
STATUTORY RULES OF NORTHERN IRELAND

2004 No. 259

Tribunal Regulations (Northern Ireland) 2004

PART III

PROCEDURE FOR DEALING WITH REPRESENTATIONS

Submission of representations

4.—(1) Subject to paragraph (3), representations shall –

- (a) be as set out in Form 1 and shall –
 - (i) contain a concise statement of the alleged facts and grounds upon which the complainant intends to rely;
 - (ii) be signed by the complainant or on the complainant's behalf by some person authorised by the complainant;
- (b) be accompanied by 2 copies of each document which the complainant proposes to put in evidence; and
- (c) be sent together with the copies of the documents relevant to it to the Tribunal.

(2) Subject to paragraph (4), where representations are made that the second condition of disqualification is met and relate to a practitioner who has applied to join a list but whose name is not yet on such a list, they shall be sent to the Tribunal within 30 days of receipt of the application for the practitioner's name to be included.

(3) If a document which the complainant proposes to put in evidence is of a nature which renders it difficult to make or obtain a copy of it, the complainant shall not be required to submit copies of it.

(4) Where a complainant is required to make representations within a time specified in paragraph (2) and the complainant –

- (a) makes an application (whether before or after the expiry of the time so specified) to the Tribunal for an extension of that time; and
- (b) includes in that application a statement of the grounds for making it,

the Tribunal may, where it is satisfied that it is in all the circumstances reasonable to do so, extend that time by such further period as it shall specify.

Power of the Tribunal to require further statement

5. The Tribunal may, if it thinks fit, require the complainant –

- (a) to furnish such further particulars relating to the facts and grounds upon which the representations are made as it may think necessary;
- (b) where a fact is not within the personal knowledge of the complainant, to state the source of the complainant's information and the grounds for the complainant's belief in its truth; and
- (c) to support the allegations contained in the representations by affidavit.

Power of the Tribunal to refuse an inquiry

6. If it appears to the Tribunal, after due consideration of representations by any complainant other than a Board that no good cause has been shown why an inquiry should be held, it may refuse to hold an inquiry and shall inform the complainant of its refusal to hold an inquiry, together with the reasons for its refusal, in writing.

Notices to be sent to respondent etc in case of an inquiry

7.—(1) The Tribunal shall, unless it refuses to hold an inquiry under regulation 6 (power of the Tribunal to refuse an inquiry), send to the respondent –

- (a) a notice as set out in Form 2 informing the respondent that representations have been made and that the respondent may, within 4 weeks from and including the date of receipt of the notice, submit to the Tribunal a written statement-in-answer in accordance with regulation 9(1);
- (b) one copy of the representations made by the complainant and of each document, if any, which accompanied them;
- (c) information as to arrangements by which any document which the complainant proposes to put in evidence, but which the complainant is not required to submit copies of in accordance with regulation 4(3), may be examined by the respondent; and
- (d) one copy of any further statement furnished by the complainant under regulation 5 (power of the Tribunal to require further statement).

(2) The Tribunal shall, unless it refuses to hold an inquiry under regulation 6 (power of the Tribunal to refuse an inquiry), send to each Board, not being the complainant but in whose list the name of the respondent is included, at the same time as the Tribunal sends a notice to the respondent under paragraph (1) –

- (a) a notice as set out in Form 3 informing it that representations have been made in respect of the respondent and that it may, within 4 weeks from and including the date of receipt of the notice, submit to the Tribunal a written statement in accordance with regulation 9(2);
- (b) one copy of the representations made by the complainant and of each document, if any, which accompanied them;
- (c) information as to arrangements by which any document which the complainant proposes to put in evidence, but which the complainant is not required to submit copies of in accordance with regulation 4(3), may be examined by the Board; and
- (d) one copy of any further statement furnished by the complainant under regulation 5 (power of Tribunal to require further statement).

(3) In relation to a fraud case, the Tribunal shall, at the same time it sends notice to the respondent under paragraph (1), inform the Department in writing, and the Department shall send to the respondent and every Board, notice –

- (a) that the respondent is subject to an inquiry in a fraud case; and
- (b) that no Board may add the respondent to any list until the proceedings in that case are finally concluded.

(4) The Tribunal may, if it thinks fit, accept –

- (a) a statement-in-answer by the respondent; or
- (b) a statement by any other Board concerned,

after the period within which it is required to be submitted in terms of paragraph (1)(a) or (2)(a).

Amendment of representations

8. The Tribunal may, at any time before the conclusion of any inquiry, allow a complainant to amend the terms of the representations upon such conditions as it may think fit.

