STATUTORY RULES OF NORTHERN IRELAND

2003 No. 138

REGISTERED HOMES AND SOCIAL CARE WORKERS

The Social Care Tribunals Rules (Northern Ireland) 2003

Made - - - -	*6th March 2003*
Coming into operation	*1st April 2003*

The Department of Health, Social Services and Public Safety(**1**), in exercise of the powers conferred on it by Article 33 of the Registered Homes Order (Northern Ireland) Order 1992(**2**) and of all other powers enabling it in that behalf, hereby makes the following Rules:

Citation, commencement and interpretation

1.—(1) These Rules may be cited as the Social Care Tribunals Rules (Northern Ireland) 2003 and shall come into operation on 1st April 2003.

(2) In these Rules –

"the Council" means the Northern Ireland Social Care Council established under section 1 of the 2001 Act;

"the 1992 Order" means the Registered Homes (Northern Ireland) Order 1992;

"the 2001 Act" means the Health and Personal Social Services Act (Northern Ireland) 2001(**3**);

"registration authority" means the Board as defined in Article 2(2) of the 1992 Order or the Council;

"tribunal" means a Social Care Tribunal constituted under Part V of the Order(**4**).

Address for Service

2.—(1) An appellant shall state in the notice of appeal which he is required under the 1992 Order to give to a registration authority an address at which any notice, order or other document may be served upon him.

(2) The registration authority shall on receipt of the notice of appeal send it to the Department within seven days.

(**1**) *See* S.I.1999/283 (N.I.), Article 3(6)
(**2**) S.I. 1992/3204 (N.I. 20) as amended by S.I. 1995/755 (N.I. 2) and 2001. c. 3 (N.I.)
(**3**) 2001 c. 3 (N.I.)
(**4**) *See* section 15(1) of the 2001 Act

Appointment of tribunal

3.—(1) The Department shall on receipt of the notice of appeal –

(a) request the Lord Chancellor to appoint the chairman; and

(b) appoint the members of the tribunal.

(2) The Department shall appoint a person to act as secretary to the tribunal for the purposes of the appeal.

Notice of hearing etc.

4.—(1) The chairman of the tribunal shall –

(a) so far as practicable within twenty-eight days of his appointment, fix a date, time and place for the hearing of the appeal;

(b) not less than forty-two days before the date so fixed –

(i) serve on the appellant notice in the form set out in the Schedule, and

(ii) send a copy of the notice to the registration authority.

(2) Where the appeal is against a decision of the registration authority, the authority shall not less than thirty days before the date fixed for the hearing of the appeal –

(a) send to the secretary of the tribunal four copies of the reason for the decision; and

(b) serve a copy of the statement on the appellant.

(3) Where the appeal is against an order of a justice of the peace under Article 10 or, as the case may be, 23 of the 1992 Order, the registration authority shall not less than thirty days before the date fixed for the hearing send to the secretary of the tribunal four copies of the statement which supported the authority's application for the order.

(4) The appellant shall not less than twenty-one days before the date fixed for the hearing send –

(a) to the secretary of the tribunal, four copies of a statement, signed by or on behalf of the appellant, of the grounds of the appeal; and

(b) to the registration authority, a copy of the statement.

Representation

5.—(1) The appellant may appear before the tribunal in person or he may be represented by counsel or a solicitor or by any other person authorised by him to act on his behalf.

(2) The registration authority may be represented before the tribunal by an officer or servant of the authority or by counsel or a solicitor.

Proceedings in public

6. The tribunal shall sit in public unless for any reason the tribunal determines that the hearing or any part of it shall be in private.

Adjournment of hearing

7.—(1) The tribunal may at any time, whether before or after the beginning of the hearing, adjourn the hearing and when so doing may either fix the date, time and places at which the hearing is to be resumed or leave the date, time and place to be determined later by the tribunal but the tribunal shall not be resumed at that date, time or place, unless the tribunal is satisfied that the appellant and the registration authority have been given at least fourteen days notice thereof.

(2) If either the appellant or the registration authority fails to appear or be represented by one of the persons referred to in rule 5 at the time fixed for the hearing of the appeal, the tribunal may take such action whether by proceeding with or adjourning the hearing or otherwise as may appear to the tribunal to be just and expedient.

Procedure at hearing

8.—(1) The appellant and the registration authority shall have the right to address the tribunal, to give evidence and to call witnesses and to examine, or cross-examine any person giving evidence before the tribunal.

(2) The chairman of the tribunal may require the attendance of further witnesses in addition to those called by or on behalf of the appellant and the registration authority.

(3) The chairman of the tribunal may permit evidence to be given by affidavit but may at any stage of the proceedings require the personal attendance of any deponent for examination and cross-examination.

Evidence

9.—(1) The provisions of sections 38(5) and 43 of the Arbitration Act 1996(**5**) (administration of oaths, securing the attendance of witnesses etc.) shall apply to proceedings before the tribunal, and the chairman of the tribunal shall have the same powers under those provisions as if he were an arbitrator or a party to a reference under an arbitration agreement.

(2) The appellant, the registration authority or any witness may produce in evidence any document or information notwithstanding that such document or information would be inadmissible in a court of law and the tribunal may receive in evidence such document or information if the chairman of the tribunal is satisfied that it is desirable in the interests of justice to receive it.

(3) The chairman of the tribunal may before or after the beginning of the hearing call for such further information or reports, as he thinks desirable, and may give directions as to the manner in which and the persons by whom such material is to be furnished.

Decisions

10.—(1) The decision of the tribunal on any appeal shall be the decision of the majority.

(2) The chairman of the tribunal shall, as soon as possible after the hearing, notify the appellant and the registration authority in writing of the decision and the reasons for the decision.

(3) Where the appeal was against an order made by a justice of the peace under Article 10 or, as the case may be, 23 of the 1992 Order, the chairman of the tribunal shall also notify him in writing of the decision and the reason for the decision.

Withdrawal of appeal

11. An appellant may at any time give notice in writing to the secretary of the tribunal that he desires to withdraw his appeal and thereupon the appeal shall be deemed to be dismissed.

Multiple appeals

12.—(1) A tribunal may, with the consent of the appellant and the chairman of the tribunal, hear two or more appeals in respect of the same home together.

(2) A tribunal may also hear two or more appeals in respect of different homes together where –

(**5**) 1996 c. 23