STATUTORY RULES OF NORTHERN IRELAND

2010 No. 77

CHARITIES

TRIBUNALS AND INQUIRIES

The Charity Tribunal Rules (Northern Ireland) 2010

Made - - - - 10th March 2010

To be laid before Parliament

Coming into operation 1st April 2010

The Lord Chancellor makes the following Rules in exercise of the powers conferred on him by section 13(1) of the Charities Act (Northern Ireland) 2008(**1**).

PART 1

Introduction

Citation and commencement

1. These Rules may be cited as the Charity Tribunal Rules (Northern Ireland) 2010 and shall come into operation on 1st April 2010.

Interpretation

2.—(1) A reference in these Rules to a rule by number alone means the rule so numbered in these Rules.

(2) In these Rules, unless the context requires otherwise—

"the Act" means the Charities Act (Northern Ireland) 2008;

"appeal" means an appeal to the Tribunal under the Act or, where appropriate, an appeal to the Court from the Tribunal's decision under section 14 of the Act;

"appeal notice" means an appeal or application filed under rule 17(1);

"appellant" means a person who makes an appeal or an application to the Tribunal;

"appellant's reply" means a reply filed by an appellant under rule 19;

(**1**) 2008 (c. 12)

"applicant" means a party (as defined in these Rules) who seeks permission to bring an appeal to the Court against a decision of the Tribunal under section 14 of the Act;

"application" means an application to the Tribunal for the review of a reviewable matter in accordance with paragraphs 3 and 4 of Schedule 3 to the Act;

"Commission" means the Charity Commission for Northern Ireland under section 6 of the Act;

"Commission's final decision" means the definitive decision of the Commission that is the subject matter of the appeal or application;

"direction" includes any direction or order given or made by the Tribunal;

"document" means anything in which information is recorded in any form, and an obligation under these Rules to provide or allow access to a document or a copy of a document for any purpose means, unless the Tribunal directs otherwise, an obligation to provide or allow access to such documents or copy in a legible form or in a form which can be readily made into a legible form;

"file" means send to the Tribunal;

"legal representative" means a solicitor or barrister in Northern Ireland;

"party" means an appellant (including the Attorney General when the Attorney General makes an appeal or application to the Tribunal) or the Commission and "other party" shall be construed accordingly;

"reference" means the referral by the Commission or the Attorney General of a question for the determination of the Tribunal in accordance with paragraphs 1 and 2 of Schedule 4 to the Act;

"reference notice" means a reference filed under rule 38(2);

"referrer" means the person making a reference to the Tribunal, being either the Commission or the Attorney General;

"register" means the register kept by the Tribunal under rule 31(2);

"representations" means written representations or with the consent of the Tribunal, or at the Tribunal's request, oral representations;

"respondent" means a person, not being the referrer or a witness, who takes part in reference proceedings (including, when not being the referrer, the Attorney General or the Commission);

"respondent's notice" means a notice filed in accordance with rule 39(2);

"response" means the document filed by the Commission under rule 18 in response to the appeal notice;

"response document" means—

(i) in relation to the Commission, the Commission's response, and

(ii) in relation to an appellant, the appellant's reply;

"supplementary statement" means a statement that is supplementary to a response document and filed in accordance with a direction given by the Tribunal;

"Tribunal" means the Charity Tribunal for Northern Ireland established under section 12(1) of the Act;

"working day" means any day except for a Saturday, a Sunday, Christmas Day or a day which is a bank holiday under the Banking and Financial Dealings Act 1971(**2**).

(3) Unless the context requires otherwise, and without prejudice to any provision of these Rules relating to who is authorised to act as a party's representative, anything permitted or required by these Rules to be done by a party may be done by the representative of that party.

(**2**) 1971 c.80.

PART 2

General matters in appeals and applications

Directions

3.—(1) The Tribunal may at any time give directions to—

(a) enable the parties to prepare for the hearing of the appeal or the application;

(b) assist the Tribunal to determine the issues; and

(c) ensure the just, expeditious and economical determination of the appeal or the application.

(2) The Tribunal may give directions—

(a) at the request of any party; or

(b) of its own initiative.

(3) Where the Tribunal gives a direction of its own initiative, it may (but need not) give prior notice to the parties of its intention to do so.

(4) Any request for directions must include the reasons for making that request.

(5) A request for directions must be filed except where it is made during the course of a hearing.

(6) The party making the request must at the same time send a copy of that request to any other party except where—

(a) the request is accompanied by the written consent of all the parties;

(b) the request is made during a hearing; or

(c) the request is made under rule 15(2).

(7) Where the Tribunal instructs that an oral hearing is to be held to consider a request under this rule, the Tribunal must give the parties not less than 14 days' notice of the hearing unless the parties consent to shorter notice.

(8) Directions may be given in writing or orally at a hearing.

(9) When a direction is given orally at a hearing the Tribunal must send a copy of the direction to any party as soon as may be practicable after the direction has been announced by the Tribunal.

