

*Status: Point in time view as at 31/10/2012.*

*Changes to legislation: There are currently no known outstanding effects for the Misuse of Drugs Act 1971, SCHEDULE 3. (See end of Document for details)*

## SCHEDULES

### SCHEDULE 3

Section 16.

#### TRIBUNALS, ADVISORY BODIES AND PROFESSIONAL PANELS

##### PART I

##### TRIBUNALS

##### *Membership*

- 1 (1) A tribunal shall consist of five persons of whom—
- (a) one shall be
    - [<sup>F1</sup>(i) a person who satisfies the judicial-appointment eligibility condition on a 5-year basis;]
    - [<sup>F2</sup>(ii) an advocate or solicitor in Scotland of at least [<sup>F3</sup>5] years' standing; or
    - (iii) a member of the Bar of Northern Ireland or [<sup>F4</sup>solicitor of the Court of Judicature of Northern Ireland] of at least [<sup>F5</sup>5] years' standing,]
  - appointed by the Lord Chancellor to be the chairman of the tribunal; and
  - (b) the other four shall be persons appointed by the Secretary of State from among members of the respondent's profession nominated for the purposes of this Schedule by any of the relevant bodies mentioned in sub-paragraph (2) below.
- (2) The relevant bodies aforesaid are—
- (a) where the respondent is a doctor, the General Medical Council, the Royal Colleges of Physicians of London and Edinburgh, the Royal Colleges of Surgeons of England and Edinburgh, the Royal College of Physicians and Surgeons (Glasgow), the Royal College of Obstetricians and Gynaecologists, the Royal College of General Practitioners, the Royal Medico-Psychological Association and the British Medical Association;
  - (b) where the respondent is a dentist, the General Dental Council and the British Dental Association;
  - (c) where the respondent is a veterinary practitioner or veterinary surgeon, the Royal College of Veterinary Surgeons and the British Veterinary Association.
- [<sup>F6</sup>(2A) The chairman of a tribunal shall vacate his office on the day on which he attains the age of seventy years; but this sub-paragraph is subject to section 26(4) to (6) of the Judicial Pensions and Retirement Act 1993 (power to authorise continuance in office up to the age of seventy-five years).]

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- (3) Sub-paragraph (1) above shall have effect in relation to a tribunal in Scotland as if for the reference to the Lord Chancellor there were substituted as reference to the Lord President of the Court of Session.

#### Textual Amendments

- F1** Sch. 3 para. 1(1)(a)(i) substituted (21.7.2008) by [Tribunals, Courts and Enforcement Act 2007 \(c. 15\)](#), s. 148, [Sch. 10 para. 10\(2\)](#); S.I. 2008/1653, art. 2(d) (with arts. 34)
- F2** Words substituted by [Courts and Legal Services Act 1990 \(c. 41, SIF 37\)](#), s. 71(2), [Sch. 10 para. 33](#)
- F3** Word in Sch. 3 para. 1(1)(a)(ii) substituted (21.7.2008) by [Tribunals, Courts and Enforcement Act 2007 \(c. 15\)](#), s. 148, [Sch. 10 para. 10\(3\)](#); S.I. 2008/1653, art. 2(d) (with arts. 3, 4)
- F4** Words in Sch. 3 para. 1(1)(a)(iii) substituted (1.10.2009) by [Constitutional Reform Act 2005 \(c. 4\)](#), s. 148(1), [Sch. 11 para. 5](#); S.I. 2009/1604, art. 2(d)
- F5** Word in Sch. 3 para. 1(1)(a)(iii) substituted (21.7.2008) by [Tribunals, Courts and Enforcement Act 2007 \(c. 15\)](#), s. 148, [Sch. 10 para. 10\(3\)](#); S.I. 2008/1653, art. 2(d) (with arts. 3, 4)
- F6** Sch. 3 Pt. I para. 1(2A) inserted (31.3.1995) by [1993 c. 8](#), s. 26, [Sch. 6 para. 42\(2\)](#) (with sch. 7 paras. 2(2), 3(2), 4); S.I. 1995/631, [art.2](#)

#### Modifications etc. (not altering text)

- C1** Sch. 3 para. 1(1)(b): Functions transferred (S.) (1.7.1999) by virtue of [S.I. 1999/1750](#), [art. 2](#), [Sch. 1](#) (with [art. 7](#))

