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**STATUTORY INSTRUMENTS**

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**1974 No. 455****NATIONAL HEALTH SERVICE, ENGLAND AND WALES**  
**The National Health Service (Service Committees and Tribunal)**  
**Regulations 1974**

<i>Made - - - -</i>	<i>15th March 1974</i>
<i>Laid before Parliament</i>	<i>29th March 1974</i>
<i>Coming into Operation</i>	<i>1st April 1974</i>

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The Secretary of State for Social Services in exercise of powers conferred by sections 32(2), 33, 38, 40, 41, 42(2), 42(7) and 74 of, and paragraph 6 of Schedule 7 to, the National Health Service Act 1946(a), (as amended by section 29(1) of, and Part I of the Schedule to, the National Health Service (Amendment) Act 1949(b), sections 17(1) and 26 of the Health Services and Public Health Act 1968(c) and section 57(1) of, and Schedule 4 to, the National Health Service Reorganisation Act 1973(d)) and now vested in her(e), and in exercise of her powers under sections 6(4), 7(3) and 7(4) of, and paragraphs 5, 12 and 16 of Schedule 1 to, the National Health Service Reorganisation Act 1973, and of all other powers enabling her in that behalf and after consultation with the Council on Tribunals in accordance with section 10 of the Tribunals and Inquiries Act 1971(f) hereby makes the following regulations:—

## PART I

## GENERAL

*Citation and commencement*

1. These regulations may be cited as the National Health Service (Service Committees and Tribunal) Regulations, 1974, and shall come into operation on 1st of April 1974.

*Interpretation*

2.—(1) In these regulations, unless the context otherwise requires, the following expressions have the respective meanings hereby assigned to them:—

“the Act” means the National Health Service Act, 1946;

“Administrator” means the officer appointed by an Area Health Authority, by which a Family Practitioner Committee is established, to act as Secretary to that Committee;

“chemist” means a registered pharmaceutical chemist who provides pharmaceutical services, or an authorised seller of poisons within the meaning of the Pharmacy and Poisons Act, 1933(g) who provides such services;

“Committee” means the Family Practitioner Committee constituted for any area;

“dental officer” means a dentist in the service of the Department of Health and Social Security, or of the Welsh Office, as the case may be;

“dentist” means a registered dental practitioner;

“doctor” means a fully registered medical practitioner;

“drugs” includes medicines and such chemical reagents as are for the time being listed for the purposes of section 38 of the Act;

“General Dental Regulations” means the National Health Service (General Dental Services) Regulations, 1973(h), as amended(i);

(a) 1946 c. 81.

(c) 1968 c. 46.

(e) S.I. 1968/1699 (1968 III, p. 4585).

(g) 1933 c. 25.

(i) S.I. 1974/53 (1974 I, p. 193).

(b) 1949 c. 93.

(d) 1973 c. 32.

(f) 1971 c. 62.

(h) S.I. 1973/1468 (1973 II, p. 4445);

“General Service Regulations” means the National Health Service (General Medical and Pharmaceutical Services) Regulations, 1974(a);

“medical officer” means a doctor in the service of the Department of Health and Social Security, or the Welsh Office, as the case may be;

“ophthalmic medical practitioner” means a doctor having the qualifications prescribed by regulation 3 of the Ophthalmic Services Regulations;

“Ophthalmic Services Regulations” means the National Health Service (General Ophthalmic Services) Regulations, 1974(b);

“optician” means an ophthalmic optician or a dispensing optician as the context may require;

“practitioner” means a doctor, dentist or ophthalmic medical practitioner as the context may require;

“salaried dentist” means a dentist who is remunerated in accordance with Determination IV of the Statement of Dental Remuneration;

“service committee” means a medical, pharmaceutical, dental or ophthalmic service committee or a joint services committee, as the context may require;

“the Statement of Dental Remuneration” means the determinations made by the Secretary of State pursuant to regulation 23 of the General Dental Regulations;

“the terms of service” means the terms of service for doctors contained in Part I of Schedule 1 to the General Service Regulations, the terms of service for chemists contained in Part I of Schedule 4 to the General Service Regulations, the terms of service for dentists contained in Parts I and II of Schedule 1 to the General Dental Regulations, and the terms of service for ophthalmic medical practitioners, ophthalmic opticians and dispensing opticians contained in Schedule 1 to the Ophthalmic Services Regulations, as the case may be;

“treatment” in relation to general medical services has the same meaning as in the General Service Regulations and in relation to general dental services has the same meaning as in the General Dental Regulations;

“the Tribunal” means the Tribunal constituted under Section 42 of the Act.

(2) These regulations shall apply to a person, firm or body corporate (other than a chemist or a practitioner) providing pharmaceutical services, as they apply to a chemist.

(3) Unless the context otherwise requires, references in these regulations to any enactment shall be construed as references to that enactment as amended by any subsequent enactment.

(4) References in any other regulations to the regulations revoked by these regulations or to any provision thereof shall be construed as references to these regulations or to the corresponding provision thereof, as the case may be.

(5) The rules for the construction of Acts of Parliament contained in the Interpretation Act, 1889(c) shall apply for the purposes of the interpretation of these regulations as they apply for the purposes of the interpretation of an Act of Parliament.

(6) Unless the context otherwise requires, any reference in these regulations to a numbered regulation or schedule is a reference to the regulation or schedule, as the case may be, bearing that number in these regulations, and any reference in a regulation to a numbered paragraph is a reference to the paragraph bearing that number in that regulation.

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(a) S.I. 1974/160 (1974 I, p. 490).

(b) S.I. 1974/287 (1974 I, p. 994).

(c) 1889 c. 63.



## PART II

## PROVISIONS RELATING TO INVESTIGATIONS, DISPUTES, APPEALS, ETC.

*Constitution of service committees*

3.—(1) Every Committee shall establish a medical service committee, a pharmaceutical service committee, a dental service committee, an ophthalmic service committee and a joint services committee, and may, with the consent of the Secretary of State, establish two or more medical service committees, pharmaceutical service committees, dental service committees and ophthalmic service committees.

(2)(a) The medical service committee shall consist of a chairman and six other persons of whom three shall be appointed by and from the lay members of the Committee and three shall be appointed by the Local Medical Committee.

(b) The pharmaceutical service committee shall consist of a chairman and six other persons of whom three shall be appointed by and from the lay members of the Committee and three shall be appointed by the Local Pharmaceutical Committee.

(c) The dental service committee shall consist of a chairman and six other persons of whom three shall be appointed by and from the lay members of the Committee and three shall be appointed by the Local Dental Committee.

(d) The ophthalmic service committee shall consist of a chairman and ten other persons of whom four shall be appointed by and from the lay members of the Committee, two shall be ophthalmic medical practitioners appointed by the Local Medical Committee, two shall be ophthalmic opticians appointed by the Local Optical Committee and two shall be dispensing opticians appointed by the Local Optical Committee.

Provided that one of the two ophthalmic medical practitioners shall not take part in the investigation unless the matter involves a question relating to an ophthalmic medical practitioner, one of the two ophthalmic opticians shall not take part in the investigation unless the matter involves a question relating to an ophthalmic optician and one of the two dispensing opticians shall not take part in the investigation unless the matter involves a question relating to a dispensing optician.

(e) The joint services committee shall consist of a chairman and ten other persons of whom two shall be appointed by and from the lay members of the Committee, two shall be appointed by the medical service committee from their members or deputies who are doctors, two shall be appointed by the dental service committee from their members or deputies who are dentists, two shall be appointed by the pharmaceutical service committee from their members or deputies who are chemists and two shall be appointed by the ophthalmic service committee from their members or deputies who are ophthalmic medical practitioners or opticians.

(f) A corresponding number of persons shall be appointed in the like manner to act as deputies for the members (other than the chairman) of any service committee and in the absence of a member a deputy appointed in the like manner shall be entitled to act in his place.

(g) Where the Secretary of State agrees in the case of any Committee, an additional deputy who is not a member of the Committee may, subject to the Secretary of State's prior approval of the person proposed, be appointed by the lay members of the Committee to act in the absence of a lay member of a service committee or his deputy.

(h) When any matter stands referred under paragraphs (8) or (10) of

regulation 6 to the joint services committee, the members of that committee appointed by the medical service committee shall not take part in the hearing unless the matter involves a question relating to a doctor, the members appointed by the dental service committee shall not take part in the hearing unless the matter involves a question relating to a dentist, the members appointed by the pharmaceutical service committee shall not take part in the hearing unless the matter involves a question relating to a chemist and the members of the ophthalmic service committee shall not take part in the hearing unless the matter involves a question relating to an ophthalmic medical practitioner or an optician.

