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STATUTORY INSTRUMENTS

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**1996 No. 274**

**The Education (Northern Ireland) Order 1996**

**PART II**

**CHILDREN WITH SPECIAL EDUCATIONAL NEEDS**

*Special Educational Needs Tribunal for Northern Ireland*

**Constitution of Tribunal**

**22.**—<sup>F1</sup>(1) The Special Educational Needs and Disability Tribunal for Northern Ireland (referred to in this Part as “the Tribunal”) shall exercise the jurisdiction conferred on it by this Part.]

(2) There shall be—

- (a) a President of the Tribunal appointed by the<sup>F2</sup><sup>F3</sup>Northern Ireland Judicial Appointments Commission];
- (b) a panel appointed by the<sup>F4</sup><sup>F3</sup>Northern Ireland Judicial Appointments Commission] of persons who may serve as chairman of the Tribunal; and
- (c) a panel appointed by the Department of persons who may serve as the other two members of the Tribunal apart from the chairman.

(3) No person may be appointed—

- (a) President or member of the panel mentioned in paragraph (2)(b) unless he possesses such legal qualifications as the<sup>F5</sup><sup>F6</sup><sup>F7</sup>Department of Justice]] considers suitable<sup>F8</sup> after consultation with the Lord Chief Justice];
- (b) member of the panel mentioned in paragraph (2)(c) unless he satisfies such requirements as may be prescribed.

<sup>F9</sup>(3A) The Lord Chief Justice may nominate any of the following to exercise his functions under paragraph (3)—

- (a) the holder of one of the offices listed in Schedule 1 to the Justice (Northern Ireland) Act 2002;
- (b) a Lord Justice of Appeal (as defined in section 88 of that Act).]

(4) The President—

- (a) <sup>F10</sup>.....
- (b) may resign office by notice in writing to the<sup>F11</sup><sup>F12</sup>Northern Ireland Judicial Appointments Commission]; and
- (c) is eligible for re-appointment if he ceases to hold office.

(5) A person appointed member of either panel shall hold office subject to such conditions as to the period of his appointment and otherwise as may be determined by the <sup>F13</sup>... body appointing him, but may resign office by notice in writing to that <sup>F13</sup>... body.

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[<sup>F14</sup>(5A) For an appointment under paragraph (2)(b), the conditions mentioned in paragraph (5) are to be determined with the agreement of the [<sup>F15</sup>Department of Justice].]

(6) The Department may—

- (a) pay to the President, and to any other person in respect of his service as a member of the Tribunal, such remuneration [<sup>F16</sup>, allowances] and expenses as it may, with the approval of the Department of Finance and Personnel, determine;
- (b) defray the expenses of the Tribunal to such amount as the Department may, with the approval of the Department of Finance and Personnel, determine;
- (c) provide for the Tribunal such staff and accommodation as the Tribunal may require.

(7) The jurisdiction of the Tribunal shall be exercised by such number of tribunals as may be determined from time to time by the President.

**F1** 2005 NI 6

**F2** Words in art. 22(2) substituted (prosp.) by [Justice \(Northern Ireland\) Act 2002 \(c. 26\)](#), ss. 5, 87(1), [Sch. 3 para. 37\(2\)\(a\)](#) (This amendment does not come into operation before the said amending Sch. 3 is subsequently substituted (12.4.2010) by the [Northern Ireland Act 2009 \(c. 3\)](#), [Sch. 3 para. 13](#); S.I. 2010/812, [art. 2](#). This new Sch. 3 of the [Justice \(Northern Ireland\) Act 2002 \(c. 26\)](#) does not amend other legislation, therefore this amendment never comes into operation.)

**F3** Words in art. 22(2)(a)(b) substituted (12.4.2010) by [Northern Ireland Act 2009 \(c. 3\)](#), ss. 2(3), 5(7)(a), [Sch. 4 para. 26\(2\)](#) (with [Sch. 5 para. 16](#)); S.I. 2010/812, [art. 2](#)

**F4** Words in art. 22(2) substituted (prosp.) by [Justice \(Northern Ireland\) Act 2002 \(c. 26\)](#), ss. 5, 87(1), [Sch. 3 para. 37\(2\)\(b\)](#) (This amendment does not come into operation before the said amending Sch. 3 is subsequently substituted (12.4.2010) by the [Northern Ireland Act 2009 \(c. 3\)](#), [Sch. 3 para. 13](#); S.I. 2010/812, [art. 2](#). This new Sch. 3 of the [Justice \(Northern Ireland\) Act 2002 \(c. 26\)](#) does not amend other legislation, therefore this amendment never comes into operation.)

