
STATUTORY RULES OF NORTHERN IRELAND

1999 No. 162

The Social Security and Child Support (Decisions and Appeals) Regulations (Northern Ireland) 1999

PART V

**APPEAL TRIBUNALS FOR SOCIAL SECURITY,
CONTRACTING-OUT OF PENSIONS AND CHILD SUPPORT**

CHAPTER IV

Oral hearings

Procedure at oral hearings

49.—(1) Subject to the following provisions of this Part, the procedure for an oral hearing shall be such as the chairman or, in the case of an appeal tribunal which has only one member, such as that member, shall determine.

(2) Except where paragraph (3) applies, not less than 14 days notice (beginning with the day on which notice is given and ending on the day before the hearing of the appeal is to take place) of the time and place of any oral hearing of an appeal shall be given to every party to the proceedings, and if such notice has not been given to a person to whom it should have been given under the provisions of this paragraph the hearing may proceed only with the consent of that person.

(3) Any party to the proceedings may waive his right to receive not less than 14 days notice of the time and place of any oral hearing by giving notice to the clerk to the appeal tribunal.

(4) If a party to the proceedings to whom notice has been given under paragraph (2) fails to appear at the hearing, the chairman or, in the case of an appeal tribunal which has only one member, that member, may, having regard to all the circumstances including any explanation offered for the absence, proceed with the hearing notwithstanding his absence, or give such directions with a view to the determination of the appeal as he may think proper.

(5) If a party to the proceedings has waived his right to be given notice under paragraph (2), the chairman or, in the case of an appeal tribunal which has only one member, that member, may proceed with the hearing notwithstanding his absence.

(6) Any oral hearing shall be in public except—

(a) where the appellant requests a private hearing; or

(b) where the chairman or, in the case of an appeal tribunal which has only one member, that member, is satisfied that intimate personal or financial circumstances may have to be disclosed or that considerations of national security are involved, in which case the hearing shall be in private.

(7) Any party to the proceedings shall be entitled to be present and be heard at an oral hearing.

(8) A person who has the right to be heard at a hearing may be accompanied and may be represented by another person whether having professional qualifications or not and, for the purposes of the proceedings at the hearing, any such representative shall have all the rights and powers to which the person whom he represents is entitled.

(9) The following persons shall also be entitled to be present at an oral hearing (whether or not it is otherwise in private) but shall take no part in the proceedings—

- (a) the President;
- (b) any person undergoing training as a panel member or as a clerk to an appeal tribunal;
- (c) any person acting on behalf of the President in the training or supervision of panel members or in the monitoring of standards of decision-making by panel members; and
- (d) with the leave of the chairman or, in the case of an appeal tribunal which has only one member, that member, and the consent of every party to the proceedings actually present, any other person.

(10) Nothing in paragraph (9) affects the rights of any person mentioned in sub-paragraphs (a) and (b) of that paragraph at any oral hearing where he is sitting as a member of the tribunal or acting as its clerk, and nothing in this regulation prevents the presence at an oral hearing of any witness.

(11) Any person entitled to be heard at an oral hearing may address the tribunal, may give evidence, may call witnesses and may put questions directly to any other person called as a witness.

(12) For the purpose of arriving at its decision, an appeal tribunal shall, and for the purpose of discussing any question of procedure may, notwithstanding anything contained in these Regulations, order all persons not being members of the tribunal, other than the person acting as clerk to the appeal tribunal, to withdraw from the hearing except that—

- (a) the President or any person mentioned in paragraph (9)(c); and
- (b) with the leave of the chairman or, in the case of an appeal tribunal which has only one member, that member, any person mentioned in paragraph (9)(b) and (d),

may remain present at any such sitting.

Manner of providing expert assistance

50.—(1) Where an appeal tribunal requires one or more experts to provide assistance to it in dealing with a question of fact of special difficulty under Article 8(4), such an expert shall, if the chairman or, in the case of a tribunal which has only one member, that member, so requests, attend at the hearing and give evidence and if the chairman or that member considers it appropriate, the expert shall enquire into and provide a written report on the question.

(2) A copy of any written report received from an expert in accordance with paragraph (1) shall be supplied to every party to the proceedings.

Postponement and adjournment

51.—(1) Where a person to whom notice of an oral hearing is given wishes to request a postponement of that hearing, he shall do so in writing to the clerk to the appeal tribunal stating his reasons for the request, and the clerk to the appeal tribunal may grant or refuse the request as he thinks fit or may pass the request to a legally qualified panel member who may grant or refuse the request as he thinks fit.

(2) Where the clerk to the appeal tribunal or, as the case may be, the legally qualified panel member refuses a request to postpone the hearing he shall—

- (a) notify in writing the person making the request of the refusal; and

- (b) place before the appeal tribunal at the hearing both the request for the postponement and notification of its refusal.
- (3) The legally qualified panel member or the clerk to the appeal tribunal may of his own motion at any time before the beginning of the hearing postpone the hearing.
- (4) An oral hearing may be adjourned by the appeal tribunal at any time on the application of any party to the proceedings or of its own motion.
- (5) Where a hearing has been adjourned and it is not practicable, or would cause undue delay, for it to be resumed before an appeal tribunal consisting of the same member or members, the appeal or referral shall be heard by a differently constituted appeal tribunal and the proceedings shall be by way of a complete rehearing.

Physical examination at oral hearings

52. For the purposes of Article 20(3), an appeal tribunal may not carry out a physical examination except in a case which relates to—

- (a) the extent of a person's disablement and its assessment in accordance with section 68(6) of, and Schedule 6 to, the Contributions and Benefits Act;
- (b) the extent of a person's disablement and its assessment in accordance with section 103 of that Act; or
- (c) diseases or injuries prescribed for the purposes of section 108 of that Act.