(3) The following provisions shall have effect with regard to the appointment of the chairman of a service committee—

- (a) The chairman shall be appointed at a meeting of the members of the service committee to be specially summoned for the purpose. The chairman of the Committee, or, if he is a member of the service committee or is unable to attend, the vice-chairman or some other member of the Committee (not being a member of the service committee) to be nominated by the chairman, shall preside at the meeting but shall not be entitled to vote. The appointment shall be made by a majority of the votes cast at the meeting.
- (b) Any person shall be eligible for appointment, who is not a practitioner, a chemist, or an optician.
- (c) If no appointment is made at the said meeting or if within seven days after the meeting a statement signed by—
  - (i) the lay members of the service committee; or
  - (ii) in the case of a medical service committee, the members appointed by the Local Medical Committee; or
  - (iii) in the case of a pharmaceutical service committee, the members appointed by the Local Pharmaceutical Committee; or
  - (iv) in the case of a dental service committee, the members appointed by the Local Dental Committee; or
  - (v) in the case of an ophthalmic service committee, the members appointed by the Local Medical Committee and the Local Optical Committee; or
  - (vi) in the case of a joint services committee, the members appointed by any one of the service committees,

is sent to the Committee asserting that the chairman appointed at the meeting is not acceptable, the Committee shall appoint a person to be chairman and the chairman, if any, appointed by the service committee shall thereupon cease to hold office as chairman and member of the service committee.

- (d) If a chairman has been appointed by the Committee and within seven days after the meeting at which the appointment is made a statement signed by—
  - (i) the lay members of the service committee; or
  - (ii) in the case of a medical service committee the members appointed by the Local Medical Committee; or
  - (iii) in the case of a pharmaceutical service committee, the members appointed by the Local Pharmaceutical Committee; or
  - (iv) in the case of a dental service committee, the members appointed by the Local Dental Committee; or
  - (v) in the case of an ophthalmic service committee, the members

appointed by the Local Medical Committee and the Local Optical Committee; or

(vi) in the case of a joint services committee, the members appointed by any one of the service committees,

is sent to the Committee asserting that the chairman appointed by the Committee is not acceptable, the Committee shall within two months refer the appointment to the Secretary of State.

(e) Where under the foregoing provisions of this regulation an appointment is referred to the Secretary of State he may after consultation with the Committee and after consultation with—

(i) in the case of a medical service committee, the Local Medical Committee; or

(ii) in the case of a pharmaceutical service committee, the Local Pharmaceutical Committee; or

(iii) in the case of a dental service committee, the Local Dental Committee; or

(iv) in the case of an ophthalmic service committee, the Local Medical Committee and the Local Optical Committee; or

(v) in the case of a joint services committee the Local Medical Committee, the Local Pharmaceutical Committee, the Local Dental Committee and the Local Optical Committee,

appoint a chairman in place of the existing chairman who shall thereupon cease to hold office as chairman and member of the service committee.

(f) Any person not being a member of the Committee who is appointed chairman of a service committee shall be entitled to attend and take part in the proceedings of the meetings of the Committee but not to vote.

(4) The provisions of regulation 3(3) with respect to the appointment of a chairman shall apply to the appointment of a deputy chairman. If the person appointed as chairman or deputy chairman of a service committee is already a member of the service committee he shall thereupon cease to be a member other than as chairman or deputy chairman and a new member shall be appointed to take his place.

(5) The Committee may make standing orders with respect to the term of office of the chairman, deputy chairman, members and deputy members of the service committee:

Provided that the term of office of the chairman shall not exceed one year unless he is re-appointed.

(6) In this regulation the expression "lay members" in relation to the Committee means members appointed by the Area Health Authority or a local authority and in relation to a service committee means members of the service committee appointed by the lay members of the Committee.

*Time limits for complaining and notice of complaint*

4.—(1) Subject to the provisions of regulation 5, the person desiring to make a complaint under this Part of these regulations against a doctor or an ophthalmic medical practitioner, a chemist or an optician, shall within eight weeks after the event which gave rise to the complaint give written notice to the Administrator stating the substance of the matter which it is desired to have investigated.

(2) Subject to the provisions of regulation 5, the person desiring to make a

complaint under this Part of these regulations against a dentist shall, within six months after completion of the treatment or within eight weeks after the matter which gave rise to the complaint came to the complainant's notice, whichever is the sooner, give written notice to the Administrator stating the substance of the matter which it is desired to have investigated.

*Late complaints*

5.—(1) Notwithstanding a failure to give notice within the periods specified in regulation 4, the service committee may investigate the matter if they are satisfied that such failure was occasioned by illness or other reasonable cause and if the service committee obtains the consent of the practitioner, chemist or optician, as the case may be, or of the Secretary of State, to the investigation.

(2) If an application for the Secretary of State's consent to an investigation is made, the Administrator shall furnish the Secretary of State and the practitioner, chemist or optician, with a copy of the said notice, a statement of the reasons for the failure to give notice in time and any further information which the Secretary of State may require, and the practitioner, chemist or optician shall be entitled within fourteen days after the receipt by him of such statement or further information to forward to the Secretary of State a statement of the grounds on which he contends that the investigation should not take place.

(3) If a service committee decides not to seek the consent of the practitioner, chemist or optician or of the Secretary of State to the investigation of a complaint, they shall give reasons for their decision. The Administrator shall notify the complainant of the decision of the service committee, and the reasons therefor, and also of his right of appeal to the Secretary of State.

(4) A complainant may appeal to the Secretary of State against a decision of a service committee not to seek the consent of the practitioner, chemist or optician or of the Secretary of State to the investigation of a complaint. Such an appeal shall be made in writing within fourteen days after the complainant is notified that consent to the investigation is not to be sought, and shall state the grounds of appeal.

(5) On receipt of such an appeal the Secretary of State shall notify the practitioner, chemist or optician of the grounds of the appeal and the practitioner, chemist or optician shall be entitled within fourteen days after the receipt by him of such statement of grounds to submit to the Secretary of State a statement of the grounds on which he contends that the investigation should not take place.

(6) The Secretary of State shall decide such an application or appeal giving reasons for his decision and may direct the service committee to investigate the matter which gave rise to the complaint notwithstanding the failure of the complainant to give notice within the periods specified in regulation 4.

*Investigations by service committees*

6.—(1) Subject to the provisions of these regulations, any complaint made against a doctor in respect of an alleged failure to comply with the terms of service shall be investigated by the medical service committee, any complaint made against a chemist in respect of an alleged failure to comply with the terms of service shall be investigated by the pharmaceutical service committee, any complaint made against a dentist in respect of an alleged failure to comply with the terms of service shall be investigated by the dental service committee, and any complaint made against an ophthalmic medical practitioner or optician in respect of an alleged failure to comply with the terms of service shall be investigated by the ophthalmic service committee.

(2) Any complaint which under paragraph (1) is required to be investigated by more than one service committee may, in lieu of being so investigated, be investigated by a joint services committee.

(3) A complaint shall be investigated under this regulation if it is made by the Dental Estimates Board or if, in the opinion of the chairman of the appropriate service committee, the complaint relates to an alleged failure by the practitioner, chemist or optician concerned to comply with the terms of service in respect of any person who was, or who claimed to be, entitled to the provision of general medical, general dental, pharmaceutical or general ophthalmic services and—

- (a) the complaint is made by or with the authority of that person; or
- (b) the complaint is made on behalf of that person and he is incapable by reason of old age, sickness or other infirmity, of making a complaint, or is under the age of eighteen; or
- (c) that person is deceased:

Provided that where at the beginning of the hearing of a complaint before a service committee, or at any time thereafter, it appears that the complaint was not made as aforesaid it shall be deemed to have been properly referred to the service committee for investigation under the provisions of paragraph (6).

(4) Where a complaint is made against a doctor in respect of the acts or omissions of a deputy whose name is also included in the medical list, the complaint shall be deemed to have been made against both doctors.

(5) Where a complaint is made against a doctor whose name is included in the medical list, in respect of his acts or omissions whilst acting as deputy to a doctor whose name is also included in the list, the complaint shall be deemed to have been made against both doctors.

(6) (a) Subject to the provisions of these regulations, the medical service committee in relation to doctors, the pharmaceutical service committee in relation to chemists, the dental service committee in relation to dentists and the ophthalmic service committee in relation to ophthalmic medical practitioners and opticians, shall investigate any matters referred to them by the Committee, by any duly authorised sub-committee thereof, or by the Dental Estimates Board, which relate to the administration of general medical, pharmaceutical, general dental or general ophthalmic services, whether or not any such matter has been raised on complaint under the foregoing provisions of this regulation:

Provided that no question which involves an allegation against a practitioner or optician of a breach of the terms of service shall, without the consent of the Secretary of State, or of the practitioner or optician concerned, be referred for investigation under this paragraph except, in the case of a doctor or an ophthalmic medical practitioner or optician, within eight weeks after the event which gave rise to the allegation, or in the case of a dentist within six months after completion of the treatment or within eight weeks after the matter which gave rise to the allegation came to the notice of the referring body, whichever is the sooner; and such consent shall also be required where the Committee desire to refer a matter which came to the notice of the Dental Estimates Board earlier than eight weeks from the date on which they informed the Committee of it. The provisions of paragraph (2) of regulation 5 with reference to the procedure to be adopted on application for the Secretary of State's consent shall apply to any application for his consent under this paragraph with such modification as the circumstances may require.

(b) Where the Committee, prior to a possible reference of any matter under the preceding sub-paragraph to the appropriate service committee,

request the Administrator to seek the comments of the practitioner, chemist or optician concerned, the Administrator shall inform him of any alleged breach of the terms of service or of the reason for requesting the comments and, unless the Committee decide to the contrary, of the source of the information before them concerning the matter.

