1995 No. 493

HEALTH AND PERSONAL SOCIAL SERVICES

Tribunal Regulations (Northern Ireland) 1995

Made . . . . . *21st December 1995*
Coming into operation . . *21st December 1995*

ARRANGEMENT OF REGULATIONS

PART I

GENERAL

1. Citation and commencement
2. Interpretation and forms

PART II

INQUIRIES BY, AND APPEALS FROM, THE TRIBUNAL

3. Tenure of office of members of the Tribunal
4. Officers of the Tribunal
5. Remuneration and expenses of members and officers
6. Procedure of the Tribunal
7. Making of representations and preliminary matters
8. Applications for interim suspension
9. Withdrawal of representations and suspension of procedures
10. Inquiry as to representations
11. Discharge of suspension functions by chairman or deputy chairman
12. Application for removal of disqualification
13. Applications to the Tribunal
14. Publication of decisions
15. Costs

PART III

MISCELLANEOUS PROVISIONS

16. Power to dispense with requirements as to notices
17. Power to extend time limits
18. Referral of matters to professional bodies

19. Transitional provisions
20. Revocations

SCHEDULES

1. Forms for use in proceedings before Tribunal
Part I Notice to the respondent of intention to hold inquiry
Part II Notice to complainant of intention to hold inquiry
2. Hearings under Part III

The Department of Health and Social Services in exercise of the powers conferred on it by Articles 65, 89 and 106 of, and Schedule 11 to, the Health and Personal Social Services (Northern Ireland) Order 1972(**a**) and of all other powers enabling it in that behalf, hereby makes the following regulations:

PART I

GENERAL

Citation and commencement

1. These regulations may be cited as the Tribunal Regulations (Northern Ireland) 1995 and shall come into operation on 21st December 1995.

Interpretation

2.—(1) In these regulations—

"application" means an application for a direction under paragraph 3 of Part I of Schedule 11 to the Order(**b**);

"Board" means a Health and Social Services Board;

"complainant" means a person who has made representations;

"dental list" has the same meaning as in the General Dental Services Regulations (Northern Ireland) 1993(**c**);

"dentist" has the same meaning as in the General Dental Services Regulations (Northern Ireland) 1993;

"doctor" has the same meaning as in the General Medical and Pharmaceutical Services Regulations (Northern Ireland) 1973(**d**);

"inquiry" means an inquiry held under Part I of Schedule 11 to the Order(**e**);

"Local Representative Committee" means a committee recognised by a Board in relation to its area under Article 55 of the Order(**f**);

(a) S.I. 1972/1265 (N.I. 14); the relevant amending Instruments are Article 34 of, and Part I of Schedule 5 to, S.I. 1991/194 (N.I. 1) and Articles 3 to 6 of S.I. 1995/2704 (N.I. 14)
(b) Paragraph 3 of Schedule 11 is substituted by Article 3 of S.I. 1995/2704 (N.I. 14)
(c) S.R. 1993 No. 326
(d) S.R. & O. 1973 No. 421
(e) Part I of Schedule 11 is amended by Articles 3 to 5 of S.I. 1995/2704 (N.I. 14)
(f) Article 55 is amended by Article 5 of S.I. 1991/194 (N.I. 1)

"medical list" has the same meaning as in the General Medical and Pharmaceutical Services Regulations (Northern Ireland) 1973;

"ophthalmic list" has the same meaning as in the General Ophthalmic Services Regulations (Northern Ireland) 1986(**a**);

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

"optician" has the same meaning as in the General Ophthalmic Services Regulations (Northern Ireland) 1986;

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

"pharmaceutical list" has the same meaning as in the General Medical and Pharmaceutical Services Regulations (Northern Ireland) 1973;

"pharmacist" has the same meaning as in the General Medical and Pharmaceutical Services Regulations (Northern Ireland) 1973;

"representations" means representations made to the Tribunal under paragraph 1(1) of Part I of Schedule 11 to the Order;

"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 Board which referred the case to the Tribunal which led to a direction under paragraph 3 of Part I of Schedule 11 to the Order;

"the Services Committee" means the committee constituted under regulation 3(2) of the Health and Personal Social Services (Services Committee) Regulations (Northern Ireland) 1973(**b**);

"the Tribunal" means the Tribunal constituted under Part II of Schedule 11 to the Order(**c**).

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

PART II

INQUIRIES BY, AND APPEALS FROM, THE TRIBUNAL

Tenure 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 of the Tribunal shall hold office during the pleasure of the Department.

(a) S.R. 1986 No. 163
(b) S.R. & O. 1973 No. 416
(c) Paragraphs 11 to 15 of Schedule 11 are substituted by Article 6 of S.I. 1995/2704 (N.I. 14)

Officers of the Tribunal

4. The Department shall appoint an officer to act as Clerk to the Tribunal and shall also appoint such other officers as may be necessary.

Remuneration and expenses of members and officers

5. Members and officers of the Tribunal shall be prescribed persons for the purposes of Article 89 of the Order(**a**).

Procedure of the Tribunal

6. The chairman of the Tribunal may give practice directions applying generally to any Tribunal proceedings, and subject to any such directions, the person (being the chairman or a deputy chairman) presiding over any such proceedings may give procedural directions, order pre-hearing reviews, and generally determine the procedure to be followed.

Making of representations and preliminary matters

7.—(1) Representations to the Tribunal, under paragraphs 1 and 2 of Schedule 11 to the Order, that the continued inclusion of a person's name in any list to which the representations relate 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 requested by the Tribunal, send to it before the end of the period of 28 days beginning with the day on which the Tribunal sent him notice of its requirement, 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 a Board, 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 1 that the Tribunal intends to hold an inquiry as to the representations made by the complainant;

(**a**) Article 89 is amended by Article 5(11) of S.I. 1990/247 (N.I. 3) and by Part I of Schedule 5 to S.I. 1991/194 (N.I. 1)

(*b*) to the complainant notice in writing in the form set out in Part II of Schedule 1, 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*).

(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.

Applications for interim suspension

8.—(1) An application for interim suspension under paragraph 8A of Schedule 11 to the Order(**a**) shall—

(*a*) be made in writing;

(*b*) be signed by some person authorised by the Board;

(*c*) include a statement of the alleged facts and the grounds upon which the Board intends to rely; and

(*d*) include a copy of each document which the Board proposes to put in evidence,

and shall be sent to the Tribunal.

(2) The statement mentioned in paragraph (1)(*c*) may be made by reference to any other document already before the Tribunal.

(3) The application shall be dealt with by way of oral hearing, and Schedule 2 shall apply with respect to that hearing.

(4) The Tribunal shall give the respondent notice in writing of the application and of its intention to hold an oral hearing on a date to be fixed, and shall include a copy of—

(*a*) the Board's application;

(*b*) any document provided under paragraph (1)(*d*); and

(*c*) where paragraph (2) applies, any document which is referred to in the statement.

(**a**) Paragraph 8A is inserted by Article 4 of S.I. 1995/2704 (N.I. 14)