**F5** Words in art. 22(3)(a) substituted (prosp.) by [Justice \(Northern Ireland\) Act 2002 \(c. 26\)](#), ss. 5, 87(1), [Sch. 3 para. 37\(3\)](#) (This amendment does not come into operation before the said amending Sch. 3 is subsequently substituted (12.4.2010) by the [Northern Ireland Act 2009 \(c. 3\)](#), [Sch. 3 para. 13](#); S.I. 2010/812, [art. 2](#). This new Sch. 3 of the [Justice \(Northern Ireland\) Act 2002 \(c. 26\)](#) does not amend other legislation, therefore this amendment never comes into operation.)

**F6** Words in art. 22(3)(a) substituted (12.4.2010) by [Northern Ireland Act 2009 \(c. 3\)](#), ss. 2(3), 5(7)(a), [Sch. 4 para. 26\(3\)](#) (with [Sch. 5 para. 16](#)); S.I. 2010/812, [art. 2](#) ( The exact substituted words of this amendment are superceded at (12.4.2010) by the substitution of words by [Department of Justice Act \(Northern Ireland\) 2010 \(c. 3\)](#), ss. 1(5), 3(2), [Sch. para. 10](#); S.R. 2010/147, [art. 2\(2\)](#))

**F7** Words in art. 22(3)(a) substituted (12.4.2010) by [Department of Justice Act \(Northern Ireland\) 2010 \(c. 3\)](#), ss. 1(5), 3(2), [Sch. para. 10](#); S.R. 2010/147, [art. 2\(2\)](#)

**F8** Words in art. 22(3)(a) inserted (3.4.2006) by [Constitutional Reform Act 2005 \(c. 4\)](#), ss. 15(2), 148(1), [Sch. 5 para. 102\(2\)](#); S.I. 2006/1014, [art. 2\(a\)](#), [Sch. 1 paras. 10, 12\(b\)](#)

**F9** Art. 22(3A) inserted (3.4.2006) by [Constitutional Reform Act 2005 \(c. 4\)](#), ss. 15(2), 148(1), [Sch. 5 para. 102\(3\)](#); S.I. 2006/1014, [art. 2\(a\)](#), [Sch. 1 paras. 10, 12\(b\)](#)

**F10** Art. 22(4)(a) repealed (3.4.2006) by [Justice \(Northern Ireland\) Act 2002 \(c. 26\)](#), ss. 86, 87(1), [Sch. 13](#); S.R. 2006/124, [art. 2](#), [Sch. paras. 9, 11\(j\)](#)

**F11** Words in art. 22(4)(b) substituted (prosp.) by [Justice \(Northern Ireland\) Act 2002 \(c. 26\)](#), ss. 5, 87(1), [Sch. 3 para. 37\(4\)](#) (This amendment does not come into operation before the said amending Sch. 3 is subsequently substituted (12.4.2010) by the [Northern Ireland Act 2009 \(c. 3\)](#), [Sch. 3 para. 13](#); S.I. 2010/812, [art. 2](#). This new Sch. 3 of the [Justice \(Northern Ireland\) Act 2002 \(c. 26\)](#) does not amend other legislation, therefore this amendment never comes into operation.)

**F12** Words in art. 22(4)(b) substituted (12.4.2010) by [Northern Ireland Act 2009 \(c. 3\)](#), ss. 2(3), 5(7)(a), [Sch. 4 para. 26\(2\)](#) (with [Sch. 5 para. 16](#)); S.I. 2010/812, [art. 2](#)

**F13** Words in art. 22(5) omitted (12.4.2010) by virtue of [Northern Ireland Act 2009 \(c. 3\)](#), ss. 2(3), 5(7)(a), [Sch. 4 para. 26\(4\)](#) (with [Sch. 5 para. 16](#)); S.I. 2010/812, [art. 2](#)

- F14** Art. 22(5A) inserted (12.4.2010) by Northern Ireland Act 2009 (c. 3), ss. 2(3), 5(7)(a), **Sch. 4 para. 26(5)** (with Sch. 5 para. 16); S.I. 2010/812, **art. 2**
- F15** Words in art. 22(5A) substituted (12.4.2010) by Department of Justice Act (Northern Ireland) 2010 (c. 3), ss. 1(5), 3(2), **Sch. para. 10**; S.R. 2010/147, **art. 2(2)**
- F16** Words in art. 22(6)(a) inserted (10.3.2022 for specified purposes, 10.5.2022 in so far as not already in operation) by Public Service Pensions and Judicial Offices Act 2022 (c. 7), s. 131(1)(4)(b)(ii), **Sch. 2 para. 16**