(7) The pharmaceutical service committee shall perform such duties in connection with the testing of drugs and appliances as may be imposed on them by the scheme made for that purpose under regulation 29 of the General Service Regulations.

(8) If in the opinion of a service committee any matter referred to that service committee involves a question which under the provisions of paragraph (1) of regulation 6 is required to be investigated by another service committee the service committee shall in lieu of dealing with the matter themselves refer it to the joint services committee.

(9) Where a complaint, or a matter referred to the ophthalmic service committee, involves a question relating to an ophthalmic medical practitioner and a dispensing optician, or to an ophthalmic optician and a dispensing optician, or to an ophthalmic medical practitioner and an ophthalmic optician, the service committee shall, if the practitioner and optician concerned, or opticians concerned, so agree, investigate the matter in relation to both persons at the same time.

(10) Any matter which would otherwise be referred by the Committee or any duly authorised sub-committee thereof to the medical service committee, the pharmaceutical service committee, the dental service committee or the ophthalmic service committee for investigation may, if the Committee or sub-committee are satisfied that it is appropriate to the joint services committee, be referred by them to that committee.

#### *Representation at hearing*

7. The service committee shall, in the event of a hearing, permit a party to an investigation to be assisted in the presentation of his case by some other person:

Provided that no paid advocate, other than an officer of the Committee or an officer of the Dental Estimates Board representing that Board, and no person who is a barrister or a solicitor, whether or not practising as such, shall conduct the case as a representative for any party by addressing the service committee or examining or cross-examining witnesses.

#### *Hearings in private*

8. Subject to the provisions of regulation 54, the proceedings at the hearing before the service committee shall be private and no person shall be admitted to those proceedings except—

- (a) the parties to the investigation and the persons, if any, permitted to appear for the purpose of assisting them;
  - (b) the secretary or other duly authorised officer or member of the Local Medical, Pharmaceutical, Dental or Optical Committee, whichever is concerned;
  - (c) persons whose attendance is required for the purpose of giving evidence and who shall, unless the service committee otherwise direct, be excluded from the hearing except when they are actually giving evidence;
- and

- (d) such officers of the Committee as they may appoint for the purpose.

*Procedure of service committees*

9. Subject to the provisions of these regulations, Schedule 1 shall apply with respect to the investigation of complaints and the procedure of service committees.

*Decision of Committee*

10.—(1) The Committee shall consider the report presented to them by the service committee in pursuance of paragraph 1(19) of Schedule 1 and shall accept as conclusive any finding of fact contained in that report.

(2) The Committee's decision in relation to such report may include action in any one or more of the following ways:—

- (a) If the investigation relates to the conduct of a doctor and the Committee are satisfied, after consultation with the Local Medical Committee, that owing to the number of persons included in his list the doctor is unable to give adequate treatment to all those persons, they may impose a special limit on the number of persons for whom the doctor may undertake to provide treatment, and in that event any number in excess of that limit shall be dealt with as though the list of the doctor was by that number in excess of the general limit fixed for the list of doctors in the area.
- (b) The Committee may recommend to the Secretary of State the recovery—
- (i) from a doctor or an ophthalmic medical practitioner, chemist or optician as the case may be, by a deduction from his remuneration or otherwise, any expenses (other than expenses incurred in connection with an investigation by the appropriate service committee) which have been reasonably and necessarily incurred by any person owing to the failure of the practitioner, chemist or optician to comply with the terms of service, and any sum so recovered shall be paid to that person.
- (ii) from a dentist, by a deduction from his remuneration or otherwise, any expenses (other than expenses incurred in connection with an investigation by the appropriate service committee) reasonably and necessarily incurred or to be incurred by any person owing to the failure of the dentist to comply with his terms of service, and any sum so recovered shall be paid to that person:
- Provided that the maximum amount which may be recovered in respect of expenses incurred or to be incurred in obtaining further dental treatment shall not exceed the cost of such treatment calculated in accordance with the rate of remuneration in force for general dental services provided under the Act, and the amount so recovered may include any contribution towards the cost of the treatment which may have been paid or be payable by the patient under the National Health Service Acts 1946 to 1973.
- (c) The Committee may recommend to the Secretary of State that, owing to the failure of the practitioner, chemist or optician to comply with the terms of service, an amount should be withheld from his remuneration.
- (d) If the Committee are of the opinion that the continued inclusion of the doctor on the medical list or of the chemist on the pharmaceutical list or of the dentist on the dental list or of the ophthalmic medical practitioner or optician on the ophthalmic list, would be prejudicial to the efficiency of the services in question, they may make representations to that effect to the Tribunal.

- (e) The Committee may recommend to the Secretary of State that owing to the failure of a dentist to comply with his terms of service he should be required for a specified period, in respect of all or any specific treatment other than an examination or emergency treatment, to submit for prior approval to the Dental Estimates Board estimates in respect thereof.
  - (f) The Committee may recommend to the Secretary of State that owing to the failure of the practitioner, chemist or optician to comply with his terms of service he should be warned to comply with his terms of service more closely in the future.
- (3) If the Committee do not adopt the recommendation of the service committee or decide to take any action not recommended by the service committee, they shall give reasons for their decision.
- (4) As soon as may be after the Committee have made their decision on the report of the service committee the Administrator shall furnish the parties to the investigation and the Secretary of State with a copy of that report and the Committee's decision thereon and shall inform in writing—
- (a) the parties, where appropriate, of their right of appeal to the Secretary of State and of his power on such an appeal to award costs; and
  - (b) the practitioner, chemist or optician, where appropriate, of his right to make representations to the Secretary of State under the provisions of regulation 11.

*Appeal to Secretary of State from decision of Committee*

**11.**—(1) Subject to the provisions of paragraph (4), any party to an investigation shall be entitled to appeal to the Secretary of State against any decision that is adverse to him.

(2) Notice of appeal under this regulation shall be sent to the Secretary of State within one month from the date on which notification of the Committee's decision was received by the appellant and shall contain a concise statement of the facts and contentions upon which the appellant intends to rely.

(3) A practitioner, chemist, or optician may, in lieu of exercising his right of appeal, within one month from the date on which notification of the decision of the Committee is received by him, make representations to the Secretary of State against a recommendation of the Committee under paragraph (2) (c) or (e) of regulation 10.

(4) No appeal shall lie against a decision of a Committee to make representations with regard to the continued inclusion in any list of the name of any practitioner, chemist or optician, and if a Committee decide to make such representations and an appeal to the Secretary of State is made against their decision on other matters, the Secretary of State may treat as conclusive for the purpose of the appeal any relevant finding of fact of the Tribunal.

*Procedure on appeal*

**12.**—(1) If the Secretary of State, after considering the notice of appeal and any further particulars furnished by the appellant, is of the opinion that the said notice and particulars disclose no reasonable grounds of appeal or that the appeal is otherwise vexatious or frivolous, he may determine the appeal by dismissing it forthwith:

Provided that an appeal by a practitioner, chemist or optician against a decision of the Committee to take action under paragraph (2) (a), (b), (c) or



(e) of regulation 10 shall not be dismissed without an oral hearing unless the appellant does not desire such a hearing.

(2) The Secretary of State shall, unless he dismisses the appeal in pursuance of paragraph (1), send a copy of the notice of appeal and of any further particulars furnished by the appellant to the Committee and to the person or persons, if any, who were parties to the proceedings before the service committee or who appear to him to be interested in the appeal.

(3) Subject to the proviso to paragraph (1), the Secretary of State may, if he is of opinion that the case is of such a nature that it can properly be determined without an oral hearing, dispense with an oral hearing and determine the appeal.

(4) (a) In the event of an oral hearing the Committee or any person who has received notice of appeal may appear and take such part in the proceedings as the persons holding the inquiry think proper.

(b) Subject to the provisions of regulation 54, in the event of an oral hearing the proceedings shall be held *in camera*.

(5) For the purpose of an oral hearing the Secretary of State may appoint an officer or officers of the Department of Health and Social Security or of the Welsh Office, or some other person or persons, not exceeding three in number, to hold an inquiry:

Provided that—

(a) where one of the parties to an appeal is a doctor or a dentist the persons appointed to hear the appeal shall include a doctor or a dentist, as the case may be, selected by the Secretary of State from the panels of doctors and dentists referred to in regulation 14.

(b) where one of the parties to an appeal is a chemist, an ophthalmic medical practitioner or an optician, the persons appointed to hear the appeal shall include a member of the same branch of the service as that party.

(6)(a) A party to an appeal when an oral hearing takes place shall be entitled to appear and be heard 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, or by any friend.

(b) A Committee or other body being a party to any appeal shall be entitled to appear by a member or by the Administrator or other officer duly appointed for the purpose or by counsel or solicitor.

(7) A party to an appeal shall not, except with the consent of the Secretary of State or, in the case of an oral hearing, of the person or persons holding the inquiry, be entitled to rely upon any facts or contentions which do not appear to the Secretary of State or to the person or persons holding the inquiry to have been raised before the service committee in the course of the proceedings in respect of which the appeal is brought:

Provided that this paragraph shall not apply in the case of a hearing if at least seven days before the hearing notice is given in writing to the Secretary of State or to the person or persons holding the inquiry of any new facts or contentions upon which the party intends to rely.

