STATUTORY RULES OF NORTHERN IRELAND

# 1998 No. 13

# Medical Practitioners (Vocational Training) Regulations (Northern Ireland) 1998

## Part IV

### Appeals Against Refusal of Certificates

**Appeals against refusal of certificates**

**13.**—(1) A practitioner may appeal against a refusal of the Joint Committee to issue to him a certificate of prescribed experience or a certificate of equivalent experience, by sending a notice of appeal to the Department within a period of 28 days beginning with the day on which the decision of the Joint Committee is given to him, or (subject to paragraph (2)) such longer period as the Department may allow.

(2) The Department may allow a longer period only where it is satisfied that there was reasonable cause for failing to send the notice of appeal within the period of 28 days referred to in paragraph (1).

(3) A notice of appeal shall contain a concise statement of the facts and contentions on which the practitioner intends to rely.

**Appeal bodies**

**14.**—(1) An appeal under regulation 13 shall be determined by an appeal body appointed by the Department.

(2) The Department may appoint—

(a) a separate appeal body to determine each appeal as it arises (in which case it shall be appointed on receipt of the notice of appeal); or

(b) a single appeal body to determine all appeals;

and in the case of an appeal body falling within sub-paragraph (*b*) it may with effect from a specified date rescind the appointment and appoint a differently constituted appeal body.

(3) An appeal body shall consist of four persons of whom—

(a) one shall be a legally qualified person who shall be appointed to be the Chairman;

(b) one shall be nominated by the Northern Ireland Faculty of the Royal College of General Practitioners;

(c) one shall be nominated by the General Medical Services Committee of the Northern Ireland Branch of the British Medical Association; and

(d) one shall be a practitioner of consultant status employed in clinical practice by a Health and Social Services Board which provides substantial facilities for undergraduate or postgraduate clinical training and who is nominated by the Northern Ireland Branch of the British Medical Association.

(4) Any nomination for the purposes of paragraph (3) may be made either specially or generally.

(5) The Department shall appoint a person to act as secretary of the appeal body and may appoint such other officers as it considers necessary.

**Power of the Department to make new appointments**

**15.**—(1) Where a member of an appeal body dies or resigns or is unable to carry out his duties, the Department may appoint a new member in accordance with regulation 14 and may rescind the appointment of the member who is unable or refuses to carry out his duties.

(2) A member of an appeal body shall not be deemed to be unable to carry out his duties or to have refused to do so, if he has indicated to the other members how he casts his vote for the purposes of regulation 17(1).

(3) Where a new member is appointed after a notice of appeal has been transmitted to the appeal body but before the body has reached a decision, the appeal body shall, notwithstanding any hearing or consideration which has already taken place, consider the appeal afresh in accordance with regulation 16.

(4) An appeal body shall be deemed to have reached a decision when a sufficient number of the members have given such indications to constitute a majority for the purposes of the provision, notwithstanding that any document embodying the decision has not been drawn up or signed by all or any of the members, or issued by the appeal body.

**Procedure on appeal**

**16.**—(1) Subject to the provisions of these Regulations, the procedure of the appeal body shall be determined by that body.

(2) The Department shall transmit a notice of appeal to the appeal body which is to determine the appeal.

(3) Before the appeal body considers the appeal, it may—

(a) require the practitioner to submit further particulars and documents in support of his appeal; and

(b) make inquiries of such persons as it may think fit in connection with the appeal.

(4) The appeal body shall—

(a) send to the practitioner a copy of any comments made in reply to inquiries under paragraph (3)(*b*);

(b) if a hearing is not to held, give the practitioner a period of 21 days beginning with the day on which the comments were sent to him to reply in writing to the comments; and

(c) give notice to the practitioner that he may, within a period specified in the notice, require the appeal body to give him an opportunity of appearing before and being heard by it.

(5) The appeal body may, or shall if so required by the practitioner, hold a hearing for the purpose of considering the appeal and shall, before the beginning of the period of 21 days ending with the date on which the hearing is to be held, send notice to the practitioner and to the Joint Committee of that date, and of the time and place of hearing.

(6) The proceedings of the appeal body shall be conducted in private, unless the practitioner requests a public hearing.

(7) At a hearing by the appeal body—

(a) the practitioner may appear and be heard in person, or he may be represented by Counsel, a solicitor, or any other person; and

(b) the Joint Committee may appear and be represented by Counsel, a solicitor, or any duly authorised member or officer of the Committee.

(8) The provisions of Schedule 8 to the principal Order (which relate to the summoning of witnesses and the production of documents in connection with an inquiry held by the Department) shall apply for the purposes of any appeal held under this regulation as if it was an inquiry caused to be held by the Department and as if, in paragraphs 2, 3 and 4 of that Schedule, for the words "the person appointed to hold the inquiry" there were substituted the words "the Chairman of an appeal body appointed for the purposes of the Medical Practitioners (Vocational Training) Regulations (Northern Ireland) 1998".

(9) Where the practitioner has required a hearing but does not appear and is not represented at the hearing, and the appeal body are not satisfied that there was good reason for the failure to appear or be represented, it may treat the requirement as having been withdrawn and either hold no hearing or (if the Joint Committee are present or represented) proceed with the hearing in the absence of the practitioner.

(10) Where a hearing was to have been held in any case not falling within paragraph (9), and either the practitioner or the Joint Committee does not appear at the hearing and is not represented, the appeal body may hear the party present or represented or may decide that a hearing is not to be held.

(11) Where at a hearing neither the practitioner nor the Joint Committee appears or is represented, or in any case falling within paragraph (9) or (10), the appeal body may determine the appeal without further notice to the practitioner or to the Joint Committee.

(12) The appeal body may accept the withdrawal of an appeal at any time before a decision on the appeal is made on receipt of written notice of withdrawal from the practitioner.

(13) The appeal body may treat an appeal as having been withdrawn if—

(a) it has not yet reached a decision on the appeal; and

(b) it has tried to contact the practitioner but has not, after a reasonable interval, been successful in doing so, or a letter properly sent to the practitioner has been returned on the ground that it could not be delivered; and

(c) it has sent notice to the practitioner that his appeal will be treated as withdrawn if the practitioner does not, within the period of 28 days beginning with the date on which the notice was sent, confirm that he wishes to proceed with his appeal.

**Determination of appeals**

**17.**—(1) In arriving at its decision on the appeal, whether or not a hearing has been held—

(a) the decision of the appeal body shall be the decision of a majority; and

(b) the Chairman shall not be entitled to vote, except in the case of an equality of votes.

(2) The appeal body shall send written notice to the practitioner and the Joint Committee of its decision and the reasons for its decision.

(3) If the decision of the appeal body is that the practitioner is entitled to a certificate of prescribed experience or a certificate of equivalent experience the Joint Committee shall issue the appropriate certificate to him.