STATUTORY RULES OF NORTHERN IRELAND

2006 No. 421

ROAD TRAFFIC AND VEHICLES

The Traffic Management (Proceedings before Adjudicators) Regulations (Northern Ireland) 2006

Made - - - -	*19th October 2006*
To be laid before Parliament	
Coming into operation	*15th November 2006*

The Lord Chancellor makes the following Regulations in exercise of the powers conferred by Article 30(1) and (2) of the Traffic Management (Northern Ireland) Order 2005(**1**):

PART I

PRELIMINARY

Citation, commencement and interpretation

1.—(1) These Regulations may be cited as the Traffic Management (Proceedings before Adjudicators) Regulations (Northern Ireland) 2006 and shall come into operation on 15th November 2006.

(2) In these Regulations—

"disputed decision" means the decision against which an appeal is brought under these Regulations;

"FAX" means the making of a facsimile copy of a document by the transmission of electronic signals;

"hearing" means an oral hearing;

"the Order" means the Traffic Management (Northern Ireland) Order 2005;

"original representations" means the representations to the Department under Article 9(1), or Article 25(3), of the Order;

"proper officer" means a member of the administrative staff provided under Article 31(1)(a) of the Order appointed to perform the duties of the proper officer under these Regulations;

(**1**) S.I. 2005/1964 (N.I. 14)

"register" means the register in which appeals and decisions are recorded in accordance with regulation 10(2); and

"the 1954 Act" means the Interpretation Act (Northern Ireland) 1954(**2**).

PART II

PROCEDURE RELATING TO APPEALS

Interpretation of Part II

2. In this Part—

"appeal" means an appeal under Articles 13(1) or 28(1) of the Order; and

"appellant" means the person making the appeal.

Initiating an appeal

3.—(1) An appeal shall be made by delivering a notice of appeal in Form 1 to the proper officer.

(2) A notice of appeal—

(a) shall state the name and address of the appellant;

(b) may specify some other address as being the address to which the appellant wishes documents to be sent to him in connection with the appeal;

(c) shall state the date and any reference number of the disputed decision; and

(d) may include any representations which the appellant desires to make in addition to the original representations.

(3) If the notice of appeal is delivered to the proper officer later than the time limit mentioned in Article 13(1), or (as the case may be), Article 28(1), of the Order, the appellant shall include in the notice a statement of the reasons on which he relies for justifying the delay, and the adjudicator shall treat any such statement of reasons for delay as a request for extending that time limit.

(4) The appellant or his authorised representative shall sign the notice of appeal.

Action upon receipt of notice of appeal and copy of such notice

4.—(1) Upon receiving a notice of appeal the proper officer shall—

(a) send an acknowledgement of its receipt to the appellant;

(b) enter particulars of it in the register; and

(c) send to the Department a copy of the notice of appeal and any direction extending the time limit for appealing.

(2) Upon receipt of a copy of a notice of appeal sent under this regulation, the Department shall within 7 days deliver to the proper officer a copy of—

(a) the original representations;

(b) the relevant charge notice (if any); and

(c) the notice served under Article 9(4)(b), or (as the case may be), Article 25(5)(b), of the Order.

(**2**) 1954 c.33 (N.I.)

Further representations

5.—(1) Any party may deliver representations to the proper officer at any time before an appeal is determined.

(2) The adjudicator may invite a party to deliver to the proper officer representations dealing with any matter relating to an appeal within such time and in such a manner as may be specified.

(3) Any representations delivered under this regulation shall be signed by, or by the authorised representative of, the party in question.

(4) Where the appellant delivers representations to the proper officer under this regulation, the proper officer shall send a copy of the representations to the Department.

(5) Where the Department delivers representations to the proper officer under this regulation, it shall at the same time send a copy of the representations to the appellant.

(6) This regulation is without prejudice to the powers of an adjudicator under regulation 9.

Power to require attendance of witnesses

6.—(1) The adjudicator may, by way of notice in Form 2, require the attendance of any person (including a party to the proceedings) as a witness, at a time and place specified by him, at the hearing of an appeal and require him to answer any questions or produce any documents in his custody, control or possession which relate to any matter in the proceedings.

(2) A person in respect of whom a notice has been issued under paragraph (1) may apply to the adjudicator to vary or set aside the requirement.

(3) A person shall not be bound to comply with the notice issued under paragraph (1) unless he has been given at least 7 days' notice of the hearing or, if less than 7 days, he has informed the adjudicator that he accepts such notice as he has been given.

(4) No person shall be required to give any evidence or produce any document under paragraph (1) which he could not be required to give or produce on the trial of an action in a court of law.

Disposing of an appeal without a hearing

7.—(1) Subject to paragraph (2), the adjudicator may dispose of an appeal without a hearing.

(2) The adjudicator shall not dispose of an appeal without a hearing if either party has requested a hearing unless—

(a) the party who made the request withdraws his request before notice of a hearing has been sent to the other party under regulation 8; or

(b) both parties have subsequently consented to the appeal being disposed of without a hearing.

(3) The adjudicator shall not dispose of an appeal without a hearing until after the expiration of 4 weeks beginning on the day an acknowledgement is sent in accordance with regulation 4 unless both parties consent to the disposal taking place on an earlier date.