(8) The person or persons holding the inquiry shall draw up a report and present it to the Secretary of State who shall take it into consideration and determine the appeal.

(9) Where the Secretary of State determines an appeal under the provisions

of paragraphs (1), (3) or (8), he shall notify the parties of his decision and the reasons therefor, and his decision shall be final and conclusive.

(10) The Committee may, with the consent of the Secretary of State, make such contribution as they think fit, and if directed by the Secretary of State shall make such contribution as he may determine towards the costs of the appeal incurred by the complainant or by the practitioner, chemist or optician.

(11) The provisions of sub-sections (2), (3) and (5) of section 250 of the Local Government Act 1972(a) which relate to the summoning of witnesses, the awarding of costs and other matters, shall apply to any inquiry held under this regulation as if in sub-section (5) for the words "The Minister causing an inquiry to be held under this section" there were substituted the words "The Secretary of State".

*Denture conciliation committees*

**13.**—(1) Notwithstanding the provisions of paragraphs (1) and (6)(a) of regulation 6, the Committee may, for the purpose of investigating any complaints which relate solely to the fit and efficiency of a denture provided as part of general dental services, establish a committee, to be called the denture conciliation committee (in this regulation hereinafter referred to as "the conciliation committee"). The conciliation committee shall consist of a chairman who shall be a member of the Committee not being a dentist, and two dentists appointed respectively from a panel nominated for the purpose by the Local Dental Committee and a panel so nominated by the Committee. The Committee when appointing the conciliation committee shall also appoint a member of the Committee not being a dentist as deputy chairman who shall act as chairman, if the chairman is unable to be present.

The provisions of paragraph (5) of regulation 3 and of paragraph 1(13) of Schedule 1 shall apply for the purposes of this regulation, with the necessary modifications.

(2) Where the conciliation committee have been established, any complaint made against a dentist or any matter referred for investigation by the Committee, by a duly authorised sub-committee thereof or by the Dental Estimates Board which relates solely to the fit and efficiency of a denture provided by a dentist for a patient shall be investigated by the conciliation committee. If during the investigation of any such complaint or matter the conciliation committee consider that the complaint or matter should more appropriately be investigated by the dental service committee under regulation 6 owing either to the nature of the allegations made against the dentist or to the number of cases in which complaints have been made against him, the complaint or matter shall be referred by the conciliation committee to the dental service committee for investigation in accordance with that regulation.

(3) The conciliation committee shall not hold an inquiry unless there are three members present and shall, so far as is applicable, investigate the complaint or matter and report thereon in accordance with the procedure for dental service committees provided for in regulations 7, 8 and 9 and Schedule 1 and shall, in relation to an investigation under this regulation, exercise the functions and carry out the duties therein referred to as if they were a dental service committee.

(4) The Committee shall furnish the Secretary of State and the parties to the proceedings with a copy of the report of the conciliation committee and a statement of the Committee's decision thereon which, if the conciliation com-

mittee have made a finding that the dentist has failed to secure the dental fitness of the patient, shall take one or more of the following forms—

- (a) that owing to the special circumstances of the case no further action should be taken;
  - (b) that the patient should by agreement with the dentist attend him for further adjustment or treatment relating to the denture;
  - (c) that where the dentist is unwilling to provide further treatment or the patient, in the conciliation committee's opinion, is justified in refusing to attend the dentist for further treatment, or where the conciliation committee consider that it is otherwise undesirable that the dentist should provide further treatment for the patient, a recommendation should be made to the Secretary of State that the cost of the denture including any contribution to the cost paid by the patient, or part thereof, should be withheld from the dentist's remuneration, and that the amount so recovered, or part thereof, should be repaid to the patient, in respect of expenses incurred or to be incurred by him in obtaining dentures from another dentist;
  - (d) that where a recommendation is made under the last preceding sub-paragraph, the patient should attend another dentist of his choice.
- (5) Either party to an investigation under this regulation shall be entitled to appeal to the Secretary of State against the decision of the Committee by sending to the Secretary of State notice of appeal containing a concise statement of the facts and contentions on which he intends to rely, within one month from the date on which notification of the decision was received.

(6) The provisions of regulation 12 shall apply to the procedure on appeals under the last preceding paragraph with such modification as the Secretary of State, or in the case of an oral hearing, the person or persons holding the inquiry, may consider necessary:

Provided that an appeal by a dentist against the decision of the Committee to take action under sub-paragraph (c) of paragraph (4) shall not be dismissed without an oral hearing unless the appellant does not desire such a hearing.

#### *Procedure on withholding money*

**14.**—(1) If the Secretary of State is satisfied—

- (a) after considering any report made by a service committee under paragraph 1(19) of Schedule 1 and the decision of the Committee thereon to the effect that there has been a breach of the terms of service or the report of the person or persons holding an inquiry under paragraph (5) of regulation 12 or any report of the Tribunal after an inquiry under Part III of these regulations, that such practitioner, chemist or optician has failed or neglected to comply with the terms of service applicable to him, or
- (b) after considering the report of a Local Medical Committee to whom a matter has been referred for consideration under regulation 18 or of any person or persons determining any matter under that regulation to the effect that a doctor has failed or neglected to comply with paragraph 30 of the terms of service applicable to him, that such doctor has failed or neglected to comply with the said paragraph, or
- (c) after considering the report of a Local Dental Committee to whom a matter has been referred for consideration under regulation 18 or of any person or persons determining any matter under that regulation to the effect that any dentist other than a salaried dentist has failed or neglected to comply with paragraph 6 or paragraph 19 of the terms of service

applicable to him, that such dentist has failed or neglected to comply with either of the said paragraphs, or

- (d) after considering any report made by a denture conciliation committee under regulation 13 and the decision of the Committee thereon to the effect that a dentist has failed or neglected to comply with paragraph 2(a) or paragraph 2(b) of his terms of service when supplying a denture or dentures or the report of the person or persons holding an inquiry under the provisions of regulation 13, that such dentist has so failed or neglected to comply with either of the said paragraphs,

he may, subject as hereinafter provided, direct the Committee to recover such amount as he thinks fit either by deduction from the remuneration of the practitioner, chemist or optician or otherwise, and such sum shall be a debt owing by the practitioner, chemist or optician to the Committee:

Provided that where the case falls within sub-paragraph (d) of this paragraph the amount to be recovered shall not exceed the cost of the denture or dentures concerned, including any contribution to the cost paid by the patient.

(2) (a) Before directing the recovery of any such amount, the Secretary of State shall afford the practitioner, chemist or optician a reasonable opportunity of making representations to him on the matter, except in cases in which the facts have already been the subject of an oral hearing in the course of an appeal to the Secretary of State, or in cases in which the practitioner, chemist or optician had the right to make representations under regulation 11(3) and the Secretary of State does not propose to direct the recovery of a larger amount than that specified by the Committee.

(b) Where the practitioner, chemist or optician desires to make representations orally, whether under sub-paragraph (a) of this paragraph or under regulation 11(3), the Secretary of State shall appoint a person or persons to hear the representations. The Committee and the Local Medical, Pharmaceutical, Dental or Optical Committee, as the case may be, shall be entitled to be represented at such hearing and to take such part in the proceedings as the persons appointed to hear the representations may think proper. The persons appointed to hear the representations of a doctor or a dentist shall include a practitioner selected for the purpose by the Secretary of State from the panel of doctors or dentists, as the case may be, hereinafter referred to in this regulation. The persons appointed to hear the representations of a chemist, an ophthalmic medical practitioner or an optician shall include a person belonging to the same branch of the service as the person making the representations.

(3) (a) An advisory committee (hereinafter referred to as "the medical advisory committee") shall be constituted for the purpose of assisting the Secretary of State in the discharge of his duties under this regulation in relation to doctors. Before directing the Committee to withhold money in respect of a breach of the terms of service applicable to doctors the Secretary of State shall, where such breach is of a kind specified in the following sub-paragraph, and in any other case may, refer the case to the medical advisory committee and consider any report which they may make to him thereon.

(b) Breaches of the terms of service to which the last preceding sub-paragraph of this regulation relates are failure to exercise reasonable skill and care in the treatment of a patient, failure to visit or treat a patient whose condition so requires, failure to order or supply any necessary drugs or appliances for the use of a patient or failure to discharge the obligations imposed on a doctor to give a patient the requisite assistance to enable him to obtain any treatment which is not within the scope of the doctor's obligations under the terms of service.

(4) The medical advisory committee shall consist of the Chief Medical Officer or a Deputy Chief Medical Officer of the Department of Health and Social Security and of two other medical officers, and of three doctors appointed by the Secretary of State so far as may be in rotation from a panel of doctors who are, or have been, doctors engaged in the provision of general medical services nominated by a body which is, in the Secretary of State's opinion, representative of doctors engaged in the provision of general medical services. The Chief Medical Officer, or a Deputy Chief Medical Officer, shall act as chairman, and the chairman together with one medical officer and two doctors appointed from the said panel shall form a quorum.

