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STATUTORY RULES OF NORTHERN IRELAND

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**2004 No. 259**

**HEALTH AND PERSONAL SOCIAL SERVICES**

**Tribunal Regulations (Northern Ireland) 2004**

*Made* - - - -

*8th June 2004*

*Coming into operation*

*1st July 2004*

The Department of Health, Social Services and Public Safety<sup>(1)</sup> in exercise of the powers conferred on it by Articles 65, 106(b) of 107(6) of, and paragraphs 1, 2, 8 and 11 and 19 of Schedule 11 to, the Health and Personal Social Services (Northern Ireland) Order 1972<sup>(2)</sup> and of all other powers enabling it in that behalf, and in conjunction with the Department of Finance and Personnel, hereby makes the following Regulations:

**PART I**  
**GENERAL**

**Citation and commencement**

1. These Regulations may be cited as the Tribunal Regulations (Northern Ireland) 2004 and shall come into operation on 1st July 2004.

**Interpretation**

2.—(1) In these regulations –

“application” means an application for a review;

“Board” means a Health and Social Services Board;

“chairman” includes a deputy chairman acting in the chairman’s place;

“Chief Executive” means a chief officer of a Board or officer of a Board duly authorised to act on behalf of the chief officer;

“complainant” means a Board or any other person who makes representations to the Tribunal;

“conditional disqualification” shall be construed in accordance with paragraph 4 of Schedule 11 to the Order;

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(1) See S.I. 1999/283(N.I.1) Article 3(6)

(2) S.I. 1972/1265 (N.I.14) – relevant amending instruments are 2001 c. 3 (N.I.) and S.I. 2004/311 (N.I. 2)

“dentist” means dental practitioner;

“dental list” means a list prepared by the Agency under regulation 4 of the Health and Personal Social Services General Dental Services Regulations (Northern Ireland) 1993(3);

“document” means a document in writing and includes –

- (a) any map, plan, graph or drawing;
- (b) any photograph;
- (c) any disk, tape, sound track or other device in which sounds or other data (not being visual images) are recorded so as to be capable (with or without the aid of some other equipment) of being reproduced therefrom; and
- (d) any film (including any microfilm), negative, tape or other device in which one or more visual images are recorded so as to be capable (as foresaid) of being reproduced therefrom;

“first condition for disqualification” has the meaning indicated in paragraph 1(6) of Schedule 11 to the Order;

“fraud case” has the meaning indicated in paragraph 1(11) of Schedule 11 to the Order;

“general medical practitioner” has the same meaning as in the Health and Personal Social Services (General Medical Services Contracts) Regulations (Northern Ireland) 2004(4);

“Health Scheme” has the meaning indicated in paragraph 1(9) of Schedule 11 to the Order;

“inquiry” means an inquiry held under Part I of Schedule 11 to the Order;

“list” has the meaning indicated in paragraph 1(8) of Schedule 11 to the Order;

“local or general disqualification” has the meaning indicated in paragraph 3(2)(a) and (b) of Schedule 11 to the Order;

“medical list” has the same meaning as in the Health and Personal Social Services (Primary Medical Services Performers List) Regulations (Northern Ireland) 2004(5);

“ophthalmic list” has the same meaning as in regulation 8(1) of the General Ophthalmic Services Regulations (Northern Ireland) 1986(6);

“ophthalmic medical practitioner” has the same meaning as in the General Ophthalmic Services Regulations (Northern Ireland) 1986;

“optician” means ophthalmic optician;

“the Order” means the Health and Personal Social Services (Northern Ireland) Order 1972;

“pharmaceutical list” has the same meaning as in the Pharmaceutical Services Regulations (Northern Ireland) 1997(7);

“pharmacist” has the same meaning as in the Pharmaceutical Services Regulations (Northern Ireland) 1997;

“practitioner” means the general medical practitioner, dentist, ophthalmic medical practitioner, optician or pharmacist who is the subject of representations by a complainant or who is subject of an application;

“relevant professional body” means –

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(3) S.R. 1993 No. 421  
(4) S.R. 2004 No. 140  
(5) S.R. 2004 No. 149  
(6) S.R. 1986 No. 163  
(7) S.R. 1997 No. 381

- (a) in relation to a general medical practitioner or an ophthalmic medical practitioner, the General Medical Council(8);
- (b) in relation to a practitioner who is a dentist, the General Dental Council(9);
- (c) in relation to a practitioner who is an optician, the General Optical Council(10); and
- (d) in relation to a practitioner who is a pharmacist, the Royal Pharmaceutical Society of Northern Ireland(11);

“representations” means representations made to the Tribunal under paragraph 1 of Part I of Schedule 11 to the Order;

“respondent” means –

- (a) in the case of representations or an application for interim suspension, any practitioner in respect of whom representations are, or an application for interim suspension is, made;
- (b) in the case of an application by a practitioner, the complainant in respect of whose representations the decision to which the application relates was made; and
- (c) in the case of an application by a person other than a practitioner, the practitioner.

“second condition for disqualification” has the meaning indicated in paragraph 1(7) of Schedule 11 to the Order;

(2) In these regulations, references to “proceedings” before the Tribunal are to any such proceedings, whether relating to representations, applications for review or for interim suspension, and include inquiries, hearings and preliminary matters.

