
STATUTORY INSTRUMENTS

2000 No. 2619

Protection of Children Act Tribunal Regulations 2000

PART IV

Further case management powers of the Tribunal

Directions

17.—(1) The President may no earlier than five, and (subject to the following provisions of this regulation) no later than ten, working days after the parties have complied with directions under regulations 9 and 10, exercise on his own initiative any of his powers under this Part, or give any other direction he sees fit.

(2) The Secretary shall notify the parties in writing of any directions the President gives under paragraph (1).

(3) A party may within five working days after he receives notification under paragraph (2) apply in writing to the Secretary—

- (a) for any direction the President has given to be varied or set aside, or
- (b) for a further direction to be given,

and the applicant may in addition request an opportunity to make representations at a preliminary hearing.

(4) Before varying or setting aside any direction he has made, or giving any other direction, at the request of either party, the President must—

- (a) if the applicant has requested one, afford the parties an opportunity to make representations at a preliminary hearing; and
- (b) in any event, give the other party an opportunity to make written representations on the matter.

(5) The parties may be represented or assisted at the preliminary hearing by any person.

(6) The President may postpone a decision whether to give, vary or set aside any direction on such terms as he may determine, and the Secretary shall notify the parties in writing accordingly.

Disclosure of information and documents

18.—(1) Subject to paragraphs (2) to (4) the President may give directions—

- (a) requiring a party to send to the Secretary any document or other material which he considers may assist the Tribunal in determining the application and which that party is able to send, and the Secretary shall take such steps as the President may direct to supply copies of any information or document obtained under this paragraph to the other party;
- (b) granting to a party the right to inspect and take copies of any document or other material which it is in the power of the other party to disclose, and appointing the time at or within which and the place at which any such inspection and copying is to be done.

(2) It shall be a condition of the supply of any document or material under paragraph (1) that a party shall use it only for the purpose of the proceedings.

(3) Paragraph (1) does not apply in relation to any document or other material which the party could not be compelled to produce in legal proceedings in a county court.

(4) Before making a direction under paragraph (1) the President shall take into account the need to protect any matter which relates to intimate personal or financial circumstances, is commercially sensitive, or was communicated or obtained in confidence.

Expert evidence

19.—(1) The President may, if he thinks that any question arises in relation to the application on which it would be desirable for the Tribunal to have the assistance of an expert, appoint a person having appropriate qualifications to enquire into and report on the matter.

(2) The Secretary must supply the parties with a copy of any written report received under paragraph (1) in advance of the hearing (or, if there will be no hearing, before the application is determined).

(3) If the President sees fit, he may direct that the expert shall attend the hearing, and give evidence.

(4) The President shall pay such fees as he may determine to any person appointed under this regulation.

Evidence of witnesses

20.—(1) The President may direct that the parties send to each other by a date specified in the direction a copy of a witness statement in respect of each witness on whose evidence he wishes to rely.

(2) A witness statement must contain the words “I believe that the facts stated in this witness statement are true”, and be signed by the person who makes it.

(3) The President (before the hearing or, if there will be no hearing, before the application is determined) or the Tribunal may direct that a document or the evidence of any witness other than the applicant shall be excluded from consideration because—

- (a) it would be unfair in all the circumstances to consider it;
- (b) the party wishing to rely on the document or evidence has failed to submit the document, or witness statement containing it, in compliance with any direction; or
- (c) it would not assist the Tribunal in determining the application.

(4) Instead of excluding evidence under this regulation the President or Tribunal may permit it to be considered on such terms as he or it thinks fit, including, subject to regulation 32(2), the making of a costs order.

(5) The President may direct that a witness (other than the applicant) shall not give oral evidence.

Withholding medical report from disclosure in exceptional circumstances

21.—(1) This regulation applies where the respondent wishes the Tribunal, in determining the application, to consider a medical report and the President is satisfied—

- (a) that disclosure to the applicant of all or any part of the contents of the report would be so harmful to his health or welfare that it would be wrong to disclose it to him, and
- (b) that in all the circumstances it would not be unfair if the report or that part of it is considered by the Tribunal.

(2) The President may direct that—

- (a) the report may be considered by the Tribunal, and
- (b) all or any part of its contents must not be disclosed to the applicant,

but such a direction shall not prevent the disclosure of any of the report's contents to the applicant's legal representative.

Child witnesses

22.—(1) No child shall give evidence in person unless—

- (a) the President has given the parties an opportunity to make written representations; and
- (b) having regard to all the available evidence, and the need to safeguard the welfare of the child, he believes the Tribunal will be unable to determine the case fairly unless the child gives evidence in person.

(2) If he directs that a child shall give evidence in person, the President—

- (a) shall secure that any arrangements he considers appropriate (such as the use of a video link) are made to safeguard the welfare of the child; and
- (b) shall appoint for the purpose of the hearing a person with appropriate skills or experience in facilitating the giving of evidence by children.

(3) The President shall pay such fees as he may determine to any person appointed under this regulation.

Summoning of witnesses

23.—(1) If it appears necessary to do so, the President may issue a summons requiring any person—

- (a) to attend as a witness at the hearing, at the time and place set out in the summons, and
- (b) to answer any questions or produce any documents or other material in his possession or under his control which relate to any matter in question in the appeal.

(2) The summons must—

- (a) explain that it is an offence under section 9(5)(c) of the Act to fail, without reasonable excuse, to comply with it; and
- (b) explain the right to apply under this regulation to have it varied or set aside.

(3) A person summoned under this regulation may apply in writing to the Secretary for the summons to be varied or set aside by the President, and—

- (a) the President may do so if he sees fit; and
- (b) the Secretary must notify him and the parties in writing of the decision.

(4) No person shall be required to attend, answer questions or produce any document in obedience to a summons issued under this regulation unless—

- (a) he has been given at least five working days' notice of the hearing; and
- (b) the necessary expenses of his attendance are paid or tendered to him.

(5) No person shall be required under this regulation to give any evidence or produce any document or other material that he could not be required to produce in legal proceedings in a county court.

Restricted reporting orders

24.—(1) If it appears appropriate to do so, the President (or, at the hearing, the Tribunal) may make a restricted reporting order.

(2) A restricted reporting order is an order prohibiting the publication (including by electronic means) in a written publication available to the public, or the inclusion in a relevant programme for reception in England and Wales, of any matter likely to lead members of the public to identify the applicant or any child.

(3) A restricted reporting order may be made in respect of a limited period and may be varied or revoked by the President before the hearing (or by the Tribunal at the hearing).

Exclusion of press and public

25.—(1) The President (or, at the hearing, the Tribunal) may direct that members of the press and public be excluded from all or part of the hearing—

- (a) where the applicant has requested in writing that the hearing or any part of it should be conducted in private, or
- (b) on the grounds referred to in paragraph (2).

(2) The grounds on which the press and public may be excluded from the hearing are that it is necessary in order to—

- (a) safeguard the welfare of any child;
- (b) protect someone's privacy; or
- (c) avoid the risk of injustice in any legal proceedings.