**Modifications etc. (not altering text)**

- C1** Art. 22(2)(c) functions transferred from Department of Education to Department of Justice (1.4.2011) by Departments (Transfer of Functions) Order (Northern Ireland) 2011 (S.R. 2011/44), arts. 1(2), **3** (with art. 8(2))
- C2** Art. 22(3)(b) functions transferred from Department of Education to Department of Justice (1.4.2011) by Departments (Transfer of Functions) Order (Northern Ireland) 2011 (S.R. 2011/44), arts. 1(2), **3** (with art. 8(2))
- C3** Art. 22(6) functions transferred from Department of Education to Department of Justice (1.4.2011) by Departments (Transfer of Functions) Order (Northern Ireland) 2011 (S.R. 2011/44), arts. 1(2), **3** (with art. 8(2))

**Tribunal procedure**

**23.**—(1) Regulations may make provision about the proceedings of the Tribunal on an appeal under this Part and the initiation of such an appeal.

(2) The regulations may, in particular, include provision—

- (a) as to the period within which, and the manner in which, appeals are to be instituted,
- (b) where the jurisdiction of the Tribunal is being exercised by more than one tribunal—
- (i) for determining by which tribunal any appeal is to be heard, and
- (ii) for the transfer of proceedings from one tribunal to another,
- (c) for enabling any functions which relate to matters preliminary or incidental to an appeal to be performed by the President, or by the chairman,

*Sub#para. (d) rep. by 2005 NI 6*

- (e) for hearings to be conducted in the absence of any member, other than the chairman,
- (f) as to the persons who may appear on behalf of the parties,
- (g) for granting any person such discovery or inspection of documents or right to further particulars as might be granted by a county court,
- (h) requiring persons to attend to give evidence and produce documents,
- (i) for authorising the administration of oaths to witnesses,
- (j) for the determination of appeals without a hearing in prescribed circumstances,
- (k) as to the withdrawal of appeals,
- (l) for the award of costs or expenses,
- (m) for taxing or otherwise settling any such costs or expenses (and, in particular, for enabling such costs to be taxed in the county court),
- (n) for the registration and proof of decisions and orders, and
- (o) for enabling the Tribunal to review its decisions, or revoke or vary its orders, in such circumstances as may be determined in accordance with the regulations.

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[<sup>F17</sup>(2A) Proceeding before the Tribunal shall be held in private, except in prescribed circumstances.]

(3) The Department may pay such allowances for the purpose of or in connection with the attendance of persons at the Tribunal as it may with the approval of the Department of Finance and Personnel determine.

[<sup>F17</sup>(4) Part I of the Arbitration Act 1996 shall not apply to any proceedings before the Tribunal, but regulations may make provision corresponding to any provision of that Part.]

[<sup>F17</sup>(4A) The regulations may make provision for an appeal under this Part to be heard, in prescribed circumstances, with a claim under Chapter I of Part III of the Special Educational Needs and Disability (Northern Ireland) Order 2004.]

(5) Any person who without reasonable excuse fails to comply with—

- (a) any requirement in respect of the discovery or inspection of documents imposed by the regulations by virtue of paragraph (2)(g), or
- (b) any requirement imposed by the regulations by virtue of paragraph (2)(h),

is guilty of an offence.

(6) A person guilty of an offence under paragraph (5) is liable on summary conviction to a fine not exceeding level 3 on the standard scale.

**F17** 2005 NI 6

**Modifications etc. (not altering text)**

**C4** Art. 23 functions transferred from Department of Education to Department of Justice (1.4.2011) by [Departments \(Transfer of Functions\) Order \(Northern Ireland\) 2011 \(S.R. 2011/44\)](#), arts. 1(2), **3** (with art. 8(2))

[<sup>F18</sup>**Compliance with orders**

**23A.** If the Tribunal makes an order, [<sup>F19</sup>the Authority] must comply with the order before the end of the prescribed period beginning with the date on which it is made.]