(3) A reference to a numbered form in these regulations is a reference to the form bearing that number set out in Schedule 2.

## PART II

### CONSTITUTION OF TRIBUNAL

#### **Term of office of members of the Tribunal**

3.—(1) The chairman and deputy chairmen of the Tribunal shall hold office during the pleasure of the Lord Chief Justice.

(2) The other members shall hold office during the pleasure of the Department

## 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;

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(8) See Medical Act 1983 c. 54 – Section 1

(9) See Dentists Act 1984 c. 24 – Section 1

(10) See Opticians Act 1989 c. 44 – Section 1

(11) S.I. 1976/1213 (N.I. 22) – Article 3

- (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.

## PART IV

### PROCEDURE FOR DEALING WITH APPLICATION FOR INTERIM SUSPENSION

#### **Applications for interim suspension**

**20.**—(1) An application for interim suspension under paragraph 9 of Schedule 11 to the Order (applications for interim suspension) shall –

- (a) be signed by a person authorised by the Board;
  - (b) include a statement of the alleged facts and the grounds on which the Board intends to rely; and
  - (c) include 2 copies of any document which the Board proposes to put in evidence,
- and shall be sent to the Tribunal.

(2) The statement mentioned in paragraph (1)(b) may make reference to any other document already sent to the Tribunal.

(3) Subject to paragraph (7), the Tribunal shall send to the respondent –

- (a) notice informing the respondent of the application, of the intention to hold an inquiry on a date to be fixed and that the respondent may, within 2 weeks from and including the date of receipt of the notice, submit a written statement-in-answer;
- (b) a copy of the application made by the complainant and of each document, if any, which accompanied it; and
- (c) where paragraph (2) applies, any document which is referred to in the statement.

(4) The Tribunal may, if it thinks fit, accept a statement-in-answer by the respondent after the period within which it is required to be submitted under paragraph (3)(a).

(5) Where a respondent submits a statement-in-answer the respondent shall send to the Tribunal 2 copies of the statement-in-answer and of each document which the respondent proposes to put in evidence, and the Tribunal shall send to the complainant a copy of each of any such statement or document.

(6) Subject to paragraph (7), after the expiry of the period within which a respondent may submit a statement-in-answer the Tribunal shall fix a date and time at which the inquiry shall commence

and the place where it will be held, and not less than 2 weeks before the date fixed shall inform the complainant and respondent of the date, time and place of the inquiry.

(7) At any time before the inquiry commences, notwithstanding the provisions of paragraphs (3) or (6), the Tribunal may, on the application of the complainant, including a statement of grounds for the application, if it is satisfied that there are exceptional reasons to do so –

- (a) fix a date and time at which an inquiry shall commence, and place where it will be heard, as soon as may be practicable; and
- (b) give such opportunity to the respondent to submit a statement-in-answer and give such notice to the complainant and the respondent of the date, time and place of the inquiry as it considers just and proper to give the respondent an opportunity to appear before the Tribunal either –
  - (i) in person;
  - (ii) by counsel or solicitor; or
  - (iii) by such other representative referred to in regulation 16(1)(b)(iii) to (v), and to be heard and to call witnesses and produce other evidence.

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

(9) The provisions of regulations 11 (power to postpone inquiry), 14 (failure to appear at inquiry), 16 (representations and evidence at inquiry), 17 (procedure at and provisions as to inquiry) and 18 (power to dispense with oral inquiry) shall have effect with respect to an inquiry held in relation to an application for interim suspension as they apply in relation to representations, as if –

- (a) in regulation 14 “regulation 10 (notice of inquiry)” read “regulation 20(6) or (7); and
- (b) in regulation 18 –
  - (i) in paragraph (1) –
    - (aa) “Subject to paragraph (2),” were omitted;
    - (bb) “representations are” read “an application for interim suspension is”; and
    - (cc) “representations” in the second place where it occurs read “application for interim suspension”; and
  - (ii) paragraph (2) were omitted.

### **Statement by the Tribunal following an inquiry on interim suspension**

**21.—**(1) At the conclusion of proceedings relating to the application for interim suspension, the Tribunal shall, as soon as practicable, issue a decision, signed by the chairman who presided over the proceedings, containing –

- (a) any directions it decides to give under paragraph 9(3) of Schedule 11 to the Order;
- (b) a statement of reasons for its decision; and
- (c) any order it decides to make as to costs.

(2) The Tribunal shall send a copy of its decision to the respondent, the complainant and the Department, and the Department shall send a copy of the decision to any other Board or relevant professional body which appears to it to be concerned.

