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STATUTORY RULES OF NORTHERN IRELAND

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**2004 No. 259**

**Tribunal Regulations (Northern Ireland) 2004**

**PART VI**

**MISCELLANEOUS PROVISIONS**

**Practitioner subject to inquiry in a fraud case**

**24.**—(1) A Board that receives notice pursuant to regulation 7(3) may not add the practitioner subject to the inquiry to any list until proceedings in that case are finally concluded.

(2) In relation to a practitioner subject to an inquiry in a fraud case, the provisions of –

- (a) Article 57G(1) (Persons performing primary medical services) of the Order are modified to the extent that such a practitioner shall not be entitled to the inclusion of the practitioner's name in a medical list;
- (b) Article 61(2)(b) (Arrangements for general dental services)(2) of the Order are modified to the extent that regulations need not confer a right for such a practitioner who wishes to be included in a list of dental practitioners who undertake to provide general dental services to be so included;
- (c) Article 62(2)(b) (Arrangements for general ophthalmic services)(3) of the Order are modified to the extent that regulations need not confer a right for such a practitioner who wishes to be included in the appropriate list to be so included; and
- (d) Article 63 (Arrangements for pharmaceutical services)(4) of the Order are modified to the extent that nothing in Article 63(2A) and (2D) shall require regulations to provide for a Board to include such a practitioner in a list or to confer on such a practitioner rights of appeal against a Board from a refusal to add such a practitioner to a list,

until proceedings in that case are finally concluded.

**Discharge of suspension functions by chairman**

**25.** The functions of the Tribunal under paragraphs 9 or 10(1) of Schedule 11 of the Order (which deal with applications for interim suspension and suspension pending appeal respectively) may be carried out by the chairman of the Tribunal; and where the chairman does carry them out, any reference to the Tribunal in these Regulations shall be construed as a reference to the chairman.

**Publication of decisions of the Tribunal, etc**

**26.** The Department shall publish in such manner as they think fit notice of –

- (a) any decision of the Tribunal in relation to an inquiry under these Regulations; and

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(1) Article 57G was inserted by Article 8 of S.I. 2004/311 (N.I. 2)  
(2) Article 61(2)(b) was amended by S.I. 1981/432, S.I. 1988/2249 (N.I. 24), S.I. 1991/194 (N.I. 1) and 2001 c. 3 (N.I.)  
(3) Article 62(2)(b) was amended by S.I. 1984/1158 (N.I. 8) S.I. 1991/194 (N.I. 1) and 2001 c. 3 (N.I.)  
(4) Article 63 was amended by S.I. 1986/2023 (N.I. 20) and S.I. 1991/194 (N.I. 1)

- (b) the imposition of any disqualification, or conditional disqualification, pursuant to paragraph 3(2) or paragraph 5(2) or (5) of Schedule 11 to the Order and any conditions imposed or of the removal or variation of such disqualification or conditions;
- (c) any declaration of unfitness made by the Tribunal under paragraph 3(3) or paragraph 5(6) of Schedule 11 to the Order;
- (d) any imposition or removal of any disqualification or declaration of unfitness referred to in paragraph 7(1) of Schedule 11 to the Order (disqualification provisions in Scotland or England and Wales) and any conditions or variation of such conditions imposed in consequence of a notice given by the Department in accordance with paragraph 7(2) of Schedule 11 to the Order.

