

1973. No. 411

[C]

**HEALTH AND PERSONAL SOCIAL SERVICES****Tribunal**

REGULATIONS, DATED 21ST SEPTEMBER 1973, MADE BY THE MINISTRY OF HEALTH AND SOCIAL SERVICES UNDER THE HEALTH AND PERSONAL SOCIAL SERVICES (NORTHERN IRELAND) ORDER 1972.

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**SCHEDULES**

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The Ministry of Health and Social Services (hereinafter referred to as "the Ministry") on behalf of the Secretary of State and 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) (hereinafter referred to as "the Order") and of all other powers enabling it in that behalf hereby makes the following regulations:

#### *Citation and commencement*

1. These regulations may be cited as the Health and Personal Social Services (Tribunal) Regulations (Northern Ireland) 1973 and shall come into operation on the 1st October 1973.

#### *Interpretation*

2. In these Regulations:

"complainant" means any person or body making a representation to the Tribunal;

"Board" means a Health and Social Services Board established under Article 16 of the Order;

"inquiry" means an inquiry held under Part 1 of Schedule 11 to the Order;

"the Minister" means the Minister of Health and Social Services;

"representation" means a representation made to the Tribunal that the inclusion or continued inclusion of any person in any of the lists mentioned in paragraph 1(1) of Part 1 of Schedule 11 to the Order would be prejudicial to the efficiency of the services in question;

"respondent" means any person against whom a representation is made;

"the Tribunal" means the Tribunal constituted under Part II of Schedule 11 to the Order.

#### *Forms*

3. The forms set out in Schedule 1 or forms substantially to the like effect, shall be used in all cases to which those forms are applicable.

#### *Term of office of members of Tribunal*

4.—(1) The Chairman of the Tribunal shall hold office during the pleasure of the Lord Chief Justice.

(2) The member of the Tribunal appointed by the Minister shall hold office during the pleasure of the Minister.

(3) The members of the panel of six persons appointed by the Secretary of State shall be appointed to the panel for such period as the Secretary of State thinks fit.

#### *Ineligibility to act in certain cases*

5. If in the opinion of the Chairman any member of the Tribunal is interested, or is partner or principal or assistant to a person interested in an inquiry held by the Tribunal, that member shall take no part in the inquiry but a deputy shall be appointed in his place.

*Appointment of officers of the Tribunal*

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

*Remuneration and expenses of members and officers*

7. The Ministry may pay such remuneration and such allowances to members and officers of the Tribunal as the Ministry may, with the approval of the Ministry of Finance, determine.

*Representation and preliminary statement*

8.—(1) A representation shall be in writing signed by or on behalf of the complainant and addressed to the Clerk of the Tribunal.

(2) The Chairman of the Tribunal may, if he thinks fit, require the complainant to send to the Clerk of the Tribunal a preliminary statement setting out the alleged facts and grounds on which the representation is based and, where a fact is not within the personal knowledge of the complainant, the source of the information and grounds for the belief of the complainant that the information is true, together with such further particulars as he may think necessary and he may require the preliminary statement to be verified by statutory declaration.

*Power to refuse inquiry*

9. If it appears to the Chairman of the Tribunal, after due consideration of any representation or of any preliminary statement furnished by the complainant, not being a Board, that no good cause has been shown why an inquiry should be held, he may refuse to hold an inquiry; and the Clerk of the Tribunal shall inform the complainant accordingly.

*Notices to be sent in case of inquiry*

10.—(1) The Tribunal shall, in all cases where an inquiry is to be held, send the following notices, namely:—

- (a) a notice (Form 1) to the respondent informing him that it is proposed to hold an inquiry as to the representation made by the complainant;
- (b) a notice (Form 2) to the complainant informing him that it is proposed to hold an inquiry as to the representation made by him, and requiring him, within a time specified in the notice, to send to the Tribunal a concise statement (Form 2A) of the alleged facts and grounds on which the representation is based (in these Regulations referred to as "the statement of complaint") together with a list of all the documents which he proposes to put in evidence:

Provided that where the complainant has sent a preliminary statement to the Tribunal, the Tribunal may, if they think fit, dispense with a statement of complaint and in that case the preliminary statement shall, for the purposes of the inquiry, be treated as the statement of complaint.

(2) The Chairman of the Tribunal may, if he thinks proper on the application of the complainant, extend the time for sending to the Tribunal the statement of complaint.