(10) When a direction is given under these Rules containing a requirement—

(a) it must include a statement of the possible consequences, as set out in rule 6, of a party's failure to comply with the requirement; and

(b) it may specify a time limit for complying with the requirement.

(11) When a direction is given under these Rules which affects a party or a witness, that party or witness may apply to the Tribunal showing good cause why the direction should be varied or set aside.

(12) The Tribunal may, of its own initiative, vary or set aside any direction given under these Rules.

(13) The Tribunal must not vary or set aside a direction without first giving the party who requested the direction an opportunity to oppose that action.

Application for permission to make a late appeal or application

4. Where an appellant has made a request under rule 17(8) to the Tribunal for a direction under rule 3 to allow an appeal or application to be made after the time limit for doing so has expired, the Tribunal must consider—

(a) what steps (if any) the Commission has taken to notify or publicise its final decision;

(b) when the appellant became aware of the Commission's final decision; and

(c) when the appellant became aware of the right to make the appeal or application and of the time limit for making the appeal or application.

Powers of Tribunal to strike out etc.

5.—(1) The Tribunal may regulate its own procedure and may, if it thinks fit order any appeal notice, response, response document, supplementary statement or representation to be struck out at any stage of the proceedings on the ground that it—

(a) discloses no reasonable grounds for bringing or defending an appeal or an application;

(b) is an abuse of the Tribunal's process; or

(c) is likely to obstruct the just disposal of proceedings.

(2) Before making any order under paragraph (1), the Tribunal must provide an opportunity for the party against whom it is proposed that the order should be made, to make representations against the making of the order.

Failure to comply

6.—(1) The Tribunal may take any one or more of the steps in paragraph (2) in respect of a party, where that party has, without reasonable excuse, failed to comply—

(a) with a direction given under these Rules; or

(b) with a provision of these Rules.

(2) The steps referred to in paragraph (1) are—

(a) where that party is an appellant, dismiss the whole or part of that appellant's appeal or application;

(b) where that party is the Commission, strike out the whole or part of the response and, where appropriate, direct that the Commission be disqualified from participating in the appeal or application altogether.

(3) The Tribunal must not take any of the steps under this rule in respect of a party unless it has given that party an opportunity to make representations against the taking of any such steps.

Irregularities

7.—(1) Any irregularity that arises before the Tribunal has reached its decision, resulting from failure to comply with any provision of these Rules or of any direction of the Tribunal, will not of itself render the proceedings void.

(2) When any such irregularity comes to the attention of the Tribunal, it may, and must if it considers that any person may have been prejudiced by the irregularity, give such directions as it thinks just to cure or waive the irregularity.

(3) Mistakes in any document recording a direction or decision, or errors arising in such a document from an accidental slip or omission, may be corrected by a certificate signed by the Tribunal.

Signature of documents

8. Any requirement in these Rules or in a direction of the Tribunal for a document to be signed by a person is satisfied, in the case of a document which is sent electronically in accordance with

these Rules or with a direction of the Tribunal, by that person producing the name using a computer or other mechanical means.

Calculation of time

9. Where the time prescribed for doing any act under these Rules expires on a day which is not a working day, the act is done on time if done on the next working day.

Sending of notices

10.—(1) Subject to paragraph (4), any document that is required to be sent under these Rules may only be sent—

(a) by first class post or by personal delivery to the postal address given to that party as the address for service;

(b) subject to paragraph (2), by document exchange, fax or email;

(c) where no address for service has been provided, by post or by personal delivery to a party's registered office, principal place of business, head or main office or last known address.

(2) Documents may only be sent to any party by document exchange, fax or email if the intended recipient has informed the Tribunal and any other party in writing—

(a) that the intended recipient is willing to accept service by document exchange, fax or email; and

(b) of the box number at the document exchange, the fax number or the email address to which documents should be sent.

(3) If documents are sent by email in accordance with paragraph (2), the intended recipient may specify the format in which the documents must be sent.

(4) Any documents to be filed with the Tribunal must be sent—

(a) by first class post to an address specified by the Tribunal; or

(b) by such other method as the Tribunal may permit, including document exchange, fax or email.

(5) Where the Tribunal gives permission for documents to be filed using another method of service under paragraph (4)(b), the Tribunal may—

(a) specify that the method may be used generally or only in relation to certain documents;

(b) direct that the specified method is no longer available or substitute the specified method with another specified method; and

(c) make such directions in relation to the use of a specified method as the Tribunal deems appropriate.

(6) Any document which is sent in accordance with this rule must, unless the contrary is proved, be regarded as having been received—

(a) where it has been sent by first class post, the second working day after it was posted;

(b) where it is left at the specified address for service, if it is left on a working day before 5pm, on that day; or in any other case the working day after the day it was left;

(c) where it was sent by email or by fax, if it is transmitted on a working day before 5pm, on that day; or in any other case, on the working day after the day that it was transmitted; or

(d) where it was sent by document exchange, the second working day after it was left at the document exchange.