(5) An advisory committee (hereinafter referred to as "the dental advisory committee") shall be constituted for the purpose of assisting the Secretary of State in the discharge of his duties under this regulation in relation to dentists. Before directing the Committee to withhold money in respect of a breach of the terms of service applicable to dentists other than a breach of the terms of service which has been dealt with in accordance with regulation 13, the Secretary of State shall, where such breach consists of failure to complete satisfactorily dental treatment, or failure to exercise reasonable care and skill, and in any other case may, refer the case to the dental advisory committee and consider any report which they may make to him thereon.

(6) The dental advisory committee shall consist of the Chief Dental Officer or the Deputy Chief Dental Officer and of two other dental officers, and of three dentists appointed by the Secretary of State so far as may be in rotation from a panel of dentists who are, or have been, engaged in the provision of general dental services nominated for the purpose by a body which is, in the Secretary of State's opinion, representative of the dental profession. The Chief Dental Officer, or the Deputy Chief Dental Officer, shall act as chairman, and the chairman together with one dental officer and two dentists appointed from the said panel shall form a quorum.

*Procedure in dental prior approval cases*

15.—(1) If the Secretary of State is of the opinion, after considering any report by a dental service committee under paragraph 1(19) of Schedule 1 and the decision of the Committee thereon to the effect that there has been a breach of the terms of service, or the report of a person or persons holding an inquiry under regulation 12(5), or any report of the Tribunal after an inquiry under Part III of these regulations, that a dentist should, in respect of all or any specific treatment other than an examination or emergency treatment, be required by the Secretary of State to submit for prior approval to the Dental Estimates Board estimates in respect thereof (which requirement is hereinafter in these regulations referred to as a "prior approval requirement") the Secretary of State may notify the dentist of a prior approval requirement for such period as he thinks fit, such period commencing not earlier than one month from the date on which notice of the requirement is given to the dentist:

Provided that—

- (a) where the Committee have made a recommendation under regulation 10(2)(e), and the facts of the case have not been the subject of an oral hearing in the course of an appeal made to the Secretary of State, a prior approval requirement shall not exceed the period recommended by the Committee or widen the range of treatment proposed to be covered, unless the Secretary of State first affords the dentist a reasonable opportunity of making representations to him on the matter;
- (b) where the Committee have not made such a recommendation (and

whether or not the case has been the subject of an oral hearing) the Secretary of State shall not notify the dentist of a prior approval requirement unless he first affords the dentist a reasonable opportunity of making representations to him against the proposed requirement.

(2) The provisions of regulation 14(2)(b) shall apply where the dentist desires to make representations orally.

(3) A dentist who is subject to a prior approval requirement under this regulation may at any time after the expiry of a period of 6 months from the date on which notice of the requirement was given under paragraph (1), apply to the Secretary of State for a direction that the requirement should be terminated before the period specified therein has elapsed. Any such application shall state the grounds on which it is made. The Secretary of State shall request the comments of the Committee on the application and the observations of the dentist on such comments, if any, before giving such decision as he thinks fit.

*Investigation of excessive prescribing by doctors*

**16.**—(1)(a) Where it appears to the Secretary of State after an investigation of the orders for drugs and appliances given by one or more doctors (including any assistant of any such doctor) to persons provided with general medical services and of the accounts furnished by any such doctor for drugs and appliances supplied to such persons that there is a prima facie case for considering that by reason of the character or quantity of the drugs or appliances so ordered or supplied the cost is in excess of what was reasonably necessary for the proper treatment of these persons, the Secretary of State may refer the matter to the Local Medical Committee (hereinafter in this regulation referred to as “the Local Committee”) for their consideration.

(b) Where any doctor is on more than one medical list the Secretary of State may refer the matter to the Local Committee for the area of the Committee which is the responsible Committee for the purposes of the Statement published pursuant to regulation 24 of the General Service Regulations and that Local Committee shall consider the matter in relation to all the lists concerned.

(2) (a) Where any reference has been made to a Local Committee under the preceding paragraph, the Local Committee shall furnish any doctor concerned with a statement indicating the matters on which an explanation is required and shall afford him reasonable opportunity of appearing before and being heard by them, or, if he thinks fit, of submitting to them any statement in writing; and a representative or representatives of the Secretary of State shall be entitled, in the event of a hearing, to attend and be heard by the Local Committee.

(b) Where any reference is made in relation to orders or accounts given or furnished by a doctor as a deputy for another doctor, the Local Committee may, to such extent as they consider material, require information concerning the orders or accounts given or furnished in respect of the persons concerned by the doctor for whom he was deputising.

(c) Where references are made in relation to two or more doctors the Local Committee may if the doctors so agree consider them during the same proceedings.

(3) After considering the case the Local Committee shall decide whether by reason of the character or quantity of the drugs or appliances ordered or supplied as aforesaid by the doctor or doctors concerned any cost has been incurred in excess of what was reasonably necessary and, if so, what sum is, in the opinion of the Local Committee, a reasonable estimate of the excess cost incurred by each doctor.

(4) Where the Local Committee have decided that excess cost has been so incurred by reason of the drugs or appliances ordered or supplied by any doctor, they shall inform the Committee, the doctor or doctors concerned and the Secretary of State of their decision and may add a statement of any considerations to which in their opinion the Committee and the Secretary of State should have regard in making any recommendation or decision with reference to the withholding of money from the doctor or doctors concerned. The Local Committee shall also notify the doctor or doctors concerned in writing of their right of appeal to the Secretary of State.

(5) Any aggrieved doctor shall be entitled to appeal against the decision of the Local Committee by sending to the Secretary of State notice of appeal within one month from the date on which notice of the Local Committee's decision was received. The Secretary of State shall appoint as referee or referees a person or persons (not exceeding three in number and not being an officer or officers of the Department of Health and Social Security or the Welsh Office) of whom at least one shall be a doctor, who shall hear and determine the appeal. They shall have power to determine the appeal by a majority.

(6) If the Secretary of State is dissatisfied with the decision of the Local Committee in any case referred to them under paragraph (1) he may appoint as referee or referees a person or persons to hear and determine the matter in the manner provided in the last preceding paragraph, and the provisions of that paragraph including those relating to the person or persons to be appointed shall apply accordingly.

(7) After consideration of the decision of the Local Committee or, if an appeal has been made or the matter has been referred for hearing and determination under the last foregoing paragraph, after consideration of the decision of the person or persons determining the appeal or matter, the Committee shall, if such decision is that excessive cost has been incurred, make a recommendation to the Secretary of State with regard to the withholding of money from any doctor concerned, and the Secretary of State may direct the Committee to withhold such sum as he thinks fit, and the provisions of regulation 14, including the right of the doctor to make representations to the Secretary of State, shall apply accordingly.

(8) Where under the provisions of paragraph (1) a matter has been referred to the Local Committee for the area of the responsible Committee, paragraphs (4) and (7) shall have effect as if the reference to "the Committee" was a reference to the Committee of each of the areas in which the doctor is on the medical list.

#### *Investigation of certification*

17.—(1) Where it appears to the Secretary of State, after an investigation of the medical certificates issued under and for the purposes of the National Insurance Act 1965(a) and of the National Insurance (Industrial Injuries) Act 1965(b) by a doctor to persons for whose treatment he is responsible under the terms of service applicable to him, that there is a *prima facie* case for considering that the doctor has failed to exercise reasonable care in the issue of such certificates, the Secretary of State may refer the matter for consideration to the Local Medical Committee (hereinafter in this regulation referred to as "the Local Committee"), or to a joint committee of two or more Local Committees constituted in such manner as he may approve and any reference in this regulation to the Local Committee shall be construed as including any such joint committee.

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(a) 1965 c. 51.

(b) 1965 c. 52.

(2) Any reference to the Local Committee under the last preceding paragraph shall be accompanied by a statement indicating the matters on which it appears to the Secretary of State that an explanation is required.

(3) (a) The Local Committee shall furnish the doctor concerned with a copy of the said statement and shall afford him reasonable opportunity of submitting to them a statement in writing and of appearing before and being heard by them.

(b) A copy of any such statement by the doctor shall be forwarded to the Secretary of State by the Local Committee for his observations and a representative or representatives of the Secretary of State shall be entitled, in the event of a hearing, to attend and be heard by the Local Committee.

(4) (a) After considering the case the Local Committee shall draw up a report of their findings on the question whether there has been a failure on the part of the doctor to exercise reasonable care in certification, and, if so, what is the extent and gravity of the failure, together with a recommendation as to the action, if any, which should be taken by the Secretary of State.

(b) The Local Committee shall forward the report to the Secretary of State and shall furnish the doctor with a copy of the report. The Local Committee shall also notify the doctor in writing of his right of appeal to the Secretary of State.

(5) (a) The doctor shall be entitled to appeal against any findings of the Local Committee contained in the report by sending to the Secretary of State notice of appeal within one month from the date on which a copy of the report was received by him and the provisions of paragraph (5) of regulation 16 relating to the determination of appeals shall apply accordingly.

(b) If the Secretary of State is dissatisfied with any findings of the Local Committee he may appoint a person or persons to hear and determine the matter in the manner provided in paragraph (5) of regulation 16 and the provisions of that paragraph including those relating to the person or persons to be appointed shall apply accordingly.