(3) Where the decision includes a direction under paragraph 9(3) of Schedule 11 to the Order, the Tribunal shall include with the decision a notice to the respondent of the respondent’s right to appeal under paragraph 6 of Schedule 11 to the Order

## PART V

### PROCEDURE FOR DEALING WITH REVIEW

#### **Procedure in regard to application to the Tribunal for a review**

- 22.**—(1) An application to the Tribunal shall –
- (a) be made as set out in Form 5 and shall –
    - (i) contain a concise statement of the alleged facts and grounds upon which the applicant intends to rely; and
    - (ii) be signed by the applicant or on the applicant’s behalf by some person authorised by the applicant;
  - (b) subject to paragraph (2), be accompanied by 2 copies of each document which the applicant proposes to put in evidence; and
  - (c) be sent together with the copies of each document relevant to it to the clerk to the Tribunal.
- (2) If a document which the applicant proposes to put in evidence is of a nature which renders it difficult to make or obtain a copy of it, the applicant shall not be required to submit copies of it.
- (3) If it appears to the Tribunal, after due consideration of an application, that no good cause has been shown why an inquiry should be held for the purposes of any review, it may refuse to hold an inquiry and shall inform the applicant of its refusal to hold an inquiry, and its reasons for that refusal in writing.
- (4) Where the Tribunal considers that an inquiry should be held, the clerk to the Tribunal shall send to the respondent and to any Board (not being the applicant or the respondent) which was represented at the inquiry following which the decision, in respect of which the application relates, was made –
- (a) a notice as set out in Form 6 informing the respondent or the Board that an application has been made by the applicant and that the Tribunal considers that an inquiry should be held;
  - (b) one copy of the application and of each document, if any, which accompanied it; and
  - (c) information as to arrangements by which any document which the applicant proposes to put in evidence, but which the applicant is not required to submit copies of in accordance with paragraph (2), may be examined by the respondent and any such Board.
- (5) As soon as may be practicable after sending a copy of the application as referred to in paragraph (4), 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 to –
    - (i) the applicant;
    - (ii) the respondent; and
    - (iii) any Board to whom a notice as set out in Form 6 has been sent pursuant to paragraph (4),a notice as set out in Form 7 containing the information referred to in sub-paragraph (a).
- (6) Except where the application is made by a Board under paragraph 5(3)(b) or (c) of Schedule 11 to the Order, an applicant may at any time before the inquiry commences, with the consent of the Tribunal and on such terms as it thinks fit, withdraw the application by giving notice of withdrawal to the Tribunal and the Tribunal shall so inform the rest of the parties in writing.

(7) Where the application is made by a Board under paragraph 5(3)(b) or (c) of the Schedule 11 to the Order the provisions of regulations 5 (power of the Tribunal to require further statement), 12 (power to treat representations as withdrawn in certain cases), 13 (withdrawal of representations), 18 (power to dispense with oral inquiry), 20 (applications for interim suspension) and 21 (statement by the Tribunal following an inquiry on interim suspension) shall have effect with respect to an application as they apply to representations as if –

- (a) in regulation 5 –
  - (i) “complainant” read “applicant” in both places where it appears;
  - (ii) in paragraph (a) “representations are” read “application is”;
  - (iii) in paragraph (b) “complainant’s” read “applicant’s” in both places where it appears; and
  - (iv) in paragraph (c) “representations” read “application”;
- (b) in regulation 12 –
  - (i) “complainant” read “applicant” in both places where it appears;
  - (ii) in paragraph (a) “regulation 10 (notice of inquiry)” read “regulation 22(5)”;
  - (iii) “representations” read “application”;
- (c) in regulation 13 –
  - (i) in paragraph (1) “complainant” read “applicant”;
  - (ii) in paragraphs (1) and (2) “representations” read “application”;
  - (iii) in paragraph (3) –
    - (aa) “representations have” read “application has”;
    - (bb) sub-paragraph (c) were omitted; and
  - (iv) paragraph (4) were omitted;
- (d) in regulation 18 –
  - (i) in paragraph (1) –
    - (aa) “Subject to paragraph (2),” were omitted;
    - (bb) “representations are” read “an application is”;
    - (cc) “representations” in the second place where it occurs read “application”;
  - (ii) paragraph (2) were omitted;
- (e) in regulation 20 –
  - (i) “complainant” read “applicant” at every place where it appears; and
  - (ii) the provisions referred to in paragraph (9) shall have effect as indicated but, additionally, as if “complainant” read “applicant”;
- (f) in regulation 21(2) “complainant” read “applicant”.

(8) The provisions of regulations 11 (power to postpone inquiry), 14 (failure to appear at inquiry), 16 (representation and evidence at inquiry) and 17 (procedure at and provisions as to inquiry) shall have effect with respect to an inquiry held in relation to an application as they apply to an inquiry held in relation to a representation as if –

- (a) in regulation 11 “complainant” read “applicant”;
- (b) in regulation 14(1) “regulation 10 (notice of inquiry)” read “regulation 22(5)”;
- (c) in regulation 16 –

- (i) in paragraph (1)(b), “complainant (not being a Board ) and the respondent” read “applicant and the respondent (other than an applicant or respondent which is a Board )”; and
- (ii) in paragraphs (1)(b)(iii),(iv) and (2) “complainant” read “applicant”.

#### **Statement by the Tribunal following review**

**23.**—(1) As soon as may be practicable after the conclusion of an inquiry in relation to an application, 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 it has reached;
- (c) any determination it makes in accordance with paragraph 5(2) or (5), and where applicable, paragraph 5(6), of Schedule 11 of the Order; and
- (d) any order it makes as to costs.

