
STATUTORY INSTRUMENTS

1992 No. 664

**The National Health Service (Service
Committees and Tribunal) Regulations 1992**

PART III

INQUIRIES BY, AND APPEALS FROM, THE TRIBUNAL

Interpretation and forms

21.—(1) In this Part—

- “appellant” means a person who has given notice of an appeal under regulation 27(1);
- “applicant” means a person who has made an application;
- “application” means an application for a direction under section 47 of the Act;
- “complainant” means a person who, or a body which, has made representations;
- “inquiry” means an inquiry held under the provisions of this Part;
- “representations” means representations made to the Tribunal under section 46(1) of the Act;
- “respondent” means—
 - (a) in relation to representations, the doctor, dentist, ophthalmic medical practitioner, optician or chemist in relation to whom the representations are made;
 - (b) in relation to an application, the FHSAs from whose list the name of the applicant was removed pursuant to a direction under section 46(2)(a) of the Act.

(2) Any reference in this Part to a form prescribed in Schedule 8 includes a form substantially to like effect.

Tenure of office of chairman and member of the Tribunal

22.—(1) The chairman of the Tribunal shall hold office during the pleasure of the Lord Chancellor.

(2) The member of the Tribunal appointed pursuant to paragraph 3 of Schedule 9 to the Act (after consultation with associations representative of FHSAs) shall hold office during the pleasure of the Secretary of State.

Officers of the Tribunal

23. The chairman of the Tribunal shall appoint—

- (a) a person approved by the Secretary of State to act as Clerk of the Tribunal; and
- (b) such other officers as may be necessary.

Making of representations and preliminary matters

24.—(1) Representations to the Tribunal under section 46(1) of the Act that the continued inclusion of a person's name in a medical list, dental list, ophthalmic list or pharmaceutical list would be prejudicial to the efficiency of the services in question shall—

- (a) be made in writing;
- (b) be signed by the complainant or on his behalf by some person authorised by him; and
- (c) include a preliminary statement of the alleged facts and the grounds upon which he intends to rely,

and shall be sent to the Tribunal.

(2) The complainant shall, if so required by the Tribunal, send to it, within 30 days of being so required, a further statement setting out—

- (a) the alleged facts;
- (b) the grounds on which the representations are made;
- (c) where a fact is not within the personal knowledge of the person signing the representations, the source of the information and why it is considered to be true; and
- (d) such further particulars as the Tribunal may require,

and shall, if so required by the Tribunal, verify the preliminary statement provided under paragraph (1)(c) by statutory declaration.

(3) Where the complainant is not an FHSA the Tribunal shall consider the representations and any statement furnished under paragraph (2) and if it declines to inquire into the case, it shall so inform the complainant in writing.

(4) Where an inquiry is to be held, the Tribunal shall give—

- (a) to the respondent notice in writing in the form set out in Part I of Schedule 8 that the Tribunal intends to hold an inquiry as to the representations made by the complainant;
- (b) to the complainant notice in writing in the form set out in Part II of Schedule 8 that the Tribunal intends to hold an inquiry as to his representations and requiring him, within a time specified in the notice, to send to the Tribunal a copy of any document which he proposes to put in evidence.

(5) The complainant shall comply with any requirement of a notice given to him under paragraph (4)(b) within the time stated in it.

(6) The Tribunal shall send to the respondent—

- (a) a copy of the preliminary statement provided by the complainant under paragraph (1)(c);
- (b) a copy of any further statement furnished under paragraph (2);
- (c) copies of documents which have been provided by the complainant under paragraph (5); and
- (d) a notice informing him that he may, by a statement in writing to be sent to the Tribunal within a time specified in the notice, admit or dispute the truth of all or any of the allegations appearing in a statement sent to him under sub-paragraph (a) or (b) of this paragraph.

(7) The Tribunal may at any time before the conclusion of the inquiry allow the statement of complaint to be amended, upon such conditions as it may think just, on the application of the complainant.

Withdrawal of representations and suspension of procedures

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

(2) If the complainant fails to comply, within the time allowed by the Tribunal for such compliance, with any requirement imposed under regulation 24 or 26, or fails, without having previously offered a reasonable excuse, to appear at an inquiry of which due notice was given under paragraph 1 of Schedule 9, the Tribunal may treat the representations as having been withdrawn.

(3) Where representations are withdrawn or treated as withdrawn the Tribunal shall immediately so inform the respondent in writing (without prejudice to its power to determine any question as to costs under paragraph 9 of Schedule 9).

(4) Where it appears to the Tribunal that the alleged facts on which any representations are based are being or may be investigated by some other tribunal, body or person, it may direct that no further steps shall be taken under this Part pending the result of the other investigation.

Inquiry as to representations

26.—(1) Subject to paragraph (2), the inquiry shall be held by way of an oral hearing, and Schedule 9 shall apply with respect to that hearing.

(2) Where the grounds on which representations are based are solely that the respondent has been convicted of a criminal offence and the respondent states in writing that—

- (a) he admits the conviction; and
- (b) he does not want an oral hearing,

the Tribunal may decide the case on such documentary evidence as may be submitted to it.

(3) At the conclusion of the inquiry the Tribunal shall, as soon as practicable, issue a decision in writing, signed by the chairman, containing—

- (a) its findings of fact;
- (b) its conclusions;
- (c) any directions it decides to give under section 46(2) of the Act;
- (d) a statement of the reasons for its decision; and
- (e) any order it decides to make as to costs.

(4) The Tribunal shall send a copy of its decision to the respondent, the complainant and the Secretary of State; and the Secretary of State shall send a copy of the decision to any FHSA which appears to him to be concerned.

