
STATUTORY RULES OF NORTHERN IRELAND

1997 No. 315

**Special Educational Needs Tribunal
Regulations (Northern Ireland) 1997**

Part V

Additional Powers of and Provisions Relating to the Tribunal

Transfer of proceedings

34. Where it appears to the President that an appeal pending before a tribunal could be determined more conveniently in another tribunal he may at any time, upon the application of a party or of his own motion, direct that the said proceedings be transferred so as to be determined in that other tribunal:

Provided that no such direction shall be given unless notice has been sent to all parties concerned giving them an opportunity to show cause why such a direction should not be given.

Miscellaneous powers of the tribunal

35.—(1) Subject to the provisions of the 1996 Order and these Regulations, a tribunal may regulate its own procedure.

(2) A tribunal may, if it thinks fit, if both parties agree in writing upon the terms of a decision to be made by the tribunal, decide accordingly.

Power to strike out

36.—(1) The Secretary of the Tribunal shall, at any stage of the proceedings if the board applies or the President so directs serve a notice on the parent stating that it appears that the appeal should be struck out on one or both of the grounds specified in paragraph (2) or for want of prosecution.

(2) The grounds referred to in paragraph (1) are that—

- (a) the appeal is not, or is no longer, within the jurisdiction of the Tribunal;
- (b) the notice of the appeal is, or the appeal is or has become, scandalous, frivolous or vexatious.

(3) The notice under paragraph (1) shall state that the parent may make representations in accordance with paragraph (8).

(4) The tribunal, after considering any representations duly made, may order that the appeal should be struck out on one or both of the grounds specified in paragraph (2) or for want of prosecution.

(5) The tribunal may make such an order without holding a hearing unless either party requests the opportunity to make oral representations, and if the tribunal holds a hearing it may be held at the beginning of the hearing of the substantive appeal.

(6) The President may, if he thinks fit, at any stage of the proceedings order that a reply, response or statement should be struck out or amended on the grounds that it is scandalous, frivolous or vexatious.

(7) Before making an order under paragraph (6), the President shall give to the party against whom he proposes to make the order a notice inviting representations and shall consider any representations duly made.

(8) For the purposes of this regulation—

- (a) a notice inviting representations shall inform the recipient that he may, within a period (not being less than 5 working days) specified in the notice, either make written representations or request an opportunity to make oral representations;
- (b) representations are duly made if—
 - (i) in the case of written representations, they are made within the period so specified; and
 - (ii) in the case of oral representations, the party proposing to make them has requested an opportunity to do so within the period so specified.

Power to exercise powers of the President and Chairman

37.—(1) An act required or authorised by these Regulations to be done by the President may be done by a member of the chairmen’s panel authorised by the President.

(2) Where, pursuant to paragraph (1), a member of the chairmen’s panel carries out the function under regulation 4(2) of selecting the chairman of a tribunal, he may select himself.

(3) Where, pursuant to paragraph (1), a member of the chairman’s panel makes a decision, regulation 32 shall apply in relation to that decision as if the reference in that regulation to the President were a reference to the member of the chairman’s panel by whom the decision was taken.

(4) Subject to regulation 39(6) in the event of the death or incapacity of the chairman following the decision of the tribunal in any matter, the functions of the chairman for the completion of the proceedings, including any review of the decision, may be exercised by the President or any member of the chairman’s panel.

The Secretary of the Tribunal

38. A function of the Secretary of the Tribunal may be performed by another member of the staff of the Tribunal authorised for the purpose of carrying out that function by the President.

Irregularities

39.—(1) An irregularity resulting from failure to comply with any provisions of these Regulations or of any direction of the tribunal before the tribunal has reached its decision shall not of itself render the proceedings void.

(2) Where any such irregularity comes to the attention of the tribunal, the tribunal may, and shall, if it considers that any person may have been prejudiced by the irregularity, give such directions as it thinks just before reaching its decision to cure or waive the irregularity.