(2) The Tribunal shall –

- (a) send a copy of the statement prepared pursuant to paragraph (1) to –
  - (i) the Department;
  - (ii) the applicant; and
  - (iii) the respondent;
- (b) where the Tribunal, following a review –

- (i) in the case of a practitioner subject to a disqualification, or a conditional disqualification, does not remove the disqualification or conditional disqualification, under paragraph 5(2) or (5) of Schedule 11 to the Order; or
- (ii) in the case of a practitioner subject to a declaration of unfitness, does not provide that a declaration of unfitness is to cease to have effect under paragraph 5(2) of Schedule 11 to the Order,

inform the practitioner of the practitioner’s right of appeal under paragraph 6 of Schedule 11 of the Order in respect of the Tribunal’s decision.

(3) Except for a Board to whom a copy of the statement has been sent pursuant to paragraph (2) (a), the Department shall send a copy of the statement to such Boards or relevant professional body as appear to it concerned.

## **PART VI**

### **MISCELLANEOUS PROVISIONS**

#### **Practitioner subject to inquiry in a fraud case**

**24.**—(1) A Board that receives notice pursuant to regulation 7(3) may not add the practitioner subject to the inquiry to any list until proceedings in that case are finally concluded.

(2) In relation to a practitioner subject to an inquiry in a fraud case, the provisions of –

- (a) Article 57G(12) (Persons performing primary medical services) of the Order are modified to the extent that such a practitioner shall not be entitled to the inclusion of the practitioner's name in a medical list;
- (b) Article 61(2)(b) (Arrangements for general dental services)(13) of the Order are modified to the extent that regulations need not confer a right for such a practitioner who wishes to be included in a list of dental practitioners who undertake to provide general dental services to be so included;
- (c) Article 62(2)(b) (Arrangements for general ophthalmic services)(14) of the Order are modified to the extent that regulations need not confer a right for such a practitioner who wishes to be included in the appropriate list to be so included; and
- (d) Article 63 (Arrangements for pharmaceutical services)(15) of the Order are modified to the extent that nothing in Article 63(2A) and (2D) shall require regulations to provide for a Board to include such a practitioner in a list or to confer on such a practitioner rights of appeal against a Board from a refusal to add such a practitioner to a list, until proceedings in that case are finally concluded.

#### **Discharge of suspension functions by chairman**

25. The functions of the Tribunal under paragraphs 9 or 10(1) of Schedule 11 of the Order (which deal with applications for interim suspension and suspension pending appeal respectively) may be carried out by the chairman of the Tribunal; and where the chairman does carry them out, any reference to the Tribunal in these Regulations shall be construed as a reference to the chairman.

#### **Publication of decisions of the Tribunal, etc**

26. The Department shall publish in such manner as they think fit notice of –
- (a) any decision of the Tribunal in relation to an inquiry under these Regulations; and
  - (b) the imposition of any disqualification, or conditional disqualification, pursuant to paragraph 3(2) or paragraph 5(2) or (5) of Schedule 11 to the Order and any conditions imposed or of the removal or variation of such disqualification or conditions;
  - (c) any declaration of unfitness made by the Tribunal under paragraph 3(3) or paragraph 5(6) of Schedule 11 to the Order;
  - (d) any imposition or removal of any disqualification or declaration of unfitness referred to in paragraph 7(1) of Schedule 11 to the Order (disqualification provisions in Scotland or England and Wales) and any conditions or variation of such conditions imposed in consequence of a notice given by the Department in accordance with paragraph 7(2) of Schedule 11 to the Order.

#### **Recovery of amounts from practitioners**

27.—(1) Where the Department receives a copy of the statement of the Tribunal pursuant to regulation 19(3) or regulation 23(2)(a) and –

- (a) the statement of the Tribunal pursuant to regulation 19(3) contains a statement in accordance with regulation 19(1)(c),(d), (e) or (f); or
- (b) the statement of the Tribunal pursuant to regulation 23(2)(a) contains a statement that –

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(12) Article 57G was inserted by Article 8 of S.I. 2004/311 (N.I. 2)

(13) Article 61(2)(b) was amended by S.I. 1981/432, S.I. 1988/2249 (N.I. 24), S.I. 1991/194 (N.I. 1) and 2001 c. 3 (N.I.)

(14) Article 62(2)(b) was amended by S.I. 1984/1158 (N.I. 8) S.I. 1991/194 (N.I. 1) and 2001 c. 3 (N.I.)

(15) Article 63 was amended by S.I. 1986/2023 (N.I. 20) and S.I. 1991/194 (N.I. 1)

- (i) in the case of a conditional disqualification, the conditions are to be varied or the disqualification is to be unconditional pursuant to paragraph 5(2) or 5(5) of Schedule 11 to the Order;
- (ii) there is to be any further disqualification, or conditional disqualification which the Tribunal considers appropriate pursuant to paragraph 5(2) or (5) of Schedule 11 to the Order; or
- (iii) the Tribunal is making a declaration of unfitness pursuant to paragraph 5(6) of Schedule 11 to the Order,

and the Department is satisfied that the decision of the Tribunal was in consequence of the acts or omissions of a practitioner while that practitioner was included on a list, then the Department shall determine (in relation to every appropriate Board, if more than one) whether any, and if so, what amount shall be recovered from the practitioner by an appropriate Board, whether by way of deduction from the practitioner's remuneration or otherwise.

