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.

(a) S.I. 1972, No. 1265 (N.I. 14)).

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.

Report by Tribunal

22.—(1) At the conclusion of the inquiry the Tribunal shall, as soon as may be, issue a statement under the hand of the Chairman containing their findings of fact, the conclusion which they have reached and such directions as they may give under Part I of Schedule 11 to the Order and any order they may decide to make with respect to the costs of the parties.

(2) A copy of such statement shall be forwarded by the Tribunal to the Ministry, the respondent and the complainant, and the Ministry shall send a copy of the statement to any Board which appears to it to be concerned.

Notice of right of appeal to the Supreme Court

23. The Tribunal shall give notice to the respondent of his right of appeal to the Supreme Court, in accordance with the terms of Part 1 of Schedule 11 to the Order, against any direction given by them for the exclusion or removal of his name from any list.

Publication of decisions of Tribunal

24. Notice of any direction of the Tribunal or of a decision on appeal shall be published in such manner as the Ministry thinks fit:
Provided that notice of the imposition of any disqualification shall not be published until after the expiration of the time limited for appeal against a direction of the Tribunal.

Applications for reinstatement

25. The period, after the giving or the confirmation of any direction of the Tribunal, within which a person may apply to the Tribunal for the inclusion of his name in the list from which it has been excluded or the restoration of his name to the list from which it has been removed, shall be one year.

Service of notices

26.—(1) Any document which is required or authorised by these Regulations to be given to or served on any person may be given or served—

(*a*) by delivering it to that person; or

(*b*) in the case of the Ministry, the Tribunal or a Board, by delivering it to their Secretary, Clerk, or Chief Administrative Officer, or by sending it in a prepaid letter, addressed to them at their principal office; or

(*c*) in the case of a respondent by sending it in a registered letter addressed to him at the address given in the relevant list in which he is included; or

(*d*) in any other case, by sending it in a registered letter addressed to him at his usual or last known address.

(2) Where a party to an inquiry is represented by a solicitor it shall be a sufficient compliance with this Regulation if the document required to be given or served is sent by registered post to the solicitor at his professional address.

(3) Until the contrary is proved, any document sent as aforesaid shall be deemed to be served at the time at which a letter would be delivered in the ordinary course of post.

Power to dispense with requirements as to notices

27. The Tribunal may dispense with any requirements of these Regulations respecting notices, applications, and documents in any case where it appears to the Tribunal just and proper to do so.

Revocation

28. The Health Services (Tribunal) Regulations (Northern Ireland) 1948(b) are hereby revoked.

Sealed with the Official Seal of the Ministry of Health and Social Services for Northern Ireland this 21st day of September 1973.

(L.S.)

F. A. Elliott,
Assistant Secretary.

(b) S.R. & O. (N.I.) 1948, No. 290.

SCHEDULE 1 Regulation 10

Forms for use in proceedings before Tribunal

FORM 1

NOTICE TO THE RESPONDENT OF INTENTION TO HOLD INQUIRY

IN THE MATTER OF a*

and

IN THE MATTER OF the Health and Personal Social Services (Northern Ireland) Order 1972. To of

TAKE NOTICE that a representation has been made by of to the Tribunal that your continued inclusion in the† list maintained by the Northern Ireland Central Services Agency for the Health and Social Services on behalf of the Health and Social Services Boards would be prejudicial to the efficiency of the‡ services provided under the Order and that it is proposed to hold an inquiry with respect to the above representation.

A statement of the alleged facts and grounds on which the above representation is based will be sent to you as soon as possible, and notice of the date appointed for the holding of the inquiry will follow in due course.

A copy of the Health and Personal Social Services (Tribunal) Regulations (Northern Ireland) 1973, is enclosed herewith for your information.

Date .....

Signed.....

Clerk of the Tribunal

*State whether respondent is a medical, ophthalmic medical or dental practitioner, chemist, ophthalmic optician or dispensing optician.

†State whether medical, obstetric, dental, pharmaceutical or ophthalmic list.

‡State whether general medical, general dental, pharmaceutical or general ophthalmic services.

FORM 2 Regulation 10

NOTICE TO COMPLAINANT OF INTENTION TO HOLD INQUIRY

IN THE MATTER OF a*

and

IN THE MATTER OF the Health and Personal Social Services (Northern Ireland) Order 1972. To

TAKE NOTICE that it is proposed to hold an inquiry with respect to the representation dated the day of 19 , made by you to the Tribunal to the effect that the continued inclusion of the above-named respondent in the † list maintained by the Northern Ireland Central Services Agency for the Health and Social Services on behalf of the Health and Social Services Boards would be prejudicial to the efficiency of the ‡ services provided under the Order.

YOU ARE HEREBY REQUIRED within days after receipt of this notice to set out on the accompanying form—

(*a*) a concise statement of the alleged facts and grounds on which your said representation is based; and

(*b*) a list of all the documents (if any) which you propose to put in evidence at the inquiry,

and to forward the form to me.

Notice of the day appointed for the holding of the inquiry will be sent to you in due course.

A copy of the Health and Personal Social Services (Tribunal) Regulations (Northern Ireland) 1973 is enclosed herewith for your information.

Date .....

Signed.....

Clerk of the Tribunal

*State whether respondent is a medical, ophthalmic medical or dental practitioner, chemist, ophthalmic optician or dispensing optician.

†State whether medical, obstetric, dental, pharmaceutical or ophthalmic list.

‡State whether general medical, general dental, pharmaceutical or general ophthalmic services.