(3) Clerical mistakes in any document recording a decision of the tribunal or a direction or decision of the President produced by or on behalf of the tribunal or errors arising in such documents from accidental slips or omissions may at any time be corrected by the chairman or the President (as the case may be) by certificate under his hand.

(4) The Secretary of the Tribunal shall as soon as may be send a copy of any corrected document containing reasons for the tribunal’s decision, to each party.

(5) Where under regulation 7(1)(c) or 11(1) or (2)(a) a parent has stated the name of a representative the Secretary of the Tribunal shall (notwithstanding regulation 42) send a copy of the document referred to in paragraph (4) to the parent as well as to the representative.

(6) Where by these Regulations a document is required to be signed by the chairman but by reason of death or incapacity the chairman is unable to sign such a document, it shall be signed by the other members of the tribunal, who shall certify that the chairman is unable to sign.

Method of sending, delivering or serving notices and documents

40.—(1) A notice given under these Regulations shall be in writing and where under these Regulations provision is made for a party to notify the Secretary of the Tribunal of any matter he shall do so in writing.

(2) All notices and documents required by these Regulations to be sent or delivered to the Secretary of the Tribunal or the tribunal may be sent by post or by facsimile or delivered to or at the office of the Tribunal or such other office as may be notified by the Secretary of the Tribunal to the parties.

(3) All notices and documents required or authorised by these Regulations to be sent or given to any person mentioned in sub-paragraph (a) or (b) may (subject to paragraph (5)) either be sent by first class post or by facsimile or delivered to or at—

- (a) in the case of a notice or document directed to a party—
 - (i) his address for service specified in the notice of appeal or in a written reply or in a notice under paragraph (4); or
 - (ii) if no address for service has been so specified his last known address; and
- (b) in the case of a notice or document directed to any person other than a party, his address or place of business or if such a person is a corporation, the corporation's registered or principal office and if sent or given to the authorised representative of a party shall be deemed to have been sent or given to that party.

(4) A party may at any time by notice to the Secretary of the Tribunal change his address for service under these Regulations.

(5) The recorded delivery service shall be used instead of the first class post for service of a summons issued under regulation 22 requiring the attendance of a witness.

(6) A notice or document sent by the Secretary of the Tribunal by post in accordance with these Regulations, and not returned, shall be taken to have been delivered to the addressee on the second working day after it was posted.

(7) A notice or document sent by facsimile shall be taken to have been delivered when it is received in legible form.

(8) Where for any sufficient reason service of any document or notice cannot be effected in the manner prescribed under this regulation, the President may dispense with service or make an order for substituted service in such manner as he may deem fit and such service shall have the same effect as service in the manner prescribed under this regulation.

Extensions of time

41.—(1) Where, pursuant to any provision of these Regulations anything is required to be done by a party within a period of time the President may, on the application of the party in question or of his own motion, in exceptional circumstances extend any period of time.

(2) Where a period of time has been extended pursuant to paragraph (1) any reference in these Regulations to that period of time shall be construed as a reference to the period of time as so extended.

Parent's representative

42.—(1) Subject to paragraph (2) where, pursuant to regulation 7(1)(c) or 11(1) or (2)(a) a parent has stated the name of a representative, any reference in Parts III, IV or V (however expressed) to sending documents to, or giving notice to, the parent shall be construed as a reference to sending documents to or giving notice to the representative and any such reference to sending documents to or giving notice to a party or the parties shall in the context of the parent be likewise construed as a reference to sending documents to, or giving notice to the representative.

(2) Paragraph (1) does not apply if—

- (a) the parent has notified the Secretary of the Tribunal that he does not wish it to apply;
- (b) the parent has notified the Secretary of the Tribunal under regulation 11(2)(b) that no person is acting as a representative; or
- (c) the representative named has notified the Secretary of the Tribunal under regulation 11(3) that he is not prepared or no longer prepared to act in that capacity.