowledge and register the appeal and serve documents on the parties (regulation 14). The Tribunal has power to give appropriate directions, including a requirement for particulars or supplementary statements, disclosure of documents and other material or the summoning of witnesses (regulations 15, 16, 17 and 18). Regulations 19 and 20 contain supplementary provisions relating to directions. A proper officer of the Tribunal must notify the parties of the time and place of the hearing (regulation 21) and provide a list of oral hearings for public inspection (regulation 22).

Part 4 contains provisions relating to the determination of appeals.

The Tribunal may determine an appeal without a hearing in the circumstances set out in regulation 23. Hearings are to be in public subject to exceptions set out in regulation 24. Regulation 25 provides for the failure of parties to attend or be represented at a hearing. Regulation 26 governs the procedure at hearings. Regulation 27 provides for expert evidence. Regulation 28 governs the mode by which the Tribunal reaches its decision and communicates it to the parties. Regulation 29 provides for the Tribunal to review its decisions. Regulation 30 deals with costs.

Part 5 contains additional powers of, and provisions relating to, the Tribunal.

Regulation 31 sets out miscellaneous powers of the Tribunal. Irregularities are dealt with in regulation 32. Regulation 33 provides for the absence of a member of the Tribunal, and regulation 34 for the Chairman to exercise the powers of the Tribunal as specified.

Part 6 contains miscellaneous provisions.

Regulation 35 relates to proof of documents and certification of decisions. Regulation 36 governs the service of documents, and regulation 37 relates to Sundays and public holidays.



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