(2) Before making a determination under paragraph (1) the Department shall notify the practitioner concerned that –

- (a) the Department is considering making a determination under paragraph (1); and
- (b) the practitioner concerned may make written representations on the matter by submitting them to the Department within 4 weeks from the date of receipt of the notification.

(3) The Department shall give notice of its determination under paragraph (1) to the practitioner and every appropriate Board and shall include with the notice a statement of reasons for its determination.

(4) Any amount which the Department determines under paragraph (1) shall be recovered from a practitioner by a Board shall be a debt owed by the practitioner to that Board.

(5) Where the Department has determined under paragraph (1) that, in respect of an appropriate Board, an amount shall be recovered from a practitioner, it shall direct that Board to recover that amount either by deduction from the practitioners remuneration or otherwise and the Board shall comply with that direction.

(6) In this regulation, "appropriate Board" is a Board in whose list the practitioner was included at the time of the acts or omissions in consequence of which the Tribunal decision was made.

#### **Service of forms, etc.**

**28.—**(1) Any form, notice, application, statement, statement-in-answer, decision or document which is required or authorised by these Regulations to be sent to or served on any person shall be in writing and shall be sent or served as follows –

- (a) in the case of the Department, by delivering it to the Department or sending it by registered post or the first class recorded delivery service addressed to the Department at General Medical Services Branch, Room D3, Castle Buildings, Stormont, Belfast BT4 3SQ;
- (b) in the case of the Tribunal or a Board by delivering it to the clerk or Chief Executive, or by sending it by registered post or the first class recorded delivery service addressed to such person at their principal office or the usual or last known address of such person;
- (c) in the case of a practitioner, by delivering it to the practitioner or by sending it by registered post or the first class recorded delivery service addressed to the practitioner at the practitioner's usual or last-known address or any address set opposite the practitioner's name in the list of the Board concerned;

(d) in the case of any other person, by delivering it to that person or by sending it by registered post or the first class recorded delivery service addressed to that person at that person's usual or last known address.

(2) Where a party to any inquiry is represented by a solicitor it shall be a sufficient compliance with this regulation if the notice or document is sent by registered post or the first class recorded delivery service addressed to the solicitor at the solicitor's professional address.

### **Power to dispense with requirements as to notices**

**29.** The Tribunal may dispense with any requirements of these Regulations applicable to notices, applications, documents or otherwise in any case where it appears to the Tribunal just and proper to do so.

### **Transitional provisions**

**30.** Where, before the date on which these Regulations come into operation –

- (a) a representation has been made to the Tribunal under regulation 7 (making of representations and preliminary matters) of the Tribunal Regulations (Northern Ireland) 1995(16); or
- (b) an application for interim suspension has been made to the Tribunal under regulation 8 (applications for interim suspension) of those regulations,

the provisions of those Regulations shall, notwithstanding regulation 31 (revocations), continue to apply on and after that date, as respects any inquiry, hearing, determination or direction which by virtue of any provision of those Regulations falls to be undertaken, held or made in relation to any such representation or application or in relation to an appeal from any such determination or direction.

### **Revocations**

**31.** The Regulations specified in column (1) of Schedule 3 are hereby revoked to the extent specified in column (3) of that Schedule.

Sealed with the Official Seal of the Department of Health, Social Services and Public Safety on 8th June 2004.

*James F. Livingstone*  
Senior Officer of the  
Department of Health, Social Services and  
Public Safety

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**Status:** This is the original version (as it was originally made). This item of legislation is currently only available in its original format.

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Sealed with the Official Seal of the Department of Finance and Personnel on 8th June 2004.

*Michael Brennan*  
Senior Officer of the  
Department of Finance and Personnel

SCHEDULE 1

Regulation 17

PROVISIONS AS TO INQUIRY

1. Subject to the provisions of these Regulations, the procedure at an inquiry shall be within the discretion of the Tribunal.
2. The proceedings at an inquiry shall be held in private unless the practitioner has applied in writing to the Tribunal for the inquiry to be held in public.
3. The Tribunal may if it thinks fit call for such documents and examine such witnesses as appear to it likely to afford evidence relevant and material to the issue, although not tendered by either party.
4. The chairman of the Tribunal who presides over the inquiry may by notice require any person –
  - (a) to attend at the time and place set forth in the notice, to give evidence or to produce any books or documents in that person’s custody or under that person’s control which relate to any matter in question at the inquiry; or
  - (b) to furnish within such reasonable period as is specified in the notice such information relating to any matter in question at the inquiry as the chairman of the Tribunal who presides over the inquiry may think fit, and as the person so required is able to furnish.
5. The chairman of the Tribunal who presides over the inquiry may administer oaths and examine witnesses on oath, and may accept in lieu of evidence on oath by any person, a statement in writing by that person.
6. Subject to the provisions of these Regulations, the Tribunal may adjourn from time to time as it thinks fit and hold adjourned sittings at such time and place as may appear to it to be suitable.
7. A Board to whom notices as set out in Forms 3 and 4 are sent pursuant to regulations 7(2) and 10 (notice of inquiry), or to whom notice is sent pursuant to regulation 22(4) shall be entitled to take such part in the proceedings of the inquiry as the Tribunal shall think proper.
8. The Tribunal may make orders as to the costs incurred by the parties appearing at any such inquiry and as to the parties by whom such costs shall be paid.

