
DRAFT STATUTORY RULES OF NORTHERN IRELAND

2015 No.

**The Civil Legal Services (Appeal)
Regulations (Northern Ireland) 2015**

PART 3

CONSTITUTION OF APPEAL PANELS

Persons appointed to the appeal panels

11. For the purposes of Article 20A of the Order, the appeal panels shall consist of presiding members and other members appointed by the Department in accordance with this Part.

Presiding members of appeal panels

12.—(1) Subject to paragraph (2) and regulation 19(1) and (2), the Department shall appoint a list of persons to act as presiding members of the appeal panels.

(2) A person may be appointed as a presiding member only if that person is a barrister or a solicitor of not less than seven years' standing.

Other members of appeal panels

13.—(1) Subject to paragraph (2) and regulation 19(1) and (2), the Department shall appoint a list of persons to act as other members of the appeal panels.

(2) In appointing persons under paragraph (1) the Department shall have regard to the desirability of securing that the list of such persons includes members who (between them) have experience in or knowledge of—

- (a) the provision of services which the Department can fund as civil legal services,
- (b) the work of the courts and tribunals, and
- (c) the provision of expert services or testimony in cases which can be funded by way of civil legal services.

Tenure of appeal panel members

14.—(1) Subject to paragraphs (3) and (4), any person appointed to a list under regulation 12 or 13 shall hold office in accordance with the terms of his appointment.

(2) But a person shall not be appointed by the Department for a period of more than five years.

(a) (3) (a) A person appointed to a list under regulation 12 or 13 may resign by giving notice in writing to the Department.

(b) A person who ceases to be a member of a list shall be eligible for re-appointment.

(4) The Department may terminate the appointment of a person to a list if satisfied that—

(a) he has become bankrupt or made a composition or arrangement with his creditors,

- (b) he is unable to carry out his duties as a member of an appeal panel by reason of illness,
- (c) he has been convicted of a criminal offence,
- (d) he has been absent from meetings of an appeal panel for a period longer than six consecutive months without the permission of the Department, or
- (e) he is otherwise unable or unfit to discharge the functions of an appeal panel member.

Composition of appeal panels

- 15.** Subject to regulations 16, 17, 18 and 19(3), an appeal panel shall consist of—
- (a) a presiding member, selected by the Director in accordance with regulation 16 from the list of persons appointed by the Department under regulation 12; and
 - (b) two other members, selected by the Director in accordance with regulation 16 from the list of persons appointed by the Department under regulation 13.

Selection of members of an appeal panel

16. In selecting the members of an appeal panel under regulation 15, the Director shall have regard to the desirability of securing that the panel members (between them) have sufficient experience in or knowledge of the types of cases which are liable to be brought by way of appeals under Part 2.

Urgent appeals

17.—(1) This regulation applies where an appeal has been brought in connection with proceedings (or proposed proceedings) which are to be heard imminently, and the Director considers that it is not reasonably practicable to convene a full appeal panel in accordance with regulation 15 to determine the appeal.

(2) The Director may arrange for that appeal to be considered by a presiding member selected for that purpose by the Director from the list of persons appointed under regulation 12, and that presiding member sitting alone shall have the powers of an appeal panel to determine the appeal.

Unavailability of panel member

18.—(1) Where one of the persons selected for an appeal panel in accordance with this Part is not available, the panel may consist of the two other persons selected and those other persons may discharge the business before the panel where they are in agreement, but in the absence of agreement the matter in question shall be referred to a panel of three persons.

(2) Where the presiding member selected for an appeal panel in accordance with this Part is not available, the Director shall either—

- (a) select one of the other panel members to be the acting presiding member for that panel, provided that panel member is either a solicitor or a barrister; or
- (b) select another presiding member from the list of persons appointed by the Department under regulation 12 to be the acting presiding member for that panel.

Disqualification for membership of an appeal panel – generally

19.—(1) A solicitor who is for the time being prohibited from providing civil legal services by an order under Article 51B(1) or (3) of the Solicitors (Northern Ireland) Order 1976(1) shall be disqualified for membership of an appeal panel.

(2) A barrister who is for the time being prohibited from providing civil legal services by any determination of the General Council of the Bar of Northern Ireland, or by any determination of any such committee as may be established by that Council to determine charges preferred against barristers, shall be disqualified for membership of an appeal panel.

(3) A solicitor who is under investigation by the Law Society, or a barrister who is under investigation by the General Council of the Bar of Northern Ireland, for alleged professional misconduct shall notify the Director forthwith and shall be disqualified for membership of an appeal panel pending the outcome of that investigation.

Disqualification for membership of an appeal panel – individual appeals

20.—(1) Without prejudice to regulation 19, a person shall be disqualified for membership of an appeal panel in relation to its determination of any individual appeal if that person (or, in the case of a solicitor, that person's firm) has at any time advised or prepared a report in respect of—

- (a) the appellant;
- (b) any other person who is (or is liable to be) a party to the relevant proceedings; or
- (c) any other person who is liable to be called as a witness in those proceedings.

(2) Where the subject-matter of an appeal relates to proceedings (or proposed proceedings) which are to challenge a decision of an appeal panel made under these Regulations, a person who was a member of that panel shall be disqualified for membership of any panel which may be convened to determine an appeal brought in relation to an application for funding in respect of those proceedings (or proposed proceedings).

Secretary to the appeal panels

21. The Director shall assign a member of staff as secretary to the appeal panels and the person so assigned shall be responsible for summoning the persons selected by the Director to constitute an appeal panel in accordance with regulations 15 to 17.