STATUTORY RULES OF NORTHERN IRELAND

2005 No. 339

EDUCATION

Special Educational Needs and Disability Tribunal Regulations (Northern Ireland) 2005

Made - - - -	*15th July 2005*
Coming into operation	*1st September 2005*

The Department of Education, in exercise of the powers conferred by Articles 22(3), 23(1), (2), and (4A), and 28(2) of the Education (Northern Ireland) Order 1996(**1**) and Articles 23(1), (2), (3) and (6), and 49(4) of the Special Educational Needs and Disability (Northern Ireland) Order 2005(**2**) and of all other powers enabling it in that behalf, hereby makes the following Regulations:

PART I

GENERAL

Citation, commencement and application

1.—(1) These Regulations may be cited as the Special Educational Needs and Disability Tribunal Regulations (Northern Ireland) 2005 and shall come into operation on 1st September 2005.

(2) These Regulations apply to all appeals and claims to the Tribunal where the notice of appeal or claim is entered in the records of the Tribunal on or after 1st September 2005.

Interpretation

2. In these Regulations—

"the 1996 Order" means the Education (Northern Ireland) Order 1996;

"the 2005 Order" means the Special Educational Needs and Disability (Northern Ireland) Order 2005;

"appeal" means an appeal to the Tribunal under Part II of and Schedule 2 to the 1996 Order;

"the board" means the education and library board which made the disputed decision;

(**1**) S.I.1996/274 (N.I. 1); paragraph (2) of Article 23 was amended and paragraph (4A) was inserted by paragraph 7 of Schedule 5 to S.I. 2005/1117 (N.I. 6)

(**2**) S.I. 2005/1117 (N.I. 6)

"the case statement period" means the period specified in the notice given under regulation 28(1), including any extension ordered by the President under regulation 60(1);

"chairman's panel" means a panel of persons appointed under Article 22(2)(b) of the 1996 Order who may serve as chairman of the Tribunal;

"child" means the child in respect of whom an appeal or claim is brought;

"the child's statement" means the statement of special educational needs relating to the child made under Article 16 of the 1996 Order;

"claim" means a claim to the Tribunal under Article 22 of the 2005 Order;

"the clerk to the tribunal" means the person appointed by the Secretary of the Tribunal to act in that capacity at one or more hearings;

"the disputed decision" means the decision or determination in respect of which an appeal is brought;

"hearing" means a sitting of the Tribunal constituted for the purpose of receiving evidence, hearing addresses and witnesses or doing anything lawfully requisite to enable the Tribunal to reach a decision on any question;

"lay panel" means a panel of persons appointed under Article 22(2)(c) of the 1996 Order who may serve as the other two members of a Tribunal apart from the chairman;

"parent" means a parent who has made or who may make an appeal to the Tribunal under the 1996 Order or a claim under the 2005 Order;

"records" means the records of the Tribunal;

"the Secretary of the Tribunal" means the person for the time being acting as the Secretary of the office of the Tribunal;

"the Tribunal" means the Special Educational Needs and Disability Tribunal for Northern Ireland but where the President has determined pursuant to regulation 4(1) that the jurisdiction of the Tribunal is to be exercised by more than one tribunal, it means, in relation to any proceedings, the tribunal to which the proceedings have been referred by the President;

"working day" means, except in regulation 38, any day other than a Saturday, a Sunday, any day from 25th December to 1st January (both dates inclusive), a public holiday or a day in August;

"written evidence" includes evidence recorded in any way.

Members of lay panels

3. No person may be appointed to the lay panel unless the Department is satisfied that the person —

(a) is not eligible for appointment to the chairman's panel;

(b) has knowledge of children with—

(i) special educational needs; or

(ii) disabilities; or

(iii) if required, both.

Establishment of tribunals

4.—(1) The jurisdiction of the Tribunal shall be exercised by such number of tribunals as the President may from time to time determine.

(2) The tribunals exercising the jurisdiction conferred on them in accordance with paragraph (1) shall sit at such times and in such places as the President may from time to time determine.

Membership of tribunal

5.—(1) Subject to regulation 42, the Tribunal shall consist of a chairman and two other members.

(2) For each hearing—

(a) the chairman shall be the President or a person selected by him from the chairman's panel; and

(b) the two other members shall be selected by the President from the lay panel, and shall have knowledge and experience appropriate to the proceedings in question.

Proof of documents and certification of decisions

6.—(1) A document purporting to be a copy of a document issued by the Secretary of the Tribunal on behalf of the tribunal shall, unless the contrary is proved, be deemed to be a document so issued.

(2) A document purporting to be certified by the Secretary of the Tribunal to be a true copy of a document containing a decision of the tribunal shall, unless the contrary is proved, be sufficient evidence of its contents.