#### *Procedure*

- 2 The quorum of a tribunal shall be the chairman and two other members of the tribunal.
- 3 Proceedings before a tribunal shall be held in private unless the respondent requests otherwise and the tribunal accedes to the request.
- 4 (1) Subject to paragraph 5 below, the Lord Chancellor may make rules as to the procedure to be followed, and the rules of evidence to be observed, in proceedings before tribunals, and in particular—
- (a) for securing that notice that the proceedings are to be brought shall be given to the respondent at such time and in such manner as may be specified by the rules;
  - (b) for determining who, in addition to the respondent, shall be a party to the proceedings;
  - (c) for securing that any party to the proceedings shall, if he so requires, be entitled to be heard by the tribunal;
  - (d) for enabling any party to the proceedings to be represented by counsel or solicitor.
- (2) Sub-paragraph (1) above shall have effect in relation to a tribunal in Scotland as if for the reference to the Lord Chancellor there were substituted a reference to the Secretary of State.
- (3) The power to make rules under this paragraph shall be exercisable by statutory instrument, which shall be subject to annulment in pursuance of a resolution of either House of Parliament.
- [<sup>F7</sup>(4) Where the Scottish Ministers have power to make rules under this paragraph (by virtue of section 16(1A) or otherwise)—

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- (a) sub-paragraph (3) does not apply, and
- (b) the rules are subject to the negative procedure.]

#### Textual Amendments

**F7** Sch. 3 para. 4(4) added (31.10.2012) by [Scotland Act 2012 \(c. 11\)](#), **ss. 19(7), 44(5)**; S.I. 2012/2516, art. 2(d)

#### Modifications etc. (not altering text)

**C2** Sch. 3 para. 4: Functions transferred (S.) (1.7.1999) by virtue of [S.I. 1999/1750, art. 2](#), **Sch. 1** (with art. 7)

- 5
- (1) For the purpose of any proceedings before a tribunal in England or Wales or Northern Ireland the tribunal may administer oaths and any party to the proceedings may sue out writs of subpoena ad testificandum and duces tecum, but no person shall be compelled under any such writ to give any evidence or produce any document which he could not be compelled to give or produce on the trial of an action.
  - (2) The provisions of section [<sup>F8</sup>36 of the [<sup>F9</sup>Senior Courts Act 1981]]<sup>F10</sup>, of section 67 of the Judicature (Northern Ireland) Act 1978], or of the Attendance of Witnesses Act 1854 (which provide special procedures for the issue of such writs so as to be in force throughout the United Kingdom) shall apply in relation to any proceedings before a tribunal in England or Wales or, as the case may be, in Northern Ireland as those provisions apply in relation to causes or matters in the High Court or actions or suits pending in the High Court of Justice in Northern Ireland.
  - (3) For the purpose of any proceedings before a tribunal in Scotland, the tribunal may administer oaths and the Court of Session shall on the application of any party to the proceedings have the like power as in any action in that court to grant warrant for the citation of witnesses and havers to give evidence or to produce documents before the tribunal.

#### Textual Amendments

**F8** Words substituted by [Supreme Court Act 1981 \(c. 54, SIF 37\)](#), **Sch. 5**

**F9** Words in Sch. 3 para. 5(2) substituted (1.10.2009) by [Constitutional Reform Act 2005 \(c. 4\)](#), s. 148(1), **Sch. 11 para. 1(2)**; S.I. 2009/1604, art. 2(d)

**F10** Words inserted by [Judicature \(Northern Ireland\) Act 1978 \(c. 23\)](#), **s. 125(2) Sch. 5 Pt. II(1)**

- 6 Subject to the foregoing provisions of this Schedule, a tribunal may regulate its own procedure.
- 7 The validity of the proceedings of a tribunal shall not be affected by any defect in the appointment of a member of the tribunal or by reason of the fact that a person not entitled to do so took part in the proceedings.

#### *Financial provisions*

- 8 The Secretary of State may pay to any member of a tribunal fees and travelling and other allowances in respect of his services in accordance with such scales and subject to such conditions as the Secretary of State may determine with the approval of the Treasury.

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- 9 The Secretary of State may pay to any person who attends as a witness before the tribunal sums by way of compensation for the loss of his time and travelling and other allowances in accordance with such scales and subject to such conditions as may be determined as aforesaid.
- 10 If a tribunal recommends to the Secretary of State that the whole or part of the expenses properly incurred by the respondent for the purposes of proceedings before the tribunal should be defrayed out of public funds, the Secretary of State may if he thinks fit make to the respondent such payments in respect of those expenses as the Secretary of State considers appropriate.
- 11 Any expenses incurred by a tribunal with the approval of the Secretary of State shall be defrayed by the Secretary of State.