**F18** 2005 NI 6

**F19** Words in art. 23A substituted (1.4.2015) by [Education Act \(Northern Ireland\) 2014 \(c. 12\)](#), **Sch. 3 para. 15(3)** (with [Sch. 2 para. 4\(3\)](#)); S.R. 2015/35, art. 2(b)

**Appeals from Tribunal**

**24.** [<sup>F20</sup>Where a party to an appeal to the Tribunal is dissatisfied in point of law with a decision of the Tribunal, that party] may, according as rules of court may provide, either appeal therefrom to the High Court or require the Tribunal to state and sign a case for the opinion of the High Court.

**F20** 1997 NI 5

**Changes to legislation:**

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**Changes and effects yet to be applied to the whole Order associated Parts and Chapters:**

Whole provisions yet to be inserted into this Order (including any effects on those provisions):

- Sch. 1 para. 3(1)(b)(i)(ii) and preceding word inserted by [2016 c. 8 \(N.I.\) Sch. para. 14\(2\)](#)
- Sch. 1 para. 4(1)(a)(b) and preceding word inserted by [2016 c. 8 \(N.I.\) Sch. para. 14\(4\)](#)
- Sch. 2 para. 2(1)(a)(b) and preceding word inserted by [2016 c. 8 \(N.I.\) Sch. para. 15\(2\)](#)
- Sch. 2 para. 9(1)(a)(b) and preceding word substituted by [2016 c. 8 \(N.I.\) Sch. para. 15\(12\)](#)
- Sch. 2 para. 13(2)(a)(i)(ii) and preceding word substituted by [2016 c. 8 \(N.I.\) Sch. para. 15\(20\)](#)
- Sch. 2 para. 11(1)(a)(aa) substituted for Sch. 2 para. 11(1)(a) by [2016 c. 8 \(N.I.\) Sch. para. 15\(14\)](#)
- art. 5A inserted by [2016 c. 8 \(N.I.\) s. 1](#)
- art. 6A inserted by [2016 c. 8 \(N.I.\) s. 2](#)
- art. 8(1)(d)-(f) inserted by [2016 c. 8 \(N.I.\) s. 3\(2\)\(c\)](#)
- art. 8(1A)-(1C) inserted by [2016 c. 8 \(N.I.\) s. 3\(3\)](#)
- art. 8(2A) inserted by [2016 c. 8 \(N.I.\) s. 3\(4\)](#)
- art. 8ZA inserted by [2016 c. 8 \(N.I.\) s. 3\(5\)](#)
- art. 10(3)(a)(b) substituted for words by [2016 c. 8 \(N.I.\) Sch. para. 4](#)
- art. 12A inserted by [2016 c. 8 \(N.I.\) s. 4](#)
- art. 14(4A)(4B) inserted by [2016 c. 8 \(N.I.\) s. 5\(3\)](#)
- art. 15(4)(a)(b) and preceding word inserted by [2016 c. 8 \(N.I.\) Sch. para. 5\(4\)](#)
- art. 15(6)(a)(b) and preceding word inserted by [2016 c. 8 \(N.I.\) Sch. para. 5\(5\)](#)
- art. 17(1)(a)(b) and preceding word substituted for words by [2016 c. 8 \(N.I.\) Sch. para. 7\(2\)](#)
- art. 18A(4)(ba) inserted by [2016 c. 8 \(N.I.\) s. 9\(4\)\(b\)](#)
- art. 19(1A)-(1C) inserted by [2016 c. 8 \(N.I.\) s. 8\(3\)\(a\)](#)
- art. 19(2)(ba) inserted by [2016 c. 8 \(N.I.\) s. 8\(3\)\(b\)\(ii\)](#)
- art. 20A(7)(a)(b) and preceding word inserted by [2016 c. 8 \(N.I.\) Sch. para. 11\(4\)](#)
- art. 20A(8)(a)(i)(ii) and preceding word substituted for words by [2016 c. 8 \(N.I.\) Sch. para. 11\(5\)](#)
- art. 21(5)-(10) added by [2016 c. 8 \(N.I.\) s. 9\(2\)](#)
- art. 21A(4)-(7) inserted by [2016 c. 8 \(N.I.\) Sch. para. 12\(4\)](#)
- art. 21B(3A)-(4) substituted for art. 21B(4) by [2016 c. 8 \(N.I.\) s. 10\(2\)](#)
- art. 21C inserted by [2016 c. 8 \(N.I.\) s. 10\(4\)](#)
- art. 21ZA inserted by [2016 c. 8 \(N.I.\) s. 9\(3\)](#)