(6) After consideration of the findings and recommendation of the Local Committee or, if an appeal has been made or the matter has been referred for hearing and determination under the last preceding paragraph, after consideration of the findings of the person or persons determining the appeal or matter, the Secretary of State may, if he is satisfied that there has been a failure on the part of the doctor to exercise reasonable care in certification, direct the Committee to withhold such amount as he thinks fit from the remuneration of the doctor, and the provisions of regulation 14, including the doctor's right to make representations to the Secretary of State, shall apply accordingly.

#### *Investigation of record keeping*

**18.—(1)** Where it appears to the Secretary of State, after an examination by the medical officer or the dental officer of any record cards held by a doctor, or a dentist other than a salaried dentist, that there is a *prima facie* case for considering that the doctor has failed to carry out his obligations under paragraph 30 of the terms of service, so far as such obligations involve the recording of clinical data regarding his patients, or that the dentist has failed to carry out his obligations under paragraph 6 or paragraph 19 of the terms of service, the Secretary of State may refer the matter for consideration to the Local Medical or Dental Committee, whichever is appropriate, hereinafter in this regulation referred to as "the Local Committee".



(2) Any such reference to the Local Committee shall be accompanied by a statement of the grounds for considering that such obligations have not been fulfilled.

(3) (a) The Local Committee shall furnish the practitioner concerned with a copy of the said statement and shall afford him reasonable opportunity of submitting to them a statement in writing and of appearing before and being heard by them.

(b) A copy of any such statement by the practitioner shall be forwarded to the Secretary of State by the Local Committee for his observations and a representative or representatives of the Secretary of State shall be entitled, in the event of a hearing, to attend and be heard by the Local Committee.

(4) If so required by notice in writing signed by the chairman of the Local Committee, the practitioner shall—

(a) produce at the hearing all record cards held by him or such of the record cards as may be specified in the notice;

(b) give in the case of a doctor to any members of the Local Committee specified in the notice, or in the case of a dentist to the dental officer, access at all reasonable times to the practitioner's surgery or other place where the record cards are kept, for the purpose of inspection of such record cards and furnish such persons with any such record cards and with any necessary information with regard thereto as they may require.

(5) After considering the case the Local Committee shall report to the Secretary of State whether there has been a failure on the part of the practitioner to carry out his said obligations and, if so, the extent and gravity of such failure and shall make a recommendation as to the action, if any, which should be taken by the Secretary of State. A copy of such report shall be forwarded by the Local Committee to the practitioner. The Local Committee shall also notify the practitioner in writing of his right of appeal to the Secretary of State.

(6) (a) The practitioner shall be entitled to appeal against any findings of the Local Committee contained in the report by sending to the Secretary of State notice of appeal within one month from the date on which a copy of the report was received by him and the provisions of paragraph (5) of regulation 16 relating to the determination of appeals shall apply accordingly:

Provided that if the appellant is a dentist, a reference to a dentist shall be substituted for the reference to a doctor.

(b) If the Secretary of State is dissatisfied with the findings of the Local Committee he may appoint a person or persons to hear and determine the matter in the manner provided in paragraph (5) of regulation 16 as modified by the preceding sub-paragraph, and those provisions, including those relating to the person or persons to be appointed, shall apply accordingly.

(7) In this regulation "record cards" means—

(a) in the case of a doctor, the cards on which he is required to keep records of the illnesses of his patients and of his treatment of them under paragraph 30 of the terms of service, and

(b) in the case of a dentist, the records which under paragraph 6 of the terms of service he is required to keep of the clinical conditions present in the mouth of the person for whom he is providing general dental services and of the treatment provided by him.

*Decision as to treatment for which fees may be charged by doctors*

19.—(1) If any question arises, either in the course of an investigation by the medical service committee or otherwise, as to whether any treatment given by a doctor to a patient is treatment for which he may demand or accept a fee from that patient (unless it arises in relation to sub-paragraph (d) or (f) of paragraph 32 of the terms of service or is whether a certificate is reasonably required by the patient under or for the purposes of any enactment), the question shall be referred for determination to the Local Medical Committee. If the Local Medical Committee and the Committee disagree, the matter shall be submitted to referees appointed under these regulations for decision in accordance with the rules set out in Schedule 2, and the decision of the referees, given after hearing such parties and taking such evidence as they think proper, shall be final.

(2) For the purpose of giving effect to this regulation the Secretary of State shall upon any such disagreement arising appoint as referees two doctors not being medical officers (who shall be selected from any panel of doctors set up by the Secretary of State for the purpose or, if no such panel exists, from among doctors in actual practice) and one barrister or solicitor in actual practice.

(3) The referees may decide any question coming before them by a majority but, subject as aforesaid, their procedure shall be such as they may from time to time determine.

(4) If on any question referred to the Local Medical Committee under this regulation the Local Medical Committee and the Committee are agreed, the Committee shall report the matter to the Secretary of State and he may, if he thinks fit, refer the question for decision to referees in the manner provided in this regulation and the foregoing provisions of this regulation shall apply accordingly.

*Determination of question whether a substance was a drug, and recovery of cost*

20.—(1) Any question whether a substance supplied by a doctor or by a chemist on the prescription of a doctor was a drug forming part of pharmaceutical services provided under the Act, shall, if the doctor concerned so desires, and may, in any other case in which the Committee or the Secretary of State think fit, be referred in accordance with paragraph (6) to the Local Medical Committee (in this regulation hereinafter referred to as "the Local Committee") and the Committee or the Secretary of State, as the case may be, shall inform the Local Pharmaceutical Committee that the question has been so referred.

(2) The Local Committee shall furnish the doctor concerned with a statement indicating the nature of the question referred to them under this regulation and shall afford him reasonable opportunity of appearing before and being heard by them or, if he thinks fit, of submitting to them any statement in writing.

The Local Committee shall further consider any representations made to them by the Committee or the Secretary of State and, if the doctor appears before and is heard by them, shall afford an opportunity to representatives of the Committee and of the Secretary of State of appearing before and being heard by them.

(3) The Local Committee shall inform the doctor, the Committee and the Secretary of State of the finding at which they have arrived on the question referred to them. The Local Committee shall also inform the doctor in writing of his right of appeal to the Secretary of State.

(4) If the doctor or the Committee are dissatisfied with the finding of the Local Committee and give notice of appeal to the Secretary of State within one month from the date on which the notice of the finding was received, the

question shall be referred for decision to a referee or referees appointed by the Secretary of State under this regulation, and if the Secretary of State is dissatisfied with the finding of the Local Committee he may, if he thinks fit, also refer the question for decision to a referee or referees so appointed.

(5) For the purpose of obtaining a decision under paragraph (4) the Secretary of State shall appoint as referee or referees a person or persons (not exceeding three in number and not being an officer or officers of the Department of Health and Social Security or the Welsh Office) of whom at least one shall be a doctor. The referees may decide any question coming before them by a majority, but, subject as aforesaid, their procedure shall be such as they may determine.

(6) If it appears to the Committee that any substance supplied to a person under the General Service Regulations was not a drug forming part of pharmaceutical services provided under the Act, the Committee shall recover from the doctor, by deduction from his remuneration or otherwise, an amount calculated in the manner provided in paragraph (7):

Provided that before recovering any such amount the Committee shall, unless it has already been decided in accordance with the foregoing provisions of this regulation that the substance supplied in that case was not such a drug, bring the question to the doctor's notice in writing and inquire whether he desires it to be referred for decision under those provisions; and if the doctor within one week after the receipt of such notice informs the Committee that he desires the question to be so referred, the Committee shall refer it to the Local Committee and the foregoing provisions of this regulation shall apply accordingly.

(7) For the purpose of paragraph (6) the amount to be recovered in respect of the supply of any substance shall be the cost of that substance to the Committee:

Provided that if any substance which was not a drug was an ingredient in a preparation of which other ingredients were drugs, the amount to be recovered shall be the cost of that substance to the Committee, together with half the amount of the dispensing fee payable in respect of the supply of the preparation.

#### *Appeals from Dental Estimates Board*

**21.**—(1) Any person aggrieved by a decision of the Dental Estimates Board (in this regulation hereinafter referred to as "the Board") concerning the treatment of a patient or the fees payable to a dentist shall be entitled to appeal by sending to the Secretary of State a notice of appeal within one month from the date on which notice of the decision of the Board was received by that person:

Provided that where in the opinion of the Secretary of State no dispute arises as to the item or sub-item of treatment in Determination I of the Statement of Dental Remuneration applicable to the treatment provided or to be provided for the patient, no appeal shall lie against a decision of the Board refusing a request from a dentist for a fee higher than the fee, or maximum fee, prescribed by the said Determination in respect of that treatment.

(2) The notice of appeal shall contain a concise statement of the facts and contentions upon which the appellant intends to rely:

Provided, however, that where an appeal is heard by referees under the provisions of paragraph (4), the appellant may rely upon facts and contentions not contained in the statement submitted by him.

(3) Where in the opinion of the Secretary of State the appeal is against a refusal of the Board to approve an estimate for treatment or appliances provided or to be provided for a person on the grounds that such services are not of a type that can be supplied as part of general dental services, the appeal shall be determined by the Secretary of State in such manner as he shall think fit.