FORM 2A **Regulation 10**

STATEMENT OF COMPLAINT

IN THE MATTER OF a*

and

IN THE MATTER OF the Health and Personal Social Services (Northern Ireland) Order 1972. To the Clerk of the Tribunal,

The facts and grounds on which the representation made by me with respect to the above-named is based, are as follows:—

(*Here set out concise statement of facts and grounds.*)

The following is a list of all the documents which I propose to put in evidence:—

(*Here set out list of documents.*)

Date .....

Signed.....

*State whether respondent is a medical, ophthalmic medical or dental practitioner, chemist, ophthalmic optician or dispensing optician.

FORM 3 **Regulation 11**

NOTICE TO RESPONDENT OF ALLEGED FACTS AND GROUNDS ON WHICH REPRESENTATION IS BASED

IN THE MATTER OF a*

and

IN THE MATTER OF the Health and Personal Social Services (Northern Ireland) Order 1972. To

With reference to the representation made by of concerning you (of which representation due notice was given to you dated the day of 19) I am directed by the Tribunal to send you a copy of the statement of complaint received by the Tribunal from the said setting out the alleged facts and grounds on which the said representation is based, together with a list of all documents proposed to be put in evidence by him.

You may if you so desire, inform the Tribunal, by statement in writing addressed to me within days after receipt of this notice, whether you admit or dispute the truth of all or any of the allegations appearing in the statement of complaint.

You are further entitled to inspect any of the documents mentioned in the above list, either personally or by an agent authorised in writing, on giving due notice to the above-named and, by applying to the Tribunal for that purpose, to receive copies of any of the said documents.

Date .....

Signed.....

Clerk of the Tribunal

*State whether respondent is a medical, ophthalmic medical or dental practitioner, chemist, ophthalmic optician or dispensing optician.

FORM 4 **Regulation 14**

NOTICE TO COMPLAINANT OR RESPONDENT OF DAY APPOINTED FOR HOLDING OF INQUIRY

IN THE MATTER OF a*

and

IN THE MATTER OF the Health and Personal Social Services (Northern Ireland) Order 1972. To of

With further reference to the representation made by you with respect to the above-named.

by

of with respect to you.

TAKE NOTICE that the Tribunal will on the day of 19 , at a.m. / p.m. at hold an inquiry to investigate the said representation.

You are hereby informed that if you do not attend on the date at the time and place appointed for the inquiry, the Tribunal may proceed to hold the inquiry in your absence.

Date .....

Signed.....

Clerk of the Tribunal

*State whether respondent is a medical, ophthalmic medical or dental practitioner, chemist, ophthalmic optician or dispensing optician.

FORM 5 Regulation 14

NOTICE OF INQUIRY TO BE SENT TO ANY BOARD WHICH IS NOT THE COMPLAINANT

IN THE MATTER OF a*

and

IN THE MATTER OF the Health and Personal Social Services (Northern Ireland) Order 1972.

To the Health and Social Services Board for

TAKE NOTICE that a representation has been made by of to the Tribunal to the effect that the continued inclusion of the above-named respondent in the * list maintained by the Northern Ireland Central Services Agency for the Health and Social Services on behalf of the Health and Social Services Boards would be prejudicial to the efficiency of the † services provided under Part VI of the said Order.

You are hereby informed that an inquiry to investigate the said representation will be held by the Tribunal on day the day of 19 , at a.m. / p.m. at and that you are entitled to appear and take such part in the proceedings as the Tribunal shall think proper.

A copy of the statement of complaint is enclosed for your information.

Date .....

Signed.....

Clerk of the Tribunal

*State whether respondent is a medical, ophthalmic medical or dental practitioner, a chemist, or an ophthalmic or dispensing optician.

†State whether medical, pharmaceutical, dental or ophthalmic.

‡State whether general medical and pharmaceutical, general dental or general ophthalmic.

SCHEDULE 2 **Regulation 18**

Provisions as to Inquiries

1. The Tribunal may by notice require a person—

(*a*) to attend at the time and place set forth in the notice to give evidence or to produce any books or documents in his custody or under his control which relate to any matter in question at the inquiry; or

(*b*) to furnish within such reasonable period as is specified in the notice such information relating to any matter in question at the inquiry as the Tribunal may think fit and as the person so required is able to furnish:

Provided that—

(i) no person shall be required in obedience to such a notice to attend at any place which is more than two miles from the place where he resides unless the necessary expenses are paid or tendered to him; and

(ii) nothing in this paragraph shall empower the Tribunal to require any person to produce any book or document or to answer any question which he would be entitled, on the ground of privilege or otherwise, to refuse to produce or to answer if the inquiry were a proceeding in a court of law.

2. The Tribunal may administer oaths and examine witnesses on oath and may accept in lieu of evidence on oath by any person a statement in writing by that person.

3. The expenses incurred by the Tribunal in relation to any inquiry held under these Regulations (including such sum as the Tribunal may determine in respect of the services of any officer engaged in the inquiry) shall be paid by such of the parties to the inquiry in such proportions as the Tribunal may order.

4. The Tribunal may make orders as to the expenses incurred by the parties appearing at any such inquiry and as to the parties by whom such expenses shall be paid.

EXPLANATORY NOTE

(This note is not part of the Regulations, but is intended to indicate their general purport.)

These Regulations prescribe the procedure to be followed by the Tribunal, established under Schedule 11 to the Order, in hearing cases where representations are made that a practitioner, chemist, or optician should not be included in any list of persons providing services under the Order. The Regulations also provide for the period of office of members of the Tribunal, for the appointment of officers and for the remuneration and other expenses of members and officers to be determined by the Ministry.