PARTS II to V

SEN APPEALS AND DISABILITY CLAIMS PROCEDURES

PART II

MAKING A SEN APPEAL AND STATEMENTS OF CASE

(A) THE PARENT

Notice of appeal

7.—(1) An appeal to the Tribunal shall be made by notice which—

(a) shall state—

(i) the name and address of the parent making the appeal and if more than one address is given, the address to which the Tribunal should send replies or notices concerning the appeal;

(ii) the name, address and profession of the representative (if any) appointed in accordance with regulation 12;

(iii) the name and date of birth of the child;

(iv) that the notice is a notice of appeal;

(v) the name of the board which made the disputed decision and the date on which the parent was notified of it;

(vi) if the parent seeks an order that the child's statement be amended, to which Part or Parts of the statement the appeal relates;

(vii) if the parent seeks an order that a school (other than one already named in the child's statement) be named in it, either the name and address of the school or a sufficient

description of the type and nature of the school which the parent considers would constitute an appropriate placement for the child;

(b) shall be accompanied by—

(i) a copy of the notice of the disputed decision;

(ii) where the appeal is made under Article 18 of, or paragraphs 11 and 13 to Schedule 2 to the 1996 Order(**3**), a copy of the child's statement;

(iii) where the notice of appeal states the name of a school in accordance with sub-paragraph (a)(vii), written confirmation that the parent has informed the school that he proposes to request that it be named in the statement; and

(c) shall include or be accompanied by a statement of the parent's reasons for appealing.

(2) The parent shall sign the notice of appeal.

(3) The parent shall deliver the notice of appeal to the Secretary of the Tribunal so that it is received no later than the first working day after the expiry of a period of 2 months beginning with the date on which the board gave him notice, under Part II of the 1996 Order, that he had a right of appeal.

(4) The notice of appeal may include a request that the President should make an order in accordance with regulation 37 that the appeal be heard with a claim.

Reasons for appealing

8.—(1) If the notice of appeal does not include, and is not accompanied by, reasons for appealing which the President considers sufficient to enable the board to respond to the appeal, he shall direct the parent to send particulars of the reasons for making the appeal to the Secretary of the Tribunal within 10 working days of his direction.

(2) Regulations 31 and 35 shall apply to a direction under paragraph (1).

(3) Particulars of reasons sent in response to a direction made in accordance with paragraph (1) shall be treated as part of the notice of appeal.

Statement of parent's case and supplementary provisions

9.—(1) During the case statement period, the parent may deliver to the Secretary of the Tribunal a written statement of his case, which may include the views of the child, and must submit all written evidence on which he intends to rely and which he has not already submitted.

(2) In exceptional circumstances the parent may amend the notice of appeal, deliver a supplementary statement of reasons for appealing or statement of case or amend a supplementary statement of reasons for appealing or statement of case, if permission is given by—

(a) the President; or

(b) the tribunal at a hearing.

(3) The parent shall deliver to the Secretary of the Tribunal a copy of every amendment and supplementary statement for which permission was given.

(4) If the President gives permission under paragraph (2)(a) he may extend the case statement period under regulation 60(1) or, if it has expired, grant such further period as he considers appropriate.

(5) Where the board has lost its entitlement to be represented at the hearing in accordance with regulation 15 or 35, the giving of permission under paragraph (2) shall restore such entitlement and, if necessary, the hearing shall be re-arranged or adjourned, so that the board can be represented.

(**3**) Schedule 2 was substituted by Article 12 of and Schedule 1 to S.I. 2005/1117 (N.I. 6)

Withdrawal of appeal

10. The parent may withdraw his appeal—

(a) at a hearing;

(b) at any other time, by sending written notification to the Secretary of the Tribunal.

Further action by parent

11.—(1) The parent shall give to the Secretary of the Tribunal the information requested in the enquiry made under regulation 30.

(2) If the parent does not intend to attend or be represented at the hearing, he may, not less than 5 working days before the hearing, send to the Secretary of the Tribunal written representations in support of his appeal.

Parent's representatives

12.—(1) The parent may, by giving written notice to the Secretary of the Tribunal at any time—

(a) appoint a representative;

(b) appoint another representative to replace the representative previously appointed, whose appointment is cancelled by the later appointment;

(c) state that no person is acting as the parent's representative, which cancels any previous appointment.

(2) To appoint a representative, the parent must give to the Secretary of the Tribunal the name, address and profession of the representative.

(3) If a person whom a parent has appointed as a representative notifies the Secretary of the Tribunal in writing that he is not prepared, or is no longer prepared, to act in that capacity—

(a) the Secretary of the Tribunal shall notify the parent;

(b) the appointment of the representative is cancelled.

(4) Subject to paragraph (5), at any time after the parent has appointed a representative, and until that appointment is cancelled—

(a) the Secretary of the Tribunal shall send all documents and notices concerning the appeal to the representative instead of the parent;

(b) references in these Regulations (however expressed) to sending documents to, or giving notice to, the parent shall be construed as references to sending documents to, or giving notice to, the representative.

(5) Paragraph (4) applies—

(a) unless the parent notifies the Secretary of the Tribunal that he does not wish it to apply;

(b) subject to regulations 46(6) and 58(5).

(6) Subject to paragraph (7), at a hearing, the parent may conduct his case himself (with assistance from one person if he wishes) or may appear and be represented by one person.

(7) If permission is given by the President or the tribunal at a hearing, the parent may obtain assistance from or be represented by more than one person.