(4) In other cases the Secretary of State shall appoint as referees two dentists of whom one shall be selected from a panel of dentists who are or have been engaged in the provision of general dental services nominated for that purpose by a body which is, in the Secretary of State's opinion, representative of the dental profession. The referees shall hear the representations of the appellant and the Board and determine the appeal in accordance with any relevant provisions of these regulations, the General Dental Regulations and the Statement of Dental Remuneration including any provisions prescribing maximum fees.

*Investigation of excessive dental treatment*

22.—(1) Where it appears to the Secretary of State after an investigation of a number of the dental estimate forms submitted by a dentist to the Dental Estimates Board that, by reason of the character and volume of the treatment (not being treatment specified in Determination II of the Statement of Dental Remuneration) for which the dentist has claimed payment, there is a *prima facie* case for considering that the dentist has regularly provided excessive dental treatment, the Secretary of State may refer the matter for consideration to the Local Dental Committee (hereinafter in this regulation referred to as "the Local Committee"), or to a joint committee of two or more Local Dental Committees constituted in such manner as he may approve, and any reference in this regulation to the Local Committee shall be construed as including any such joint committee.

For the purpose of this regulation "excessive dental treatment" means treatment which is in excess of what was reasonably necessary to secure the dental fitness of the persons concerned, or which involved the Committee in cost in excess of what was reasonably necessary to secure the proper treatment of those persons.

(2) Where a case has been referred to the Local Committee under the preceding paragraph, the Local Committee shall furnish the dentist concerned with a statement indicating the matters on which an explanation is required and shall afford him reasonable opportunity of appearing before and being heard by them, or, if he thinks fit, of submitting to them any statement in writing; and a representative or representatives of the Secretary of State shall be entitled, in the event of a hearing, to attend and be heard by the Local Committee.

(3) After considering the case the Local Committee shall decide whether the dentist has in their opinion regularly provided excessive dental treatment, and where they so decide, they shall inform the Committee, the dentist and the Secretary of State of their decision. The Local Committee shall also inform the dentist in writing of his right of appeal to the Secretary of State.

(4) The dentist shall be entitled to appeal against the decision of the Committee by sending to the Secretary of State notice of appeal within one month from the date on which notice of the Local Committee's decision was received. The Secretary of State shall appoint as referees persons (not exceeding three in number and not being officers of the Department of Health and Social Security or the Welsh Office) of whom at least one shall be a dentist, who shall hear and determine the appeal. They shall have power to determine the appeal by a majority.

(5) If the Secretary of State is dissatisfied with the decision of the Local Committee in any case referred to them under paragraph (1), he shall appoint as referees persons to hear and determine the matter in the manner provided in the last preceding paragraph; and the provisions of that paragraph, including those relating to the persons to be appointed, shall apply accordingly.

(6) Where the Local Committee or the referees, as the case may be, decide

that the dentist has regularly provided excessive dental treatment, he shall be required by the Secretary of State to submit to the Dental Estimates Board for prior approval estimates in respect of all or any specific treatment (other than an examination or emergency treatment) for a period of 12 months from such date as the Secretary of State may decide (such period commencing not earlier than one month from the date on which notice of the decision is given to the dentist).

(7) A dentist who is subject to a prior approval requirement under this regulation may, at any time after the expiry of a period of 6 months from the date on which notice of the decision of the Secretary of State under paragraph (6) was given to him, apply to the Secretary of State for a direction that the requirement should be terminated before the period of 12 months has elapsed. Any such application shall state the grounds on which it is made. The Secretary of State shall request the comments of the Committee and the Local Committee on the application and the observations of the dentist on such comments, if any, before giving such decision as he thinks fit.

*Investigation of excessive prescribing of optical appliances*

23.—(1) Where it appears to the Committee on an investigation of the forms completed by an ophthalmic medical practitioner or an ophthalmic optician after testing the sight of applicants for general ophthalmic services, that there is a *prima facie* case for considering that, by reason of the number of optical appliances and the type of lenses prescribed in relation to the number of sight tests undertaken and to the degree of refractive error present, the cost incurred by the Committee has been materially in excess of what was reasonably necessary for the purpose of affording proper services to the persons concerned, the matter shall be considered by the ophthalmic service committee as hereinafter provided.

(2) Before considering the case the service committee shall furnish the practitioner or optician concerned with a statement indicating the matters on which an explanation is required and shall afford him a reasonable opportunity of either appearing and being heard, or, if he thinks fit, of submitting to them a statement in writing, and, in the event of a hearing, a representative or representatives of the Secretary of State shall be entitled to attend and be heard by the service committee.

(3) After considering the case the service committee shall decide whether the cost incurred by reason of the number of optical appliances and the type of lenses prescribed by the practitioner or optician, as the case may be, was materially in excess of what was reasonably necessary for the purpose of affording proper services to the persons concerned, and if so, what is the amount of any excess cost which has been incurred by the Committee.

(4) Where the service committee have decided that an excess cost has been so incurred, they shall inform the Committee, the practitioner or optician as the case may be, and the Secretary of State, of their decision and may add a statement of any considerations to which, in their opinion, the Committee and the Secretary of State should have regard in making any recommendation or decision with reference to the withholding of money from the practitioner or optician as hereinafter provided for. The service committee shall also inform the practitioner or optician as the case may be, in writing, of his right of appeal to the Secretary of State.

(5) The practitioner or optician shall be entitled to appeal against the decision of the service committee by sending to the Secretary of State notice of appeal within one month from the date on which notice of the service committee's decision was received. The Secretary of State shall appoint as referee or referees a person

or persons (not exceeding three in number and not being officers of the Department of Health and Social Security or the Welsh Office) who shall hear and determine the appeal, and shall have power to determine the appeal by a majority. In the case of an appeal by an ophthalmic medical practitioner at least one of such persons shall be an ophthalmic medical practitioner selected from the panel of such practitioners appointed under paragraph 4 of the seventh schedule to the Act, and in the case of an appeal by an optician at least one of such persons shall be an ophthalmic optician selected from the panel of ophthalmic opticians appointed under paragraph 4 of the aforesaid seventh schedule.

(6) If the Secretary of State is dissatisfied with the decision of the service committee, he may appoint a person or persons to hear and determine the matter in the manner provided in the last preceding paragraph and the provisions of that paragraph including those relating to the person or persons to be appointed shall apply accordingly.

(7) After consideration of the decision of the service committee or, if an appeal has been made or the matter has been referred for hearing and determination under the last foregoing paragraph, after consideration of the decision of the person or persons determining the appeal or matter, the Committee shall, if such decision is that an excess cost has been incurred, make a recommendation to the Secretary of State with regard to the withholding of money from the practitioner or optician, as the case may be. The Secretary of State may thereafter direct the Committee to withhold such sum as he thinks fit and the provisions of regulation 14, including the right of the practitioner or optician to make representations to the Secretary of State, shall apply.

*Power of Local Medical, Pharmaceutical, Dental and Optical Committees to consider complaints*

24.—(1) The Local Medical Committee shall have power to consider any complaint made to them by any doctor against a doctor practising in the area for which the Local Medical Committee is constituted involving any question of the efficiency of the general medical services.

(2) The Local Pharmaceutical Committee shall have power to consider any complaint made to them by any chemist against a chemist carrying on business in the area for which the Local Pharmaceutical Committee is constituted involving any question of the efficiency of the pharmaceutical services.

(3) The Local Dental Committee shall have power to consider any complaint made to them by any dentist against a dentist practising in the area for which the Local Dental Committee is constituted involving any question of the efficiency of the general dental services.

(4) The Local Optical Committee shall have power to consider any complaint made to them by any optician against an optician practising in the area for which the Local Optical Committee is constituted involving any question of the efficiency of the general ophthalmic services.

### PART III

#### INQUIRIES RELATING TO PRACTITIONERS, CHEMISTS AND OPTICIANS

*Interpretation and forms*

25.—(1) In this part of these regulations, unless the context otherwise requires, the following expressions have the respective meanings hereby assigned to them:—

“inquiry” means an inquiry held in accordance with the provisions of this part of these regulations;

“representation” means a representation made to the Tribunal that the continued inclusion of a doctor in any medical list, or a chemist in any pharmaceutical list, or a dentist in any dental list, or an ophthalmic medical practitioner or optician in any ophthalmic list, would be prejudicial to the efficiency of the general medical, pharmaceutical, general dental or general ophthalmic services as the case may be;

“application” means an application made to the Tribunal or the Secretary of State by a practitioner, chemist, or optician for a direction that he should no longer be disqualified for inclusion in any list or lists to which a still effective direction by the Tribunal or the Secretary of State relates, and “applicant” shall be construed accordingly;

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

“respondent” means in the case of a representation any practitioner, chemist, or optician against whom a representation is made, and, in the case of an application, any person or body upon whose representation the direction to which the application relates was made.

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

#### *Tenure of office*

**26.**—(1) The chairman of the Tribunal shall hold office during the pleasure of the Lord Chancellor.

(2) The member of the Tribunal appointed by the Secretary of State, after consultation with such associations as he may recognise as representative of Committees, shall hold office during the pleasure of the Secretary of State.

