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STATUTORY INSTRUMENTS

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**2001 No. 3750**

The Family Health Services Appeal  
Authority (Procedure) Rules 2001

PART I  
GENERAL

**Citation, commencement and extent**

1.—(1) These Rules may be cited as the Family Health Services Appeal Authority (Procedure) Rules 2001 and shall come into force on 14th December 2001.

(2) These Rules extend to England only.

**Interpretation**

2.—(1) In these Rules, unless the context otherwise requires—

“the 1977 Act” means the National Health Service Act 1977<sup>(1)</sup>;

“allocation to a panel” shall be construed in accordance with rule 31;

“applicant” and “application” shall be construed in accordance with paragraph (2);

“appellant” means a person who makes an appeal to the FHSAA against a disputed decision;

“appropriate professional registration body” means the General Medical Council, the General Dental Council, the General Optical Council or the Royal Pharmaceutical Society of Great Britain, as the case may be;

“Chairman” means the chairman of a panel to which a case has, or to which particular proceedings in a case have, been allocated;

“contingent removal decision” means a decision by the FHSAA under section 49M(4) of the 1977 Act<sup>(2)</sup> that a practitioner be removed contingently from a Health Authority list;

“decision” (except in the expression “disputed decision”) means any decision of a panel except where the context otherwise provides;

“directions” shall be construed in accordance with rules 31 to 33;

“disputed decision” means the decision of a Health Authority which is the subject of an appeal under section 49M of the 1977 Act or under the relevant FHS regulations;

“the FHSAA” means the Family Health Services Appeal Authority established under section 49S of the 1977 Act<sup>(3)</sup>;

“FHS Regulations” means any regulations conferring a right of appeal to the FHSAA under—

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(1) c. 49.

(2) Sections 49F to 49R were inserted into the 1977 Act by section 25 of the 2001 Act.

(3) Section 49S was inserted into the 1977 Act by section 27(1) of the 2001 Act. The FHSAA’s office is at 30 Victoria Avenue, Harrogate HG1 5PR.

- (a) section 29B of the 1977 Act<sup>(4)</sup> (vacancies for medical practitioners),
- (b) section 36 of the 1977 Act (regulations about general dental services),
- (c) section 39 of the 1977 Act (regulations about general ophthalmic services),
- (d) section 42 of the 1977 Act (regulations about pharmaceutical services),
- (e) section 43 of the 1977 Act (persons authorised to provide pharmaceutical services),
- (f) section 43ZA of the 1977 Act<sup>(5)</sup> (conditional inclusion in medical, dental, ophthalmic and pharmaceutical lists),
- (g) section 43D of the 1977 Act<sup>(6)</sup> (supplementary lists relating to the provision of general medical services, general dental services, general ophthalmic services and pharmaceutical services),
- (h) section 28DA of the 1977 Act<sup>(7)</sup> (lists of persons who may perform personal medical services or personal dental services), or
- (i) section 8ZA of the National Health Service (Primary Care) Act 1997<sup>(8)</sup> (services lists: lists of persons who may perform personal medical services or personal dental services);

“an FHS regulations appeal” means an appeal made under FHS regulations against a disputed decision;

“hearing” means a sitting of a panel for the purpose of enabling the panel in question to reach or announce a decision;

“member” means a member of the FHSAA other than the President or any Deputy President;

“notice of appeal” shall be construed in accordance with rule 6;

“notice of application” shall be construed in accordance with rule 16;

“party” means an appellant, or a respondent Health Authority under Part II or, an applicant or a respondent under Part III, as the case may be, and “parties” shall be construed accordingly;

“the President” means the President of the FHSAA and includes any Deputy President;

“professional registration number” means the number against a person’s name in the register of the appropriate professional registration body;

“the register” means any register kept by the FHSAA in which details concerning appeals, applications, replies and decisions are kept;

“reply” shall be construed in accordance with rule 12 or rule 23, as the case may be;

“representative” means a person, other than Counsel, whom a party instructs to assist him in relation to an appeal or an application (as the case may be), whether or not that person is legally qualified;

“respondent” (except in the expression “respondent Health Authority”) means the respondent to an application;

“respondent Health Authority” means the Health Authority which made a disputed decision.

(2) In these Rules, except where the context otherwise requires—

(a) “applicant” means—

- (i) a Health Authority which makes an application to the FHSAA for an order that a suspension be extended in accordance with section 49I(6)(b) of the 1977 Act,

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(4) Sections 29B, 36, 39, 42 and 43 of the 1977 Act were amended by section 20 of the 2001 Act.

(5) Section 43ZA was inserted into the 1977 Act by section 21 of the 2001 Act.

(6) Section 43D was inserted into the 1977 Act by section 24 of the 2001 Act.

(7) Section 28DA was inserted into the 1977 Act by section 26(1) of the 2001 Act.

(8) Section 8ZA of the National Health Service (Primary Care) Act 1977 (c. 46) was inserted by section 26(2) of the 2001 Act.

- (ii) a Health Authority which makes an application to the FHSAA under section 49N(4) of the 1977 Act for a national disqualification to be imposed on a practitioner, or
  - (iii) a Health Authority which makes, or a practitioner who makes an application under section 49M(5)(a) of the 1977 Act following a decision of the FHSAA that the practitioner be removed contingently,
- as the case may be;
- (b) “application”, except in the expression “application for directions” shall be construed accordingly; and
  - (c) in Part III to Part V in relation to a Health Authority, the words “he”, “his” or “himself” shall, where relevant be construed as applying to that Authority.
- (3) In these Rules, unless the context otherwise requires, a reference—
- (a) to a numbered Part is to the Part bearing that number;
  - (b) to a numbered rule is to the rule bearing that number; and
  - (c) to a numbered paragraph in a rule is to the paragraph bearing that number in that rule.

#### **Carrying out of President’s functions by Deputy President**

- 3. Any functions of the President under these Rules may be carried out by any Deputy President.

#### **Appeals and applications**

- 4. In these Rules, Part II applies only to appeals and Part III applies only to applications.