



Northern Ireland

Courts and
Tribunals Service

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NI Health & Safety Tribunal



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What is the NI Health and Safety Tribunal (NIHAST)?

NIHAST is an independent tribunal set up within the Northern Ireland Courts and Tribunal Service to consider and determine appeals against decisions made by the licensing authority for petroleum or asbestos control.

What does it do?

NIHAST has been established to adjudicate upon disputes between members of the public/private bodies and the Health and Safety Executive for Northern Ireland (H&SENI). The disputes arise out of two main areas:

1. Where the appellant has had a disputed action, issued under the Petroleum (Consolidation) Act 1929 as amended; or
2. Where the appellant has had a disputed action, issued under the Control of Asbestos Regulations (NI) 2007 as amended.

How is the Tribunal made up?

NIHAST consists of Chairmen, (solicitors/barristers of at least 7 years' standing), members with specialist experience in the fields of asbestos and petroleum and ordinary members. A panel, consisting of one of each, will sit as the Tribunal. A legal Registrar is also appointed with certain case management powers.

How do I appeal?

If you wish to dispute the Notice of Final Decision issued to you by H&SENI, you should request an appeal form from the Tribunals Hearing Centre. Alternatively, an appeal can be accepted providing you supply a signed request stating your name, address, identifying the Disputed Action of H&SENI and setting out the grounds of appeal in detail. Appeals may be returned if incomplete. You must send your appeal to the Registrar so that it is received not later than the period of 28 days, beginning on the date the Disputed Action was taken.

What happens if my appeal is late?

If you wish to appeal, but are outside the 28 day lodgement period, you can still submit your appeal. You should complete the appropriate portion of the appeal form, applying for an extension of time by stating the reason/s why the appeal is late.

The Registrar will first consider whether to allow an extension of time to accept the lodgement of the appeal. If successful, your appeal will then be listed for hearing at the next tribunal sitting; if refused, you will be notified accordingly.

What happens next?

Once the appeal is lodged, the Tribunal will write to you confirming receipt. You will have 28 days from the date you sent the appeal form to send in any further representations, but you are strongly advised to send all paperwork you are relying on with your appeal form to avoid delay.

Do I have to attend at the hearing?

No. You have two options

- 1. Postal application.** If you indicate you wish your case dealt with by way of postal application, your case will be listed for the next available Tribunal. However, you should note, that even if you do request that your appeal is dealt with by way of postal application the Chairman may direct that an oral hearing takes place.
- 2. Personal appearance.** If you wish to attend in person you will be notified in writing of the date and venue of hearing.

In either event you should ensure that you have submitted all representations and additional material to the Tribunal; **late submission may result in your case being adjourned.**

You should be aware of the following before your hearing:

- You must inform the Tribunal whether or not you intend to appear or be represented at the appeal hearing, no less than **14** days before the date of hearing.
- If you do not wish to attend, you or the H&SENI may submit further representations before the date of the hearing.
- When attending your hearing you must bring with you all the documents and evidence relied upon, to ensure you can present your case properly and can respond to any questions the Tribunal may have.
- You may call witnesses at your own expense and in certain circumstances request the Tribunal to issue you with a summons to compel a witness to attend.
- You have the right to be represented or assisted in a hearing. You should notify the Tribunal immediately if you decide to appoint a representative.
- If you have stated that you wish a personal appearance and then fail to attend at your hearing, the Tribunal may deal with your case in your absence.

Interim Orders

The lodging of an appeal does not suspend the enforcement action taken by H&SENI. If you wish an action to be suspended during the term of your appeal you must apply to the Chairman of the Tribunal for an interim order. This means that with your appeal, or as soon as possible thereafter, you should detail the reasons for your application and send all relevant documentation to the Registrar of the Tribunal and formally request an interim order. You will then be contacted by the Tribunal to deal with the matter before your appeal hearing is listed.

What happens at my hearing?

Hearings will normally take place at the Tribunals Hearing Centre, Royal Courts of Justice, Chichester Street, Belfast, BT1 3JF

A panel consisting of 3 members (unless otherwise constituted) will form the Tribunal. A representative from HSENI is entitled to attend. A Tribunal hearing clerk may also be in attendance. The panel will have received all the submitted papers in the appeal and you, or your representative, will be given the opportunity to state your appeal case. You may be asked to give evidence under oath. The Tribunal members will direct proceedings and ask questions of the parties to clarify or investigate issues that may arise.

What happens after my hearing?

- At the end of the hearing the Tribunal may announce its decision immediately; however, it will notify all parties of its decision and will issue a statement of reasons as soon as possible thereafter.
- The decision may be published on the Northern Ireland Courts and Tribunals website at www.courtsni.gov.uk
- The Tribunal can make an order for costs against you or HSENI. Where an appellant has been informed by the Registrar of the Tribunal that the appeal is unlikely to succeed and the appellant still wishes to continue, costs will normally be awarded against the appellant if the appeal is unsuccessful. The awarding of costs will be a matter for the Tribunal on the particular circumstances of each appeal.
- If you are not satisfied with the Tribunal's decision, you have the right to appeal to the High Court, on a point of law only, within a period of 3 months from the date of decision.

Checklist

It is recommended that you fulfil the following criteria when submitting your appeal.

1. You have indicated that you wish/do not wish to attend the hearing.
2. You have enclosed details of your representative/s in the matter and have indicated whether you want the Tribunal to send all further documentation to them.
3. You have filled in all remaining relevant sections of the appeal form, dating and signing it where appropriate.
4. You have attached a copy of the Notice of Final Decision sent by the H&SENI.
5. You have attached all notices issued by the H&SENI relating to this matter.
6. You have enclosed the original and three copies of all other documentation on which you may wish to rely.

Contact Details

NI Health and Safety Tribunal
Tribunals Hearing Centre, 4th
Floor, 92 Ann Street, Belfast
BT1 3HH

Tel: 028 9032 7703

Email: tribunalsunit@courtsni.gov.uk

Website: www.courtsni.gov.uk

Please note that this leaflet is for guidance only. You may wish to consult the relevant regulations contained in SR1997 no 269, the Deregulation (Model Appeal Provisions) Order (NI) 1997.

Should you require any further information about the NI Courts and Tribunals Service please visit our website at www.courtsni.gov.uk or alternatively contact our Communications Group.

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