(4) Notwithstanding anything in paragraphs (2) and (3), if both parties, having been sent a notice of the hearing of an appeal in accordance with regulation 8, fail to attend or be represented at the hearing, the adjudicator may subsequently dispose of the appeal without a hearing.

Notice of time and place of hearing

8.—(1) This regulation shall have effect where a hearing is to be held for the purpose of disposing of an appeal.

(2) The proper officer shall fix the time and place of the hearing and, not less than 21 days before the date so fixed (or such shorter time as the parties agree), send to each party a notice that the hearing is to be at such time and place or notify them in such other manner as he thinks fit.

(3) The adjudicator may alter the time and place of any hearing and the proper officer shall, not less than 7 days before the date the hearing is then to be held (or such shorter time as the parties agree), send to each party notice of the time and place of the hearing as altered or notify them in such other manner as he thinks fit.

(4) This regulation applies to an adjourned hearing but, if the time and place of the adjourned hearing are announced before the adjournment, no further notice shall be required.

Procedure at a hearing

9.—(1) At the beginning of the hearing of an appeal the adjudicator shall explain the order of proceeding which he proposes to adopt.

(2) Subject to the provisions of this regulation, the adjudicator shall conduct the hearing of an appeal in such manner as he considers most suitable to the clarification of the issues before him and generally to the just handling of the proceedings; he shall so far as appears to him appropriate seek to avoid formality in the proceedings.

(3) Any hearing of an appeal by the adjudicator shall be in public except where the adjudicator is satisfied that, by reason of exceptional circumstances, it is just and reasonable for the hearing, or part of the hearing, to be in private.

(4) Any other adjudicator shall be entitled to attend the hearing of an appeal whether or not it is in private.

(5) The adjudicator, with the consent of the parties, may permit any other person to attend the hearing of an appeal which is held in private.

(6) Without prejudice to any other powers he may have, the adjudicator may exclude from the hearing of an appeal, or part of it, any person whose conduct has disrupted or is likely, in the opinion of the adjudicator, to disrupt the hearing.

(7) At the hearing of an appeal, the appellant may conduct his case himself (with the assistance from any person if he wishes) or may appear and be represented by any person whether or not legally qualified.

(8) At the hearing of an appeal—

(a) the parties shall be entitled to give evidence, to call witnesses, to question any witnesses and to address the adjudicator both on the evidence and generally on the subject matter of the appeal; and

(b) the adjudicator may receive evidence of any fact which appears to him to be relevant notwithstanding that such evidence would be inadmissible in proceedings before a court of law.

(9) Without prejudice to regulation 7(4), a party who has been sent a notice of the hearing of an appeal or otherwise notified of the hearing in accordance with regulation 8 fails to attend or be represented at the hearing, the adjudicator may dispose of the appeal in his absence.

Decisions on appeals

10.—(1) Where an appeal is disposed of at a hearing, the decision of the adjudicator may be given orally at the end of the hearing or reserved.

(2) Where an appeal has been disposed of whether at a hearing or otherwise, the decision shall be recorded forthwith in the register with (save in the case of a decision by consent) a statement of the reasons for the decision and the proper officer shall send a copy of the entry to each party.

Review of adjudicator's decision

11.—(1) The adjudicator shall have power to revise or set aside any decision to dismiss or allow an appeal or any decision as to costs on the grounds (in each case) that—

(a) the decision was wrongly made as the result of an error on the part of his administrative staff;

(b) a party who had failed to appear or be represented at a hearing had good and sufficient reason for his failure to appear;

(c) where the decision was made after a hearing, new evidence has become available since the conclusion of the hearing, the existence of which could not have been reasonably known of or foreseen;

(d) where the decision was made without a hearing, new evidence has become available since the decision was made, the existence of which could not have been reasonably known of or foreseen; or

(e) it is in the interests of justice to do so.

(2) An adjudicator shall have power, on the application of a party, to revise or set aside any interlocutory decision.

(3) An application under this regulation shall be made to the proper officer within 14 days after the date on which the decision was sent to the parties, and shall state the grounds in full.

(4) The parties shall have the opportunity to be heard on any application under this regulation; and if, having reviewed the decision, the adjudicator directs the decision to be set aside, he shall substitute such decision as he thinks fit or order a re-determination by either the same or a different adjudicator.

(5) Regulation 10 shall apply to a decision under paragraph (1) as it applies to a decision made on the disposal of an appeal.

Costs

12.—(1) The adjudicator shall not normally make an order awarding costs and expenses, but may, subject to paragraph (2), make such an order—

(a) against a party (including an appellant who has withdrawn his appeal or the Department that has consented to the appeal being allowed) if he is of the opinion that the party has acted frivolously or vexatiously or that his conduct in making, pursuing or resisting an appeal was wholly unreasonable; or

(b) against the Department, where he considers that the disputed decision was wholly unreasonable.

(2) An order shall not be made under paragraph (1) against a party unless that party has been given an opportunity of making representations against the making of the order.

(3) An order under paragraph (1) shall require the party against whom it is made to pay the other party a specified sum in respect of the costs and expenses incurred by that other party in connection with the proceedings.

Consolidation of proceedings

13.—(1) Where there are two or more appeals pending, then, should it at any time appear to the adjudicator that—

(a) some common question of law or fact arises in both or all the appeals; or

(b) for some other reason it is desirable to make an order under this regulation,