*Supplemental*

- 12 The Secretary of State shall make available to a tribunal such accommodation, the services of such officers and such other facilities as he considers appropriate for the purpose of enabling the tribunal to perform its functions.

**PART II**

ADVISORY BODIES

*Membership*

- 13 (1) An advisory body shall consist of three persons of whom—
- (a) one shall be a person who is of counsel to Her Majesty and is appointed by the Lord Chancellor to be the chairman of the advisory body; and
  - (b) another shall be a person appointed by the Secretary of State, being a member of the respondent's profession who is an officer of a department of the Government of the United Kingdom; and
  - (c) the other shall be a person appointed by the Secretary of State from among the members of the respondent's profession nominated as mentioned in paragraph 1 above.

[<sup>F11</sup>(1A) The chairman of an advisory body shall vacate his office on the day on which he attains the age of seventy years; but this sub-paragraph is subject to section 26(4) to (6) of the Judicial Pensions and Retirement Act 1993 (power to authorise continuance in office up to the age of seventy-five years).]

- (2) Sub-paragraph (1) above shall have effect in relation to an advisory body in Scotland as if for the reference to the Lord Chancellor there were substituted a reference to the Lord President of the Court of Session.

**Textual Amendments**

**F11** Sch. 3 Pt. II para. 13(1A) inserted (31.3.1995) by 1993 c. 8, s. 26, **Sch. 6 para. 42(3)** (with Sch. 7 paras. 2(2), 3(2), 4); S.I. 1995/631, **art.2**

**Modifications etc. (not altering text)**

**C3** Sch. 3 para. 13: transfer of functions (12.4.2010) by **The Northern Ireland Act 1998 (Devolution of Policing and Justice Functions) Order 2010 (S.I. 2010/976)**, art. 1(2), **Sch. 17 para. 3** (with arts. 28-31)

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**C4** Sch. 3 para. 13(1)(b): Functions transferred (S.) (1.7.1999) by virtue of S.I. 1999/1750, art. 2, Sch. 1 (with art. 7)

*Procedure*

- 14 The respondent shall be entitled to appear before and be heard by the advisory body either in person or by counsel or solicitor.
- 15 Subject to the provisions of this Part of this Schedule, an advisory body may regulate its own procedure.

*Application of provisions of Part I*

- 16 Paragraphs 3, 7, 8 and 10 to 12 of this Schedule shall apply in relation to an advisory body as they apply in relation to a tribunal.

**PART III**

PROFESSIONAL PANELS

*Membership*

- 17 A professional panel shall consist of a chairman and two other persons appointed by the Secretary of State from among the members of the respondent's profession after consultation with such one or more of the relevant bodies mentioned in paragraph 1(2) above as the Secretary of State considers appropriate.

**Modifications etc. (not altering text)**

**C5** Sch. 3 para. 17: Functions transferred (S.) (1.7.1999) by virtue of S.I. 1999/1750, art. 2, Sch. 1 (with art. 7)

*Procedure*

- 18 The respondent shall be entitled to appear before, and be heard by, the professional panel either in person or by counsel or solicitor.
- 19 Subject to the provisions of this Part of this Schedule, a professional panel may regulate its own procedure.

*Application of provisions of Part I*

- 20 Paragraphs 3, 7 and 8 of this Schedule shall apply in relation to a professional panel as they apply in relation to a tribunal.

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## PART IV

### APPLICATION OF PARTS I TO III TO NORTHERN IRELAND

- 21 In the application of Parts I to III of this Schedule to Northern Ireland the provisions specified in the first column of the following Table shall have effect subject to the modifications specified in relation thereto in the second column of that Table.