SCHEDULE 2

Regulation 2(3)

FORMS FOR USE IN PROCEEDINGS IN CONNECTION  
WITH REPRESENTATIONS AND APPLICATIONS  
FORM 1 REPRESENTATIONS

Regulation 4(1)(a)

To the Tribunal constituted under Schedule 11 to the Health and Personal Social Services (Northern Ireland) Order 1972.

Representations of

..... Complainant

against

..... Respondent

A ..... (1) [on / applying for inclusion or (2)] the ..... (3) list of ..... Board.

1. The complainant represents: (4)

- (a) the continued inclusion of the respondent in the list referred to would be prejudicial to the efficiency of services which those included in the list undertake to provide or are approved to assist in providing.
- (b) the respondent has (whether on the respondent's own or together with another) by an act or omission caused, or risked causing, detriment to a health scheme by securing or trying to secure for the respondent or another a financial or other benefit, and knew that the respondent or (as the case may be) the other was not entitled to the benefit.

2. The facts and grounds upon which the representations are based are as follows –

..... (5)

3. The documents of which 2 copies of each accompany this representation shall be produced in evidence in support of the representation (6).

Signed ..... Complainant

Dated .....

**Notes**

(1) State whether the respondent is a general medical practitioner, dentist, ophthalmic medical practitioner, optician, pharmacist or pharmacist contractor.

(2) Delete whichever is inapplicable.

(3) State whether the list is the medical, dental, ophthalmic or pharmaceutical.

(4) Delete whichever of (a) or (b) is inapplicable (if either).

(5) Paragraph 2 of the representation must contain a concise statement of the alleged facts and grounds upon which the complainant intends to rely.

(6) If any document to be put in evidence is of a nature which renders it difficult to make or obtain a copy of it, you are not required to submit copies of any such document.

**FORM 2NOTICE OF REPRESENTATIONS**

*Status: This is the original version (as it was originally made). This item of legislation is currently only available in its original format.*

Regulation 7(1)(a)

Notice to ..... of representations.

Representations of

..... Complainant

against

Respondent

A ..... (2) [on / applying for inclusion on (3)] the ..... (4) list of ..... Board.

1. On behalf of the Tribunal constituted under Schedule 11 to the Health and Personal Social Services (Northern Ireland) Order 1972 I enclose –

(a) a copy of representations that (5)

(i) your consent to inclusion in the list referred to would be prejudicial to the efficiency of services which those included in the list undertake to provide or are approved to assist in providing;

(ii) you have (whether on your own or together with another) by an act or omission caused, or risked causing, detriment to a health scheme by securing or trying to secure for yourself or another a financial or other benefit and knew that you or (as the case may be) the other was not entitled to the benefit

which representation was submitted to the Tribunal by the complainant on ..... (6);

(b) a copy of each document which accompanied the representation (7).

2. The Tribunal intends to hold an inquiry in relation to the representation and notice will be sent to you not less than 2 weeks before the date on which the inquiry will commence.

3. You may, if you so desire, submit to me within 4 weeks from the date of receipt of this notice a written statement-in-answer and 2 copies of each document which you propose to put in evidence (8).

Signed .....

Dated .....

**Notes**

(1) The full name of the respondent should be inserted.

(2) State whether the respondent is a general medical practitioner, dentist, ophthalmic medical practitioner, optician, pharmacist or pharmacist contractor.

(3) Delete whichever is inapplicable

(4) State whether the list is the medical, dental, ophthalmic or pharmaceutical.

(5) Delete whichever of (i) or (ii) is inapplicable (if either).

(6) State the date on which the representation was submitted.

(7) The complainant may intend to put in evidence documents or material which it is difficult to make or obtain a copy of. If this is the case, the Tribunal will inform you accordingly.

(8) If any document to be put in evidence is of a nature which renders it difficult to make or obtain a copy of, you are not required to submit copies of any such document.

**FORM 3 NOTICE OF REPRESENTATIONS**

Regulation 7(2)(a)

Notice to . . . . . (1) Board .

Representations of –

. . . . . Complainant

against

. . . . . Respondent

A . . . . . (2) on the . . . . . list(4) of . . . . . Board(s) (4).

1. On behalf of the Tribunal constituted under Schedule 11 to the Health and Personal Social Services (Northern Ireland) Order 1972, I hereby give you notice that representations have been made by . . . . . to the Tribunal that (5)

- (a) the inclusion of the respondent in the list referred to would be prejudicial to the efficiency of services which those included in the list undertake to provide or are approved to assist in providing;
- (b) the respondent has (whether on the respondent's own or together with another) by an act or omission caused, or risked causing, detriment to a health service by securing or trying to secure for the respondent or another a financial or other benefit, and knew that the respondent or (as the case may be) the other was not entitled to the benefit.

I enclose a copy of the representations and a copy of each document which accompanied them.