(5) Where the decision contains a direction under section 46(2) of the Act the Tribunal shall include with the decision a notice to the respondent of his right of appeal to the Secretary of State under section 46(3) of the Act.

Appeals to Secretary of State as to representations

27.—(1) A respondent wishing to appeal under section 46(3) of the Act against a decision of the Tribunal under section 46(2) shall, within 30 days of being sent the notice under regulation 26(5), give to the Secretary of State notice of appeal in writing which shall contain a statement of the grounds of appeal on which he intends to rely.

(2) There shall be an oral hearing of the appeal, and the Secretary of State shall appoint—

- (a) a person to hear the appeal and report to him on it; and

- (b) in accordance with paragraph (3), a person to assist the person appointed under subparagraph (a) of this paragraph.
- (3) The person appointed under paragraph (2)(b) shall be—
 - (a) where the appellant is a doctor, a doctor selected from the doctors' panel;
 - (b) where the appellant is a dentist, a dentist selected from the dentists' panel;
 - (c) where the appellant is an ophthalmic medical practitioner, an ophthalmic medical practitioner;
 - (d) where the appellant is an optician, an optician;
 - (e) where the appellant is a chemist, a registered pharmacist.
- (4) The provisions of Schedule 9 shall apply with respect to the hearing of an appeal.
- (5) An appeal may, at any time before the date appointed for the hearing, be withdrawn by the appellant giving notice in writing of withdrawal to the Secretary of State; and where an appeal is withdrawn the Secretary of State shall forthwith confirm the Tribunal's direction.
- (6) The Secretary of State shall—
 - (a) consider the report of the person hearing the appeal;
 - (b) make a decision on the appeal; and
 - (c) give notice in writing of that decision to the appellant, the Tribunal, the complainant and any FHSA which appears to him to be concerned.
- (7) The notice given under paragraph (6)(c) shall include—
 - (a) a statement of the Secretary of State's reasons for his decision; and
 - (b) where the person hearing the appeal has made an order as to costs, details of that order.

Applications for removal of disqualification

- 28.** An application for a direction under section 47 of the Act that a person shall no longer be disqualified for inclusion in any list to which a direction under section 46 of the Act relates may be made to the Tribunal or to the Secretary of State and shall—
- (a) be in writing;
 - (b) be signed by or on behalf of the applicant;
 - (c) contain a statement of the grounds on which it is made; and
 - (d) include a copy of each document which the applicant proposes to put in evidence.

Applications to the Tribunal

- 29.**—(1) An application made to the Tribunal shall be sent to the Tribunal.
- (2) The Tribunal shall send to the respondent a copy of the application, together with a copy of any document included with it under regulation 28(d).
- (3) The Tribunal shall consider the application and—
- (a) if it considers that no good cause has been shown for an inquiry, it may decline to hold an inquiry and to make a direction under section 47 of the Act and shall give notice in writing to the applicant and the respondent accordingly;
 - (b) if it considers that an inquiry should be held, it shall give notice in writing to the applicant and the respondent accordingly.
- (4) The applicant may at any time before the inquiry, with the consent of the Tribunal and on such terms as it thinks fit, withdraw his application by giving notice of withdrawal in writing to

the Tribunal; and where an application is withdrawn the Tribunal shall so inform the respondent in writing.

(5) Where an inquiry is to be held by way of an oral hearing, the provisions of Schedule 9 shall apply with respect to that hearing.

(6) At the conclusion of the inquiry the Tribunal shall, as soon as practicable, issue a decision in writing, signed by the chairman, containing—

- (a) its findings of fact;
- (b) its conclusions;
- (c) any direction it decides to give under section 47 of the Act; and
- (d) any order it decides to make as to costs.

(7) The Tribunal shall send a copy of the Tribunal's decision to the applicant, the respondent and the Secretary of State; and the Secretary of State shall send a copy of the decision to any other FHSA which appears to him to be concerned.

Applications to the Secretary of State

30.—(1) An application made to the Secretary of State shall be sent to him.

(2) The provisions of paragraphs (2) to (4) of regulation 29 shall apply to applications made to the Secretary of State as they apply to applications made to the Tribunal, but as though any reference in them to the Tribunal were a reference to the Secretary of State.

(3) Where an inquiry is to be held it shall be by way of an oral hearing and the provisions of Schedule 9 shall apply with regard to that hearing.

(4) The Secretary of State shall appoint—

- (a) a person to hold an inquiry and report to him on the application; and
- (b) in accordance with paragraph (5), a person to assist the person holding the inquiry.

(5) The provisions of regulation 27(3) shall apply to appointments under paragraph (4)(b) as they apply to appointments under regulation 27(2), but as though the references in them to the appellant were references to the applicant.

(6) The Secretary of State shall—

- (a) consider the report of the person holding the inquiry;
- (b) make a decision on the application; and
- (c) give notice in writing of that decision to the applicant, the respondent, the Tribunal and any other FHSA which appears to him to be concerned.

(7) The notice given under paragraph (6)(c) shall include—

- (a) a statement of the Secretary of State's reasons for his decision; and
- (b) where the person holding the inquiry makes an order as to costs, details of that order.

Publication of decisions

31. The Secretary of State shall publish in such manner as he thinks fit—

- (a) any direction of the Tribunal under section 46(2) of the Act;
- (b) any confirmation or revocation by the Secretary of State under section 46(3) of the Act of such a direction of the Tribunal;
- (c) any direction of the Tribunal or the Secretary of State under section 47 of the Act;

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- (d) any imposition or removal of a disqualification referred to in section 48 of the Act (corresponding provisions for Scotland and Northern Ireland).