
STATUTORY INSTRUMENTS

1995 No. 3091

**The National Health Service (Service Committees
and Tribunal) Amendment Regulations 1995**

PART IV

SUSPENSION OF PRACTITIONERS

Applications for interim suspension

6. After regulation 24 of the principal Regulations there shall be inserted the following new regulation—

“Applications for interim suspension

24A.—(1) An application for interim suspension under section 49A of the Act shall—

- (a) be made in writing;
- (b) be signed by some person authorised by the FHSA;
- (c) include a statement of the alleged facts and the grounds upon which the FHSA intends to rely; and
- (d) include a copy of each document which the FHSA 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 9 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 FHSA’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.

(5) The Tribunal may at any time before the conclusion of the proceedings relating to the application allow it to be amended, upon such conditions as it may think just, on the application of the FHSA.

(6) At the conclusion of proceedings relating to the application, the Tribunal shall, as soon as practicable, issue a decision in writing, signed by the person (being the chairman or a deputy chairman) who presided over the proceedings, containing—

- (a) any directions it decides to give under section 49A(2) of the Act;
- (b) a statement of reasons for its decision; and
- (c) any order it decides to make as to costs.

(7) The Tribunal shall send a copy of its decision to the respondent, the FHSA, 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.

(8) Where the decision includes a direction under section 49A(2) of the Act, the Tribunal shall include with the decision a notice to the respondent of his right to appeal under section 11(1) of the Tribunals and Inquiries Act 1992(1).”.

Withdrawal of representations and suspension of procedures

7.—(1) Regulation 25 of the principal Regulations (withdrawal of representations and suspension of procedures) shall be amended as follows.

(2) In paragraph (3), at the beginning there shall be inserted “Subject to paragraph (3A),”.

(3) After paragraph (3) there shall be inserted the following new paragraph—

“(3A) Where representations are withdrawn or treated as withdrawn after the Tribunal has given a direction under section 49A(2) of the Act, that direction shall cease to have effect; and—

- (a) the Tribunal shall include this information also when informing the respondent under paragraph (3);
- (b) the Tribunal shall immediately also so inform the Secretary of State in writing that the direction has ceased to have effect; and
- (b) the Secretary of State shall so inform anyone to whom he sent a copy of the Tribunal’s decision pursuant to regulation 24A(7).”.

(4) In paragraph (4), at the beginning there shall be inserted “Except where the Tribunal has made a direction under section 49A(2) of the Act,”.

Continuation of suspension pending appeal

8.—(1) Regulation 26 of the principal Regulations (inquiry as to representations) shall be amended as follows.

(2) In paragraph (2), at the beginning there shall be inserted “Subject to paragraph (2A),”.

(3) After paragraph (2) there shall be inserted the following new paragraph—

“(2A) Where the Tribunal has determined to decide the case on documentary evidence pursuant to paragraph (2), but proposes to give a direction under section 49B(1) of the Act, it shall before doing so give notice to the FHSA and the respondent of its intention to hold an oral hearing relating to that proposal, and shall then hold an oral hearing to which Schedule 9 shall apply.”.

(4) In paragraph (3)(c), after “46(2)” there shall be inserted “or 49B(1)”.

(5) In paragraph (5)—

- (a) after “section 46(2) of the Act” there shall be inserted “, or directions under both sections 46(2) and 49B(1) of the Act,”; and
- (b) at the end there shall be inserted “in respect of any direction under section 49B(1) of the Act or a direction under section 46(2) of the Act, or both”.

Functions of the Tribunal

9. After regulation 26 of the principal Regulations there shall be inserted the following new regulation—

“Discharge of suspension functions by chairman or deputy chairman

26A. The functions of the Tribunal under section 49A or 49B of the Act may be carried out by the chairman or a deputy chairman of the Tribunal; and where the chairman or a deputy chairman does carry them out, any reference to the Tribunal in this Part or in Schedule 9 shall be construed as a reference to that person.”

Publication of decisions

10. In regulation 31 of the principal Regulations (publication of decisions), after paragraph (d) there shall be inserted—

“(e) any direction of the Tribunal under section 49A(2) or 49B(1) of the Act.”

Hearings

11.—(1) Schedule 9 (hearings under Part III) shall be amended as follows.

(2) In paragraph 2, after “representations” there shall be inserted “or suspension proceedings”.

(3) In paragraph 4(a), after “representations” there shall be inserted “or suspension proceedings”.

(4) In paragraph 10(a)(i), after “representations” there shall be inserted “or suspension proceedings”.

(5) After paragraph 10 there shall be inserted the following new paragraph—

“11. In this Schedule—

(a) “suspension proceedings” means proceedings relating to an application for interim suspension under section 49A of the Act or a proposal to give a direction under section 49B(1) of the Act; and

(b) “inquiry” includes any hearing relating to suspension proceedings.”