STATUTORY RULES OF NORTHERN IRELAND

1999 No. 15

HEALTH AND PERSONAL SOCIAL SERVICES

The Health Services (Tribunal and Disciplinary Procedures) (Amendment) Regulations (Northern Ireland) 1999

Made - - - -	*18th January 1999*
Coming into operation	*1st April 1999*

The Department of Health and Social Services, in exercise of the powers conferred on it by Articles 56, 65 and 106(*b*) of, and paragraphs 1, 8 and 8C(2) of Schedule 11 to, the Health and Personal Social Services (Northern Ireland) Order 1972(**1**), and Articles 14 and 31(2) of, and paragraphs 3(4) and (5) and 7 of Schedule 1 to, the Health Services (Primary Care) (Northern Ireland) Order 1997(**2**) and of all other powers enabling it in that behalf, and after consultation with such organisations as appear to the Department of Health and Social Services to be representative of the medical profession as required by Article 56(5) of the said Order, hereby makes the following Regulations:

Citation and commencement

1. These Regulations may be cited as the Health Services (Tribunal and Disciplinary Procedures) (Amendment) Regulations (Northern Ireland) 1999, and shall come into operation on 1st April 1999.

Amendment of the Tribunal Regulations (Northern Ireland) 1995

2. The Tribunal Regulations (Northern Ireland) 1995(**3**) shall be amended as follows–

(a) in regulation 2(1) (interpretation)–

(i) the following definition shall be inserted before the definition of "Board"–

""the 1997 Order" means the Health Services (Primary Care) (Northern Ireland) Order 1997;",

(ii) in the definitions of "doctor" and "medical list", for the words "General Medical and Pharmaceutical Services Regulations (Northern Ireland) 1973" there shall be substituted "General Medical Services Regulations (Northern Ireland) 1997(**4**);",

(**1**) S.I. 1972/1265 (N.I. 14); the relevant amending instruments are S.I. 1978/1907 (N.I. 14), S.I. 1981/432, S.I. 1986/2229 (N.I. 24), S.I. 1988/2249 (N.I. 24), S.I. 1991/194 (N.I. 1) and S.I. 1995/2704 (N.I. 14)
(**2**) S.I. 1997/1177 (N.I. 7)
(**3**) S.R. 1995 No. 493; as amended by S.R. 1997 No. 71
(**4**) S.R. 1997 No. 380; as amended by S.R. 1998 No. 9

(iii) in the definition of "inquiry", after the word "Order" there shall be inserted "or under Schedule 1 to the 1997 Order",

(iv) in the definition of "representations", after the words "the Order" there shall be inserted "or paragraph 3(1) or (2) of Schedule 1 to the 1997 Order", and

(v) in the definition of "respondent", after paragraph (*b*) there shall be inserted the following paragraph–

"(c) in relation to an application under paragraph 5 of Schedule 1 to the 1997 Order, the Board in whose list the applicant had not been included pursuant to a direction under paragraph 4(1) of that Schedule;",

(b) in regulation 7 (making of representations and preliminary matters),–

(i) for paragraph (1) there shall be substituted the following paragraph–

"(1) Representations to the Tribunal–

(a) under paragraph 1(1) of Schedule 11 to the Order, that the continued inclusion of a person's name in any list prepared under Part VI of the Order to which the representations relate would be prejudicial to the efficiency of the services in question; or

(b) under paragraph 3 of Schedule 1 to the 1997 Order, that the inclusion of a person's name in a medical list would be prejudicial to the efficiency of general medical services,

shall be made in accordance with this regulation.

(1A) Subject to paragraph (1B), the representations referred to in paragraph (1) 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.

(1B) The representations referred to in paragraph (1)(*b*) shall be sent to the Tribunal before the end of the period of two weeks beginning with the date on which the Department publishes information under regulation 15A about the person's application for his name to be included in a medical list.;"

(ii) in paragraph (2)–

(aa) for "the period of 28 days beginning with the day on which the Tribunal sent him notice of its requirement" there shall be substituted "such period (being not less than 14 nor more than 28 days), beginning with the day on which the Tribunal sent him notice of its requirement, as the Tribunal shall specify in its notice"; and

(bb) for "paragraph (1)(*c*)" there shall be substituted "paragraph (1A)(*c*)";

(iii) in paragraph (6)(*a*), for "paragraph (1)(*c*)" there shall be substituted "paragraph (1A)(*c*)";

(c) in paragraph (4)(*c*) of regulation 9, for "regulation 8(7)" there shall be substituted "regulation 8(10)";

(d) in regulation 10 (inquiry as to representations),–

(i) in paragraph (4)(*c*), after "the Order" there shall be inserted "or under paragraph 4(1) of Schedule 1 to the 1997 Order",

(ii) in paragraph (6)–

(aa) after "contains a direction under paragraph 3 of Schedule 11 to the Order" there shall be inserted "or under paragraph 4(1) of Schedule 1 to the 1997 Order",

(bb) after "or both" there shall be inserted ", or a direction under paragraph 4(1) of Schedule 1 to the 1997 Order";

(e) for regulations 12 and 13 there shall be substituted the following regulation–

"**Applications for removal of disqualification**

12.—(1) An application–

(a) under paragraph 6 of Schedule 11 to the Order, for the inclusion or restoration of a person's name in any list to which a direction under paragraph 3 of that Schedule relates; or

(b) for a direction, under paragraph 5 of Schedule 1 to the 1997 Order, that a person shall no longer be disqualified for inclusion in any medical list to which a direction under paragraph 4 of that Schedule relates,

may be made to the Tribunal and shall be made in accordance with this regulation.

(2) An application made under paragraph (1) shall–

(a) be made 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,

and shall be sent to the Tribunal.

(3) The Tribunal shall send to the respondent a copy of the application, together with a copy of any document included with it under paragraph 12(2)(*d*).

(4) The applicant may, at any time before the Tribunal has considered the application, 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 inform the respondent in writing.

(5) The Tribunal shall consider the application and decide–

(a) where the applicant's name has been removed from any list pursuant to a direction under paragraph 3 of Schedule 1 to the Order, whether the applicant's name should be included in or restored to the list in which it had not been included or from which it had been removed; or

(b) whether any disqualification imposed following a direction given under paragraph 4 of Schedule 1 to the 1997 Order should be removed.

(6) Where an inquiry is to be held by way of an oral hearing, the provisions of Schedule 2 shall apply with respect to that hearing.

(7) After the Tribunal has considered the application it shall, as soon as practicable, issue a decision in writing, signed by the chairman or a duty chairman of the Tribunal, containing–