TABLE

<i>Provision of this Schedule</i>	<i>Modification</i>
Paragraph 1	In sub-paragraph (1), for the references to [ <sup>F12</sup> any reference to ] the Secretary of State there shall be substituted [ <sup>F13</sup> a reference to] the Minister of Home Affairs for Northern Ireland [ <sup>F14</sup> and for any reference to the Lord Chancellor there shall be substituted a reference to the Northern Ireland Judicial Appointments Commission] .
Paragraph 4	In sub-paragraph (1), for the reference to the Lord Chancellor there shall be substituted a reference to the Ministry of Home Affairs for Northern Ireland.  For sub-paragraph (3) there shall be substituted—  “(3) Any rules made under this paragraph by the Ministry of Home Affairs for Northern Ireland shall be subject to negative resolution within the meaning of section 41(6) of the Interpretation Act (Northern Ireland) 1954 as if they were a statutory instrument within the meaning of that Act.”
Paragraphs 8 to 12	For the references to the Secretary of State and the Treasury there shall be substituted respectively references to the Ministry of Home Affairs for Northern Ireland and the Ministry of Finance for Northern Ireland.
Paragraph 13	In sub-paragraph (1)—  (a) for the references to [ <sup>F15</sup> any reference to the] Secretary of State there shall be substituted [ <sup>F16</sup> a reference to] the Minister of Home Affairs for Northern Ireland [ <sup>F17</sup> and for any reference to the Lord Chancellor there shall be substituted a reference to the

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	Department of Justice in Northern Ireland] ; and
	(b) for the reference to a department of the Government of the United Kingdom there shall be substituted a reference to a department of the Government of Northern Ireland.
Paragraph 16	The references to paragraphs 8 and 10 to 12 shall be construed as references to those paragraphs as modified by this Part of this Schedule.
Paragraph 17	For the reference to the Secretary of State there shall be substituted a reference to the Minister of Home Affairs for Northern Ireland.
Paragraph 20	The reference to paragraph 8 shall be construed as a reference to that paragraph as modified by this Part of this Schedule.

[<sup>F18</sup>

After sub-paragraph (2) there shall be inserted—

“(3) The [<sup>F19</sup>Department of Justice in Northern Ireland] must obtain the concurrence of the Lord Chief Justice of Northern Ireland before exercising his functions under sub-paragraph (1)(a).

(4) The Lord Chief Justice of Northern Ireland may nominate any of the following to exercise his functions under sub-paragraph (3)

- (a) the holder of one of the offices listed in Schedule 1 to the Justice (Northern Ireland) Act 2002;
- (b) a Lord Justice of Appeal (as defined in section 88 of that Act).”]

#### Textual Amendments

**F12** Words in Sch. 3 para. 21 substituted (3.4.2006) by [Constitutional Reform Act 2005 \(c. 4\), s. 148\(1\), Sch. 4 para. 74\(2\)\(a\)](#); S.I. 2006/1014, art. 2(a), Sch. 1 para. 11(e)

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- F13** Words in Sch. 3 para. 21 substituted (3.4.2006) by Constitutional Reform Act 2005 (c. 4), s. 148(1), **Sch. 4 para. 74(2)(b)**; S.I. 2006/1014, art. 2(a), Sch. 1 para. 11(e)
- F14** Words in Sch. 3 para. 21 inserted (12.4.2010) by Northern Ireland Act 2009 (c. 3), s. 5(7), **Sch. 4 para. 8** (with Sch. 5 para. 16); S.I. 2010/812, art. 2
- F15** Words in Sch. 3 para. 21 substituted (3.4.2006) by Constitutional Reform Act 2005 (c. 4), s. 148(1), **Sch. 4 para. 74(3)(a)**; S.I. 2006/1014, art. 2(a), Sch. 1 para. 11(e)
- F16** Words in Sch. 3 para. 21 substituted (3.4.2006) by Constitutional Reform Act 2005 (c. 4), s. 148(1), **Sch. 4 para. 74(3)(b)**; S.I. 2006/1014, art. 2(a), Sch. 1 para. 11(e)
- F17** Words in Sch. 3 para. 21 inserted (12.4.2010) by The Northern Ireland Act 1998 (Devolution of Policing and Justice Functions) Order 2010 (S.I. 2010/976), art. 1(2), **Sch. 18 para. 3(a)** (with arts. 28-31)
- F18** Words in Sch. 3 para. 21 inserted (3.4.2006) by Constitutional Reform Act 2005 (c. 4), s. 148(1), **Sch. 4 para. 74(3)(c)**; S.I. 2006/1014, art. 2(a), Sch. 1 para. 11(e)
- F19** Words in Sch. 3 para. 21 substituted (12.4.2010) by The Northern Ireland Act 1998 (Devolution of Policing and Justice Functions) Order 2010 (S.I. 2010/976), art. 1(2), **Sch. 18 para. 3(b)** (with arts. 28-31)

**Modifications etc. (not altering text)**

- C6** Functions of Ministry of Home Affairs for Northern Ireland transferred to Department of Health and Social Services for Northern Ireland by S.R. & O. (N.I.) 1973 No. 504, art. 5, **Sch. 2 Pt. 1**



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