2. The Tribunal intends to hold an inquiry in relation to the representations and notice will be sent to you not less than 2 weeks before the date on which the inquiry will commence.

3. . . . . Board, if they so desire, submit to me within 4 weeks from the date of receipt of this notice a written statement.

4. If any documents are to be put in evidence in support of the statement, 2 copies of each such document must accompany the statement (6).

5. . . . . Board are entitled to be represented and take part in the proceedings at the inquiry as the Tribunal shall think proper.

Signed . . . . .

Dated . . . . .

**Notes**

- (1) State the name of the Board to which the notice is being sent.
- (2) State whether the respondent is a general medical practitioner, dentist, ophthalmic medical practitioner, optician, pharmacist or pharmacist contractor.
- (3) State whether the list is the medical, dental, ophthalmic or pharmaceutical.
- (4) State the name of each Board in whose list the respondent's name is included.
- (5) Delete whichever of (a) or (b) is inapplicable (if either).
- (6) If any document to be put in evidence is of a nature which renders it difficult to make or obtain a copy of it, the Board is not required to submit copies of any such document.

FORM 4NOTICE OF INQUIRY

*Status: This is the original version (as it was originally made). This item of legislation is currently only available in its original format.*

Regulation 10(b)

Notice to ..... (1) of date fixed for an inquiry to commence.

Representations of –

..... Complainant

against

..... Respondent

A ..... (2) [on / applying for inclusion on (3)] the ..... list(4) of ..... Board.

On behalf of the Tribunal constituted under Schedule 11 to the Health and Personal Social Services (Northern Ireland) Order 1972, I hereby give you notice that an inquiry in relation to the representation made

[by you with respect to .....](5)

[by ..... with respect to you,](6)

[by ..... with respect to the respondent,](7)

will commence on ..... day,

the ..... day of ..... 20..... at ..... a.m./p.m.

at .....

Signed .....

Dated .....

**Notes**

(1) The full name of the complainant, the respondent, or any other Board concerned, as the case may be, should be inserted.

(2) State whether the respondent is a general medical practitioner, dentist, ophthalmic medical practitioner, optician, pharmacist or pharmacist contractor.

(3) Delete whichever is inapplicable

(4) State whether the list is the medical, dental, ophthalmic or pharmaceutical.

(5) Delete these words in a notice being sent to the respondent or, where applicable, any other Board:

(6) Delete these words in a notice being sent to the complainant, or where applicable, any other Board.

(7) Delete these words in notices being sent to the complainant and respondent.

**FORM 5 APPLICATION TO THE TRIBUNAL FOR A REVIEW**

Regulation 22(1)(a)

To the Tribunal constituted under Schedule 11 to the Health and Personal Social Services (Northern Ireland) Order 1972.

Application of—

.....

1. The applicant applies to the Tribunal for a review under paragraph 5 (review etc. of disqualification of Schedule 11 to the said Order) of the decision of the Tribunal made on ..... (1) in respect of ..... (2).

2. The facts and grounds upon which the application is based are as follows ..... (3).

3. The documents of which 2 copies of each accompany this application shall be produced in evidence in support of the application (4).

Signed ..... Applicant

Dated .....

**Notes**

(1) State the date on which the Tribunal made the relevant decision.

(2) State the full name of the practitioner in respect of which the application relates.

(3) Paragraph 2 of the application must contain a concise statement of the alleged facts and grounds upon which the Applicant intends to rely.

(4) If any document to be put in evidence is of a nature which renders it difficult to make or obtain a copy of it, you are not required to submit copies of any such document.

FORM 6NOTICE OF AN APPLICATION

*Status: This is the original version (as it was originally made). This item of legislation is currently only available in its original format.*

Regulation 22(4)(a)

Notice to . . . . . (1) of an application.

Application of

.....

1. On behalf of the Tribunal constituted under Schedule 11 to the Health and Personal Social Services (Northern Ireland) Order 1972 I enclose –

(a) a copy of an application for a review under paragraph 5 (review etc. of disqualification) of Schedule 17 to the said Order of the decision of the Tribunal made on . . . . . (2) in respect of . . . . . (3).

(b) a copy of each document which accompanied the application 4.

2. The Tribunal intends to hold an inquiry in relation to the application. A notice will be sent to you not less than 2 weeks before the date on which the inquiry will commence.

Signed . . . . .

Dated . . . . .

**Notes**

(1) The full name of the respondent or, as the case may be, the appropriate Board should be inserted.

(2) State the date on which the Tribunal made the relevant direction.

(3) State the full name of the practitioner in respect of which the application relates.

(4) The applicant may intend to put in evidence documents or material which it is difficult to make or obtain a copy of. If this is the case, the clerk to the Tribunal will inform you accordingly.

**FORM 7 NOTICE OF INQUIRY**

Regulation 22(5)(b)

Notice to . . . . . (1) of date fixed for an inquiry to commence.

Application of –

.....

On behalf of the Tribunal constituted under Schedule 11 to the Health and Personal Social Services (Northern Ireland) Order 1972, I hereby give you notice that an inquiry in relation to the application will commence on . . . . . day, the . . . . . day of . . . . . (2) . . . . . at . . . . . an hour of . . . . .

Signed . . . . .