### **Recovery of amounts from practitioners**

27.—(1) Where the Department receives a copy of the statement of the Tribunal pursuant to regulation 19(3) or regulation 23(2)(a) and –

- (a) the statement of the Tribunal pursuant to regulation 19(3) contains a statement in accordance with regulation 19(1)(c),(d), (e) or (f); or
- (b) the statement of the Tribunal pursuant to regulation 23(2)(a) contains a statement that –
  - (i) in the case of a conditional disqualification, the conditions are to be varied or the disqualification is to be unconditional pursuant to paragraph 5(2) or 5(5) of Schedule 11 to the Order;
  - (ii) there is to be any further disqualification, or conditional disqualification which the Tribunal considers appropriate pursuant to paragraph 5(2) or (5) of Schedule 11 to the Order; or
  - (iii) the Tribunal is making a declaration of unfitness pursuant to paragraph 5(6) of Schedule 11 to the Order,

and the Department is satisfied that the decision of the Tribunal was in consequence of the acts or omissions of a practitioner while that practitioner was included on a list, then the Department shall determine (in relation to every appropriate Board, if more than one) whether any, and if so, what amount shall be recovered from the practitioner by an appropriate Board, whether by way of deduction from the practitioner’s remuneration or otherwise.

(2) Before making a determination under paragraph (1) the Department shall notify the practitioner concerned that –

- (a) the Department is considering making a determination under paragraph (1); and
- (b) the practitioner concerned may make written representations on the matter by submitting them to the Department within 4 weeks from the date of receipt of the notification.

(3) The Department shall give notice of its determination under paragraph (1) to the practitioner and every appropriate Board and shall include with the notice a statement of reasons for its determination.

(4) Any amount which the Department determines under paragraph (1) shall be recovered from a practitioner by a Board shall be a debt owed by the practitioner to that Board.

(5) Where the Department has determined under paragraph (1) that, in respect of an appropriate Board, an amount shall be recovered from a practitioner, it shall direct that Board to recover that amount either by deduction from the practitioners remuneration or otherwise and the Board shall comply with that direction.

(6) In this regulation, “appropriate Board” is a Board in whose list the practitioner was included at the time of the acts or omissions in consequence of which the Tribunal decision was made.

### **Service of forms, etc.**

**28.**—(1) Any form, notice, application, statement, statement-in-answer, decision or document which is required or authorised by these Regulations to be sent to or served on any person shall be in writing and shall be sent or served as follows –

- (a) in the case of the Department, by delivering it to the Department or sending it by registered post or the first class recorded delivery service addressed to the Department at General Medical Services Branch, Room D3, Castle Buildings, Stormont, Belfast BT4 3SQ;
- (b) in the case of the Tribunal or a Board by delivering it to the clerk or Chief Executive, or by sending it by registered post or the first class recorded delivery service addressed to such person at their principal office or the usual or last known address of such person;
- (c) in the case of a practitioner, by delivering it to the practitioner or by sending it by registered post or the first class recorded delivery service addressed to the practitioner at the practitioner’s usual or last-known address or any address set opposite the practitioner’s name in the list of the Board concerned;
- (d) in the case of any other person, by delivering it to that person or by sending it by registered post or the first class recorded delivery service addressed to that person at that person’s usual or last known address.

(2) Where a party to any inquiry is represented by a solicitor it shall be a sufficient compliance with this regulation if the notice or document is sent by registered post or the first class recorded delivery service addressed to the solicitor at the solicitor’s professional address.

### **Power to dispense with requirements as to notices**

**29.** The Tribunal may dispense with any requirements of these Regulations applicable to notices, applications, documents or otherwise in any case where it appears to the Tribunal just and proper to do so.

### **Transitional provisions**

**30.** Where, before the date on which these Regulations come into operation –

- (a) a representation has been made to the Tribunal under regulation 7 (making of representations and preliminary matters) of the Tribunal Regulations (Northern Ireland) 1995(5); or
- (b) an application for interim suspension has been made to the Tribunal under regulation 8 (applications for interim suspension) of those regulations,

the provisions of those Regulations shall, notwithstanding regulation 31 (revocations), continue to apply on and after that date, as respects any inquiry, hearing, determination or direction which by virtue of any provision of those Regulations falls to be undertaken, held or made in relation to any such representation or application or in relation to an appeal from any such determination or direction.

### **Revocations**

**31.** The Regulations specified in column (1) of Schedule 3 are hereby revoked to the extent specified in column (3) of that Schedule.