Submission of statement-in-answer or other statement and supporting documents

9.—(1) Where, pursuant to regulation 7(1), a respondent submits a statement-in-answer, the respondent shall, subject to paragraph (3), send to the Tribunal with the statement-in-answer 2 copies of each document which the respondent proposes to put in evidence.

(2) Where, pursuant to regulation 7(2), any other Board concerned submits a statement, it shall, subject to paragraph (3), send to the Tribunal with the statement 2 copies of each document which it proposes to put in evidence.

(3) If a document which the respondent, or any other Board proposes to put in evidence is of a nature which renders it difficult to make or obtain a copy of it, the respondent, or (as the case may be) Board shall not be required to submit copies of it.

(4) As soon as may be practicable following receipt of –

- (a) a statement-in-answer and copies of documents referred to in paragraph (1); and
- (b) where applicable, a statement by any other Board concerned and copies of documents referred to in paragraph (2),

the Tribunal shall send to the complainant, or in the case of a statement and copies of documents referred to in sub-paragraph (a), any other Board concerned, a copy of each of any such statement or document.

(5) Where, pursuant to regulation 7(2), any other Board concerned has submitted a statement, the Tribunal shall also send to the respondent and each of the other such Boards, if any, a copy of the statement submitted by that Board together with a copy of each of the documents, if any, which accompanied it.

(6) Where any document which –

- (a) the respondent, or (as the case may be) any other Board proposes to put in evidence; and
- (b) the respondent, or (as the case may be) such other Board is not required to submit copies of, in accordance with paragraph (3),

has been submitted, the Tribunal shall send to the complainant and each of the other such Boards (if any) and, in the case of a document which any other Board proposes to put in evidence, the respondent, information as to arrangements by which that document may be examined.

Notice of inquiry

10. After the expiry of the period within which a respondent may submit a statement-in-answer pursuant to regulation 7(1) or any other Board concerned may submit a statement pursuant to regulation 7(2), the Tribunal shall –

- (a) fix a date and time at which an inquiry shall commence and the place where it will be held; and
- (b) not less than 2 weeks before the date fixed for the inquiry to commence, send a notice as set out in Form 4 containing that information to –
 - (i) the complainant;
 - (ii) the respondent; and
 - (iii) any other Board to whom a notice as set out in Form 3 has been sent pursuant to regulation 7(2).

Power to postpone inquiry

11. The Tribunal may, if it thinks fit, or on the application of the complainant or respondent, postpone the date fixed for the holding of an inquiry.

Power to treat representations as withdrawn in certain cases

12. If the complainant fails –

- (a) without showing good cause, to appear in person or by a representative at any inquiry of which the complainant was sent due notice under regulation 10 (notice of inquiry); or
- (b) to comply with any other requirement of these Regulations,

the Tribunal may treat the representations as having been withdrawn.

Withdrawal of representations

13.—(1) The complainant may at any time before the inquiry commences, with the consent of the Tribunal and on such terms as it thinks fit, withdraw his representations by giving notice of withdrawal to the Tribunal.

(2) Where before the inquiry is concluded the respondent dies, the representations shall be treated by the Tribunal as having been withdrawn with immediate effect.

(3) Subject to paragraph (4), where the representations have been withdrawn, or treated by the Tribunal as having been withdrawn, the Tribunal shall forthwith inform in writing –

- (a) in the case of a withdrawal referred to in regulation 12 (power to treat representation as withdrawn in certain cases) or paragraph (1), the respondent;
- (b) in the case of a withdrawal referred to in paragraph (2), the personal representative of the respondent; and
- (c) in the case where the Tribunal has informed the Department pursuant to regulation 7(3) that the respondent is subject to an inquiry in a fraud case, the Department, and shall inform in writing every Board.

(4) Where the representations are withdrawn or treated as withdrawn after the Tribunal has made a direction under paragraph 9 (3) of Schedule 11 to the Order (which deals with directions on applications for interim suspension), that direction shall cease to have effect, and –

- (a) the Tribunal shall include this information also in its notice under paragraph (3);
- (b) the Tribunal shall immediately also so inform the Department in writing; and
- (c) the Department shall so inform anyone to whom it sent a copy of the Tribunal's decision pursuant to regulation 21(2).

Failure to appear at inquiry

14.—(1) Notwithstanding the provisions of regulation 12 (power to treat representations as withdrawn in certain cases), where any party to whom notice of the inquiry has been sent in accordance with regulation 10 (notice of inquiry) fails to appear at the inquiry, either in person or by a representative, the Tribunal may, if it is satisfied that such notice was received by that party, and taking into account all the circumstances, including any explanation offered for the absence, proceed with the inquiry, notwithstanding that absence.