Dated . . . . .

**Notes**

(1) The full name of the applicant, the respondent or other appropriate Board (not being the applicant or the respondent), as the case may be, should be inserted.

## SCHEDULE 3

Regulation 31

## REVOCATIONS

| <i>Regulations revoked</i><br>(1)  | <i>References</i><br>(2)          | <i>Extent of Revocation</i><br>(3) |
|--|-----------------------------------|------------------------------------|
| The Tribunal Regulations (Northern Ireland) Regulations 1995   | <a href="#">S.R. 1995 No. 493</a> | The whole Regulations              |
| Tribunal (Amendment) Regulations (Northern Ireland) 1997   | <a href="#">S.R. 1997 No. 71</a>  | The whole Regulations              |
| The Health Services (Tribunal and Disciplinary Procedures) (Amendment) Regulations (Northern Ireland) 1999 | <a href="#">S.R. 1999 No. 15</a>  | Regulation 2                       |

**EXPLANATORY NOTE**

*(This note is not part of the Regulations)*

These regulations consolidate, with amendments, the Tribunal Regulations (Northern Ireland) 1995 (“the 1995 Regulations”).

The regulations are consequential upon the coming into operation of amendments made by the Health and Personal Social Services Act (Northern Ireland) 2001 (“the 2001 Act”) which inserted a new Schedule 11 into the Health and Personal Social Services (Northern Ireland) Order 1972, (“the 1972 Order”), dealing with the Tribunal and the disqualification of practitioners.

The changes include powers and duties for the Tribunal to inquire into representations that a practitioner meets a new second condition for disqualification (which are referred to in Schedule 11 of the 1972 Order as “fraud cases”), powers to make a conditional disqualification (a disqualification which is to come into effect only if the Tribunal determine on a review that a person subject to the inquiry has failed to comply with any conditions), and new powers and duties in relation to reviews of disqualifications, conditional disqualifications or declarations of unfitness.

Part I of these Regulations makes general provisions for the purpose of these Regulations.

Part II of these Regulations consolidates the provisions of the 1995 Regulations relating to the appointment of members of the Tribunal.

Part III of these Regulations make provisions for the making of representations to the Tribunal and for the procedure in accordance with which enquiries under paragraphs 1 – 4 of Schedule 11 to the 1972 Order are to be held. The principal changes in Part III from the provisions of the 1995 Regulations as a result of the substitution of Schedule 11 by the 2001 Act are –

- (a) regulation 4(2) prescribes the time within which representations that the second condition for disqualification is met and which relate to a practitioner who has applied to join a list, must be made;

- (b) regulations 7(3) and 13(3)(c) make provision for notifying Health and Social Services Boards when a person is subject to an inquiry in a fraud case and when those representations are withdrawn; and
- (c) regulation 15(1) provides that where it would be the duty of the Tribunal to inquire into both an efficiency case and a fraud case in respect of the same person it may inquire into one case before the other.

The other principal changes in Part III from the provisions of the 1995 Regulations are –

- (a) regulation 4(4) prescribes that the time limit for submitting representations may be extended by the Tribunal, and confers on the Tribunal power to do so;
- (b) regulations 7(1) and (2) and 9(4) and (6) require the Tribunal to give additional information to all parties about documents submitted to the Tribunal;
- (c) regulation 14 makes provision for where any party which has received notice of an inquiry fails to appear at the inquiry;
- (d) regulation 15(2) makes provision that inquiries before the Tribunal may not be adjourned solely because of an investigation into the same facts by the respondent's professional body;
- (e) regulation 19(4) makes additional provision for the Department to publish decisions of the Tribunal by sending them to respondents' professional bodies.

Part IV of these Regulations make provision for, and for the determination of, procedure in relation to determining applications for interim suspension under the 1972 Order. The principal change from the 1995 Regulations is to make provision, in regulation 20(7), for the time limits for submitting a statement-in-answer and for notice of the date and time of an inquiry to be varied, provided that the respondent still has an opportunity to appear before the Tribunal and to be heard and call witnesses and produce other evidence.

Part V of these Regulations makes provision for inquiries for the purposes of a review under the 1972 Order. The principal change from the 1995 Regulations is to make provision, in regulation 22(7), for certain applications for review under the 1972 Order of a conditional disqualification by a Board.

Part VI of these Regulations consolidates various miscellaneous provisions in the 1995 Regulations. The principal change to those provisions as a result of the coming into operation of amendments made by the 2001 Act is provision, in regulation 24, for the purpose of securing that a person subject to an inquiry in a fraud case is not added to any list until proceedings in that case are finally concluded.

The other principal change in Part VI from the 1995 Regulations is to make provision for the Department, in certain circumstances, after notifying the practitioner and giving them an opportunity to make representations, to direct Boards to recover amounts from practitioners where there has been a decision of the Tribunal against that practitioner.

In Part VI also, regulation 30 makes transitional provisions and regulation 31 and Schedule 3 repeal the provisions of the 1995 Regulations and consequential amendments of those regulations.

Schedule 1 makes provisions for procedure at all inquiries before the Tribunal.

Schedule 2 sets out the prescribed forms for use in proceedings in connection with representations and applications to the Tribunal.