*Right of respondent to admit or deny allegations*

11. The Clerk of the Tribunal shall not less than twenty-eight days before the day appointed for the holding of the inquiry send to the respondent a copy of the statement of complaint and of the list of documents which the complainant proposes to put in evidence together with a notice (Form 3) informing him that he may, if he so desires, within a time specified in the notice, by a statement in writing addressed to the Clerk of the Tribunal, admit or dispute the truth of all or any of the allegations appearing in the statement of complaint.

*Amendment of statement of complaint*

12. The Tribunal may, at any time before the conclusion of the inquiry, allow the statement of complaint to be amended upon such conditions as they may think just.

*Right of respondent to inspect documents*

13.—(1) The respondent may, on giving due notice to the complainant, inspect, either personally or by an agent authorised in writing, the documents included in the list sent by the complainant to the Tribunal and the complainant shall give reasonable facilities for the purpose.

(2) The respondent shall be entitled, on making application to the Tribunal, to a copy of any document in that list and the Tribunal may require the complainant to furnish to the Clerk of the Tribunal a copy of the document for the respondent's use.

*Notice of inquiry to be given*

14. The Chairman of the Tribunal shall appoint a day for the holding of the inquiry and:—

- (a) where the complainant is a Board the Clerk of the Tribunal shall, not less than fourteen days before the appointed day, send—
  - (i) to that Board and the respondent, notice as in Form 4 of Schedule 1, informing them of the date, time and place of the inquiry;
  - (ii) to any other Board on whose list, prepared under Part VI of the Order, the name of the respondent appears, notice as in Form 5 of Schedule 1, informing that Board of the date, time and place of the inquiry and that Board may appear and take such part in the proceedings at the inquiry as the Tribunal may think proper.
- (b) where the complainant is other than a Board the Clerk of the Tribunal shall send:—
  - (i) to the complainant and the respondent, notice as in Form 4 of Schedule 1, informing them of the date, time and place of the inquiry;
  - (ii) to any Board on whose list, prepared under Part VI of the Order, the name of the respondent appears, notice as in Form 5 of Schedule 1, informing that Board of the date, time and place of the inquiry and that Board may appear and take such part in the proceedings at the inquiry as the Tribunal may think proper.

*Power to postpone inquiry*

15. The Chairman of the Tribunal may, if he thinks fit or on the application of either party, postpone the date for the holding of the inquiry.

*Power to treat representation as withdrawn in certain cases*

16. If the complainant fails, within the time specified in the notice or within any extended period, to send a statement of complaint to the Tribunal or if he fails to comply with any other requirement of these Regulations, the Tribunal may treat the representation as having been withdrawn.

*Withdrawal of representation*

17.—(1) The complainant may at any time before the inquiry, with the consent of the Tribunal and on such terms, which may include the payment of all or part of the costs incurred by the respondent, as the Tribunal think fit, withdraw the representation by giving notice of withdrawal in writing to the Clerk of the Tribunal.

(2) Where the representation has been withdrawn or is treated by the Tribunal as having been withdrawn, the Tribunal shall forthwith inform the respondent that the representation has been withdrawn or is treated as having been withdrawn, as the case may be.

*Procedure at inquiry*

18. The proceedings shall be held *in camera* unless the respondent has applied for the inquiry to be held in public and the provisions as to inquiries contained in Schedule 2 shall apply. Subject to the aforesaid the procedure at the inquiry shall be within the discretion of the Tribunal.

*Appearance by representatives*

19.—(1) Any body (whether corporate or unincorporate) entitled to appear at the inquiry may appear by their secretary or other officer duly appointed for the purpose or by counsel or solicitor.

(2) The complainant and the respondent shall be entitled to appear and be heard at the inquiry in person or by counsel or solicitor, or by any officer or member of any organisation of which he is a member, or by any member of his family, and shall be entitled to call witnesses and to produce other evidence upon his behalf.

*Power to suspend proceedings in certain cases*

20. Where it appears to the Tribunal that the alleged facts on which any representation is based are or may be the subject of investigation by any other tribunal, they may, if they think fit, direct that no further steps shall be taken under these Regulations pending the issue of such other investigation.

*Power to dispense with oral inquiry*

21. Notwithstanding anything in these Regulations, where the grounds on which any representation is based consist solely of an allegation that the respondent has been convicted of a criminal offence and he admits the truth of such allegation, the Tribunal may, with the consent of the respondent, dispense with an oral inquiry and determine the case upon such documentary evidence as may be submitted to them.