(2) Where any party fails to appear at the inquiry because of a physical or mental condition, the Tribunal may request that party to be medically examined, and may take into account the result of that further medical examination or any refusal of that party to be further medically examined, in determining whether or not to proceed with the inquiry under paragraph (1).

Suspension of procedures

15.—(1) In any case where –

- (a) representations are made to the Tribunal in relation to both an efficiency case and a fraud case in respect of the same practitioner; and
- (b) the Tribunal has not refused to hold an inquiry under regulation 6 (power of the Tribunal to refuse an inquiry),

the Tribunal may direct that it will inquire into one case before inquiring into the other and, after proceedings in that inquiry are finally disposed of, may if it thinks appropriate, adjourn the inquiry into the other indefinitely.

(2) In relation to any inquiry, the Tribunal may not adjourn the inquiry solely for the reason that the alleged facts on which representations are based are being or may be investigated by the practitioner’s relevant professional body.

Representations and evidence at inquiry

16.—(1) At any inquiry –

- (a) a Board shall be entitled to be represented by its Chief Executive, or by counsel or solicitor; and
- (b) the complainant (not being a Board) and the respondent shall be entitled to attend and take part in the proceedings in question or be represented by any one of the following persons –
 - (i) counsel;
 - (ii) a solicitor;
 - (iii) an officer or member of any organisation of which the complainant or the respondent is a member;
 - (iv) a member of the complainant or the respondent’s family;
 - (v) a friend.

(2) The complainant and the respondent or their representatives shall be entitled at an inquiry to produce evidence and to call witnesses to whom questions may be put by or on behalf of any party.

Procedure at and provisions as to inquiry

17. The provisions of Schedule 1 (provisions as to inquiry) shall have effect with regard to an inquiry under these Regulations.

Power to dispense with oral inquiry

18.—(1) Subject to paragraph (2), notwithstanding anything in these Regulations, where –

- (a) the grounds on which representations are based consist solely of an allegation that the respondent has been convicted of a criminal offence; and
- (b) the respondent admits the truth of such allegation,

the Tribunal may, with the consent of the respondent, dispense with an oral inquiry and determine the representations upon such documentary evidence as may be submitted to it.

(2) Where the Tribunal has determined to decide the case on documentary evidence pursuant to paragraph (1), but proposes to give a direction under paragraph 10(1) of Schedule 11 to the Order (suspension pending appeal), it shall before doing so give notice to the Board and the respondent of its intention to hold an oral inquiry relating to that proposal, and shall then hold an oral inquiry.

Statement by the Tribunal

19.—(1) As soon as may be practicable after the conclusion of an inquiry in relation to representations, the Tribunal shall prepare a statement under the hand of the chairman of the Tribunal who presided over the inquiry stating –

- (a) its findings of fact;
- (b) the conclusions which it has reached;
- (c) where it is of the opinion that the respondent meets the first or second condition for disqualification, the disqualification (including any conditional disqualification) that it makes under paragraph 3(2) of Schedule 11 to the Order;
- (d) where it is of the opinion that the respondent meets the first or second condition for disqualification any declaration of unfitness it makes under paragraph 3(3) of Schedule 11 to the Order;
- (e) such directions as it makes under paragraph 10(1) of Schedule 11 to the Order (suspension pending appeal); and
- (f) any order it makes as to costs.

(2) Where the Tribunal makes a conditional disqualification, the statement referred to in paragraph (1) shall set out the conditions which are imposed on the respondent and any directions made by the Tribunal under paragraph 4(5) of Schedule 11 to the Order.

(3) The Tribunal shall –

- (a) send a copy of the statement prepared pursuant to paragraph (1) to –
 - (i) the Department;
 - (ii) the complainant; and
 - (iii) the respondent;
- (b) where the statement contains a disqualification (including any conditional disqualification) under paragraph 3(2) of Schedule 11 to the Order or a declaration of unfitness under paragraph 3(3) of Schedule 11 to the Order or a direction under paragraph 10(1) of Schedule 11 to the Order, inform the respondent of the respondent's right of appeal under paragraph 6 of Schedule 11 to the Order in respect of that decision.

(4) Except for a Board to whom a copy of the statement has been sent pursuant to paragraph (3), the Department shall send a copy of the statement to such Boards or relevant professional body as appear to it concerned.