STATUTORY INSTRUMENTS

1984 No. 1346

SOCIAL WELFARE SERVICES

The Registered Homes Tribunals Rules 1984

Made - - - -	22*nd August* 1984
Laid before Parliament	30*th August* 1984
Coming into Operation	1*st January* 1985

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The Secretary of State for Social Services, in exercise of the powers conferred upon him by section 43 of the Registered Homes Act 1984 (a), and of all other powers enabling him in that behalf, after consultation with the Council on Tribunals in accordance with section 10 of the Tribunals and Inquiries Act 1971 (b), hereby makes the following rules:—

Citation and commencement

1. These rules may be cited as the Registered Homes Tribunals Rules 1984 and shall come into operation on 1st January 1985.

Interpretation

2. In these rules, unless the context otherwise requires,

"the Act" means the Registered Homes Act 1984;

"appellant" means a person who under any of the relevant enactments is entitled to appeal or being so entitled has appealed to a tribunal;

(a) 1984 c.23. (b) 1971 c.62.

"registration authority" means—

(a) in relation to a home under Part VI of the Child Care Act 1980 (**a**), the Secretary of State;

(b) in relation to a home under the Children's Homes Act 1982 (**b**), the local authority for the area in which the home is or is to be situated;

(c) in relation to a home under Part I of the Act, the registration authority as defined in section 20(1) of that Part of the Act; and

(d) in relation to a home under Part II of the Act, the District Health Authority for the district in which the home is or is to be situated;

"relevant enactments" mean the enactments specified in section 39 of the Act;

"tribunal" means a Registered Homes Tribunal constituted under Part III of the Act.

Address for service

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

(2) Where the registration authority is not the Secretary of State, the authority shall on receipt of the notice of appeal send it to the Secretary of State within 7 days.

Appointment of tribunal

4.—(1) The Secretary of State shall on receipt of the notice of appeal request the Lord Chancellor and the Lord President of the Council respectively to appoint the chairman and members of the tribunal.

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

Notice of hearing etc.

5.—(1) The chairman of the tribunal shall, so far as practicable within 28 days of his appointment, fix a date, time and place for the hearing of the appeal and shall serve upon the appellant not less than 42 days before the date so fixed notice in the form set out in the Schedule hereto and shall at the same time 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 30 days before the date fixed for the hearing of the appeal send to the secretary of the tribunal four copies of a statement of the reasons for the decision and shall at the same time serve a copy of the statement upon the appellant.

(3) Where the appeal is against an order made by a justice of the peace under section 11 or, as the case may be, 30 of the Act, the registration authority shall not less than 30 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.

(**a**) 1980 c.5. (**b**) 1982 c.20.

(4) The appellant shall not less than 21 days before the date fixed for the hearing send 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 shall at the same time send a copy of the statement to the registration authority.

Representation

6.—(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

7.—(1) 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.

(2) A member of the Council on Tribunals may be present in his capacity as such at a hearing before a tribunal notwithstanding that the hearing is not in public and he may remain present during the deliberations of the tribunal but shall take no part in those deliberations.

Adjournment of hearing

8.—(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 place 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 14 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 6 above 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

9.—(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

10.—(1) The provisions of section 12(3) and (4) of the Arbitration Act 1950(**a**) (administration of oaths, summoning of witnesses etc.) shall apply to

(**a**) 1950 c.27.

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

11.—(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 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 section 11 or, as the case may be, 30 of the Act the chairman of the tribunal shall also notify him in writing of the decision and the reasons for the decision.

Withdrawal of appeal

12. 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

13.—(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—

(a) the appellant in respect of each of the appeals is the same; and

(b) both the appellant and the chairman of the tribunal consent to the appeals being heard together.

(3) For the purpose of enabling two or more appeals to be heard together, the tribunal may adjourn the proceedings in relation to any appeal.

Extension of time limits

14. The time appointed by these rules for the doing of any act may be extended by the chairman of the tribunal upon such terms (if any) as may seem just notwithstanding that the time appointed has expired before an application for extension is made.

General

15. Subject to the provisions of Part III of the Act and of these rules, the tribunal may regulate its own procedure.

Signed by authority of the Secretary of State for Social Services.

Glenarthur,
Parliamentary Under-Secretary of State,
Department of Health and Social Security.

22nd August 1984.

SCHEDULE

Rule 5(1)

TAKE NOTICE that your appeal against—

(a) the decision of *(here insert the registration authority)* under *(here insert the relevant enactment)*

or

(b) the order made by the justice of the peace under *(here insert the relevant enactment)*

in relation to the premises at *(here insert the address of the premises)* will be heard by the Registered Homes Tribunal sitting at on the day of 19 , at o'clock.

delete (a) or (b) as appropriate

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 mentioned at the head of this notice stating the reasons for your inability to attend.

(Signed)

Chairman

EXPLANATORY NOTE

(This Note is not part of these Rules.)

These rules prescribe the procedure to be followed in proceedings before a Registered Homes Tribunal constituted under Part III of the Registered Homes Act 1984 to hear appeals relating to the registration of residential care homes under Part I of, and nursing homes and mental nursing homes under Part II, of that Act, voluntary homes under the Child Care Act 1980 and children's homes under the Children's Homes Act 1982.

The rules provide for an appellant to specify in his notice of appeal an address for service and for that notice to be forwarded to the Secretary of State, who, on receipt, is required to request the Lord Chancellor and Lord President of the Council to appoint a tribunal to hear the appeal (rules 3 and 4). The rules also prescribe the form of notice to be given of a hearing and in addition, make provision for the time and place of hearing (rule 5); for representation at hearings (rule 6); for proceedings generally to be in public (rule 7); for adjournment of hearings (rule 8); for procedure and practice at hearings (rules 9 and 10); for majority decisions (rule 11); for withdrawal of appeals (rule 12); for multiple appeals (rule 13); and for the extension of time limits (rule 14). Subject to the requirements otherwise imposed by the rules provision is also made for a tribunal to regulate its own procedure (rule 15).

The rules are made after consultation with the Council on Tribunals.

ISBN 0-11-047346-9

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Reprinted 1996

Printed and published in the UK by The Stationery Office Limited under the authority and superintendence of Peter Macdonald, Controller of Her Majesty's Stationery Office and Queen's Printer of Acts of Parliament.

DSS WO1454 10/96 1731/4 76937 ON 341644