



Statutory Document No. 438/04

THE EDUCATION ACT 2001

THE INDEPENDENT SCHOOLS TRIBUNAL REGULATIONS 2004

Approved by Tynwald

14th July 2004

Coming into operation

1st September 2004

In exercise of the powers conferred on the Department of Education by section 47(1) of the Education Act 2001¹, and of all other enabling powers, the following Regulations are hereby made:—

1. Citation, commencement and interpretation

(1) These Regulations may be cited as the Independent Schools Tribunal Regulations 2004 and, subject to section 58(1) of the Act, shall come into operation on the 1st September 2004.

(2) In these Regulations —

"the Act" means the Education Act 2001;

"notice of complaint" means a notice served by the Department under section 43;

"the tribunal" means the Independent Schools Tribunal;

a reference to a numbered section (without more) is to that section of the Act.

2. Notice of appeal

(1) An appeal to the tribunal shall be instituted by sending to the Department a written notice of appeal signed by the appellant, setting out the grounds of appeal and stating an address to which communications regarding the appeal should be sent.

(2) The notice shall be sent to the Department —

(a) in the case of an appeal under section 44(1) against a notice of complaint, within the time limited by that notice in accordance with section 43(4); or

(b) in the case of an appeal under section 46(2) against a refusal of the Department to remove a disqualification imposed by an order under

¹ 2001 c.33
Price 85p

section 44, within one month after the communication of the refusal to the appellant.

(3) Where the appeal is against a notice of complaint alleging that a teacher is not a proper person to be employed as a teacher in any school, the appellant shall at the same time send a copy of the notice of appeal to the proprietor of the school or to the teacher, as the case may be.

3. Interlocutory applications

(1) An application for directions of an interlocutory nature in connection with any appeal may be made by the Department or any appellant to the chairman of the tribunal.

(2) The application shall be in writing and shall be sent to the secretary of the tribunal and shall state the grounds upon which the application is made.

(3) If the application is made with the consent of the Department or an appellant, it shall be accompanied by consents signed by or on behalf of the Department or the appellant, as the case may be.

(4) If the application is not made with such consent, then before it is made a copy of it shall be sent to the appellant or the Department, as the case may be, and the application shall state that this has been done.

(5) If the appellant or the Department, within 7 days after receiving a copy of the application, sends to the secretary of the tribunal and to the Department or the appellant, as the case may be, written notice of objection, the chairman of the tribunal shall, before giving any direction on the application, consider such objection and, if he considers it necessary for the proper determination of the application, shall give the appellant and the Department an opportunity of appearing before him.

(6) The chairman of the tribunal shall communicate his decision in writing to the Department and the appellant.

(7) If at any stage the chairman of the tribunal decides that an application involves a question which ought to be decided by the tribunal, he shall fix a time and place for a hearing by the tribunal and shall cause the Department and the appellant to be notified thereof, not less than 14 days before the date of the hearing.

4. Time and place of hearing

(1) The chairman of the tribunal shall fix the time and place for the hearing of the appeal.

(2) The secretary of the tribunal shall, not less than 28 days before the date of the hearing, —

- (a) serve on the appellant a notice in the form set out in the Schedule, and
- (b) send a copy of the notice to be sent to the Department and, where the appeal falls within regulation 2(3), to the proprietor of the school or to the teacher, as the case may be.

5. Abandonment of appeal

An appellant may at any time before the hearing 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 in regard to that appellant, but without prejudice to its continuation in regard to any other appellant.

6. Default of appearance

(1) If an appellant fails to appear at the time fixed for the hearing of an appeal, the tribunal may, if it is satisfied that he has been afforded an adequate opportunity of attending, dismiss the appeal in regard to that appellant or hear and determine it in his absence.

(2) If the Department fails to appear at the time so fixed, the tribunal may proceed to hear and determine the appeal in its absence.

7. Right of audience

(1) An appellant may appear and be heard —

(a) in person;

(b) by an advocate;

(c) if a partnership, by a partner;

(d) if a company, by a duly authorised director or officer of the company;
or

(e) by any other person allowed by the tribunal to appear on behalf of the appellant.

(2) The Department may appear and be heard by an advocate or by any officer of the Department.

8. Hearing

The hearing of an appeal shall take place in public unless the tribunal determines that there are exceptional reasons which make it desirable that the hearing or some part of it should take place in private.

9. Procedure at hearing

(1) An appellant and the Department shall have the right to address the tribunal and call witnesses, who shall be subject to cross-examination and to re-examination.

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

(3) 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.

(4) The tribunal shall not reject any evidence on the ground only that such evidence would be inadmissible in a court of law.

(5) After the evidence has been concluded, the Department and the appellant shall have the right to address the tribunal if they so desire.

10. Application of Arbitration Act 1976

The provisions of section 13 of the Arbitration Act 1976² with respect to the administration of oaths and the taking of affirmations, the summoning, attendance and examination of witnesses, and the production of documents shall apply to proceedings before the tribunal as they apply to an arbitration where no contrary intention is expressed in the arbitration agreement.

11. Decision of tribunal

(1) The decision of the tribunal on the appeal —

(a) shall, in the event of disagreement, be the decision of the majority,

(b) may be given orally at the hearing or in writing as soon as practicable after the hearing, and

(c) shall in any event be given within 14 days after the date of the hearing.

(2) The secretary shall send a copy of the decision, together with a statement of the tribunal's findings and of the reasons for the decision, to every appellant, to the Department and to the registrar.

12. Extension of time

The time appointed by these Regulations for doing any act in connection with an appeal may be extended by the tribunal or by the chairman upon such terms (if any) as may seem just, even though the time appointed has expired before an application for extension is made.

13. Power to regulate procedure

(1) Subject to the provisions of the Act and these Regulations, the tribunal shall have power to regulate its own procedure.

(2) Failure to comply with any requirements of these Regulations shall not invalidate any proceedings unless the tribunal so directs.

14. Revocation

The Independent Schools Tribunal Rules 1958³ are revoked.

Regulation 4(2)(a).

² 1976 c.24

³ GC 28/58

SCHEDULE
NOTICE OF HEARING
INDEPENDENT SCHOOLS TRIBUNAL

TAKE NOTICE that your appeal against

[the notice of complaint by the Department of Education dated *[date]* under section 43 of the Education Act 2001 alleging that *[short statement of grounds of complaint]*]

[the refusal by the Department of Education under section 46(1) of the Education Act 2001 to remove the disqualification imposed on *[name]* from being [the proprietor of] [a teacher in] an independent school]

will be heard by the Independent Schools Tribunal at *[place]* on *[date]* at *[time]*.

If for any reason you do not wish, or are unable, to attend at the above time and place, you should IMMEDIATELY inform me in writing at the address below stating the reason for your inability to attend.

Date

[Signature]

Secretary of the Tribunal

[Address]

MADE 8th June 2004

S C Rodan

Minister for Education

EXPLANATORY NOTE

(This note is not part of the Regulations.)

These Regulations make provision with respect to appeals to, and the procedure of, the Independent Schools Tribunal.