
SCOTTISH STATUTORY INSTRUMENTS

2005 No. 514

**The Additional Support Needs Tribunals for
Scotland (Practice and Procedure) Rules 2005**

**PART IV
EVIDENCE**

Recovery of documents

21.—(1) Subject to the provisions of the Act and to paragraph (2) of this rule, a Tribunal may, on the application of any party or on its own initiative, direct the Secretary to send a citation to any person in Scotland requiring that person to produce to the Secretary, by such date as may be specified, any document in the custody, or under the control, of that person.

(2) The citation must explain that it is an offence under paragraph 13 of Schedule 1 to the Act to refuse or fail to produce any such document without reasonable excuse or to deliberately alter, conceal or destroy any document which that person is required by the citation to produce, and that a person guilty of such an offence may be liable on summary conviction to a fine not exceeding level 5 on the standard scale.

(3) Where such a citation has been duly served on a person and that person fails to comply within the time specified in the citation, a convener or the Tribunal at a hearing may—

- (a) where the person in default is the appellant, dismiss the reference without a hearing or further hearing; or
- (b) where the person in default is the authority, order that the authority take no further part in the proceedings.

(4) For the purposes of paragraph (1) a person is not obliged to produce a document which that person would be entitled to refuse to produce in civil proceedings before the Court of Session.

(5) In the exercise of the power conferred under paragraph (1) regard shall be had to the need to protect any matter that relates to intimate personal or financial circumstances of any person or consists of information communicated or obtained in confidence.

Witnesses and citation of witnesses

22.—(1) Where a party wishes to call witnesses to attend a hearing to give evidence, that party shall, prior to the end of the case statement period, provide to the Secretary a list of the names and addresses of such witnesses.

(2) A party may not call and lead evidence from any witness who is not included on their list of witnesses except with the permission of a convener or a Tribunal at a hearing.

(3) Subject to the provisions of the Act and to paragraph (5) of this rule, a Tribunal may, on the written application of any party made not later than 8 working days before the hearing or on its own initiative, direct the Secretary to send a citation to any person in Scotland whose details are included in either party's list of witnesses under paragraph (1) requiring that person to attend any hearing,

including any adjourned hearing, of the Tribunal at such time and place as may be specified in the citation, for the purpose of giving evidence.

(4) The citation must explain that it is an offence under paragraph 13 of Schedule 1 to the Act without reasonable excuse to fail to attend the Tribunal proceedings as required by the citation or to refuse or fail, whilst attending proceedings as so required, to answer any question and that a person guilty of such an offence may be liable on summary conviction to a fine not exceeding level 5 on the standard scale.

(5) No person shall be required so to attend unless—

- (a) they have been given at least 5 working days' notice of the hearing or, if less than 5 such days, they have informed the Secretary that they accept such notice as they have been given; and
- (b) the necessary expenses of their attendance are paid or tendered to them by the party seeking their attendance.

(6) No witness shall be obliged to answer any question that they could not be compelled to answer in any civil proceedings before the Court of Session.

Evidence by telephone, video link or other means

23. A convener or the Tribunal at the start of a hearing may, on the application of either party or on his, her or its own initiative, determine that a witness be allowed to give evidence by telephone, through a video link or by any other means of communication, if satisfied that this would not prejudice the achievement of the overriding objective.

Expert evidence

24.—(1) A Tribunal may, if any issue arises in relation to a reference on which in the opinion of the Tribunal, it would be desirable for the Tribunal to have the assistance of an expert, appoint a person having appropriate qualifications to enquire into and report on any matter.

(2) The Secretary must supply the parties with a copy of any written report received under paragraph (1) in advance of the hearing or resumed hearing.

(3) If the Tribunal sees fit, it may direct that the expert shall attend the hearing and give evidence.

(4) The Secretary shall pay such reasonable fees, expenses or allowances as the President may determine to any person appointed under this rule.