#### *Officers of Tribunal*

**27.**—The chairman of the Tribunal shall appoint a person approved by the Secretary of State to act as clerk of the Tribunal and shall also appoint such other officers as may be necessary.

#### *Representation and preliminary statement*

**28.**—(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 Tribunal may, if they think fit, require the complainant to send them 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 they may think necessary, and they may require the preliminary statement to be verified by statutory declaration.

#### *Power to refuse inquiry*

**29.** If it appears to the Tribunal, after due consideration of any representation or of any preliminary statement furnished to them by the complainant, not being a Committee, that no good cause has been shown why an inquiry should be held, they may refuse to hold an inquiry and shall inform the complainant accordingly.

*Notices to be sent in case of inquiry*

30.—(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; and
- (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 this part of 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 Tribunal may, if they think fit, on the application of the complainant extend the time for sending to them the statement of complaint.

*Right of respondent to admit or deny allegations*

31. The Tribunal shall 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*

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

*Right of respondent to inspect documents*

33.—(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 clerk of 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*

34.—(1) The Tribunal shall appoint a day for the holding of the inquiry and shall, not less than fourteen days before the appointed day, send notices (Form 4) to the complainant and the respondent informing them of the date, time and place of the inquiry.

(2) The Tribunal shall, if they think fit, also send to any other Committee on whose medical, pharmaceutical, dental or ophthalmic list the name of the respondent appears, notice (Form 5) of the date, time and place of the inquiry



and each Committee may appear and take such part in the proceedings at the inquiry as the Tribunal shall think proper.

*Power to postpone inquiry*

35. The Tribunal may, if they think 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*

36. 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 this part of these regulations, the Tribunal may treat the representation as having been withdrawn.

*Withdrawal of representation*

37.—(1) The complainant may at any time before the inquiry, with the consent of the Tribunal and on such terms 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 (without prejudice to their power to hold an inquiry as hereinafter provided) forthwith inform the respondent that the representation has been withdrawn or is treated as having been withdrawn, as the case may be.

*Proceedings in camera*

38. Subject to the provisions of regulation 54, the proceedings shall be held *in camera* unless the respondent has applied for the inquiry to be held in public.

*Procedure at inquiry*

39. Subject to the provisions of these regulations, the procedure at the inquiry shall be within the discretion of the Tribunal.

*Appearance by representative*

40.—(1) Any Committee or other body (whether corporate or unincorporate) entitled to appear at the inquiry may appear by a member or by the Administrator 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, or by any friend.

*Evidence*

41. The complainant and the respondent or their representatives shall be entitled at the inquiry to call witnesses and to produce other evidence.

*Provisions of Local Government Act, 1972, to apply*

42. The provisions of sub-sections (2), (3) and (5) of section 250 of the Local Government Act 1972 which relate to the summoning of witnesses, the awarding of costs and other matters, shall apply to any inquiry held by the Tribunal as if in sub-section (5) for the words "The Minister causing an inquiry to be held under this section" there were substituted the words "The Tribunal".

*Procedure in regard to applications for reinstatement on list*

43.—(1) An application shall be in writing signed by or on behalf of the applicant and addressed to the clerk of the Tribunal.

(2) Every application shall contain a concise statement of the alleged facts and grounds upon which it is based and a list of the documents which the applicant proposes to put in evidence.

(3) The clerk of the Tribunal shall send to the respondent a copy of the application and of the list of documents which the applicant proposes to put in evidence, but nothing in this regulation shall preclude an applicant, with the consent of the Tribunal, from putting in evidence a document not included in such list.

(4) If it appears to the Tribunal, after due consideration of any application, that no good cause has been shown why an inquiry should be held, they may refuse to hold an inquiry and shall inform the applicant accordingly, but if the Tribunal decide to hold an inquiry in connection with an application, they shall send a notice that it is proposed to hold such an inquiry to the applicant and to the respondent.

(5) Not less than fourteen days before the day appointed for holding the inquiry the Tribunal shall give notice of the date, time and place of the inquiry to the applicant and the respondent, and shall inform them that the respondent may take such part in those proceedings as the Tribunal think proper.

(6) The applicant may at any time before the inquiry, with the consent of the Tribunal and on such terms as the Tribunal think fit, withdraw his application by giving notice of withdrawal in writing to the clerk of the Tribunal and on receipt of such notice of withdrawal the Tribunal shall give such notices as they may think fit.

(7) The proceedings at the inquiry shall be held *in camera* unless the applicant has applied for the inquiry to be held in public, and subject to the provisions of these regulations, the procedure at the inquiry shall be within the discretion of the Tribunal.

(8) Regulations 33 (Right of respondent to inspect documents), 35 (Power to postpone inquiry), 40 (Appearance by representative) and 42 (Provisions of Local Government Act, 1972, to apply) shall have effect with any necessary modifications in respect of an inquiry held by the Tribunal under this regulation.

(9) Subject to the following provisions of this regulation, the foregoing provisions of this regulation shall with any necessary modifications apply in respect of the Secretary of State and of persons appointed by him to hold an inquiry in respect of an application as they apply in respect of the Tribunal.

(10) Regulation 48(1) shall apply in respect of an application to the Secretary of State as if the references (however expressed) to hearing the appeal were references to the holding of an inquiry in connection with an application, as if the references to the appellant were references to the applicant and as if the references to the complainant were deleted.

(11) Regulation 54 (Attendance by member of Council on Tribunals) shall apply in respect of an inquiry under section 26 of the Health Services and Public Health Act 1968 held by a person appointed by the Secretary of State.

*Power to suspend proceedings in certain cases*

44. 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 this part of these regulations pending the issue of such other investigation.

*Power to dispense with oral inquiry*

45. Notwithstanding anything in this part of 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*

46.—(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 conclusions which they have reached and such directions as they may give under sub-sections (3) and (5) of section 42 of the Act, 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 Secretary of State, the respondent, and the complainant or the applicant, as the case may be, and the Secretary of State shall send a copy of the statement to such Committees as appear to him to be concerned.

(3) The Tribunal shall give notice to the respondent in writing of his right of appeal to the Secretary of State against any direction given by them for the removal of his name from any list.

*Appeal to Secretary of State*

47.—(1) The respondent may appeal to the Secretary of State against any direction given by the Tribunal for the removal of his name from any list by submitting to the Secretary of State a notice of appeal within fourteen days after notice of his right to make such appeal has been forwarded to him.

(2) The notice of appeal shall contain a concise statement of the facts and contentions upon which the appellant intends to rely.

*Procedure on appeal from Tribunal*

48.—(1) The Secretary of State shall appoint a person to hear the appeal and report thereon to him. He shall also appoint for the purpose of assisting the person hearing the appeal—

- (a) where the appellant is a doctor, a doctor from the panel of doctors referred to in regulation 14; or
- (b) where the appellant is a chemist, a registered pharmaceutical chemist; or
- (c) where the appellant is a dentist, a dentist from the panel of dentists referred to in regulation 14; or
- (d) where the appellant is an ophthalmic medical practitioner or an optician, a person belonging to the same branch of the service as the appellant.

The Secretary of State shall consider the report made by the person hearing the appeal and in the case of a doctor or dentist any recommendation made by

the medical or dental advisory committee constituted under regulation 14 to whom he shall refer such report, and shall thereafter give his decision and shall send a notice thereof to the appellant, the Tribunal, the complainant and such Committees as may appear to him to be concerned.

(2) Regulations 33, 34, 35, 38, 39, 40 and 41 shall, with the necessary modifications, apply to the hearing of appeals under this regulation in like manner as to an inquiry.

(3) The appellant may, at any time before the day appointed for the hearing, withdraw the appeal by giving notice of such withdrawal in writing to the Secretary of State, and when an appeal has been withdrawn the Secretary of State shall forthwith confirm the direction of the Tribunal.

(4) The provisions of sub-sections (2), (3) and (5) of section 250 of the Local Government Act 1972 which relate to the summoning of witnesses, the awarding of costs and other matters, shall apply to the hearing of an appeal from the Tribunal as if in sub-section (5) for the words "The Minister causing an inquiry to be held under this section" there were substituted the words "The Secretary of State".

*Publication of decisions of Tribunal, etc.*

49. Notice of any decision of the Tribunal or of the Secretary of State under section 42 of the Act and of the imposition and removal of any disqualification imposed by virtue of sub-section (6) of the said section (which provides for the removal from lists in England and Wales of persons who have been disqualified for inclusion in similar lists in Scotland or Northern Ireland) shall be published by the Secretary of State in such manner as he thinks fit.

PART IV

MISCELLANEOUS

*Service of notices, etc.*

50.—(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 either—

- (a) by delivering it to that person; or
- (b) in the case of the Secretary of State, the Tribunal, any Committee, Local Medical, Pharmaceutical, Dental or Optical Committee or service committee, by delivering it to their secretary or Clerk or Administrator or by sending it in a prepaid letter, addressed to them at their principal office; or
- (c) in the case of a practitioner, chemist or optician by sending it in a prepaid letter addressed to him at the address given in the list in which he is included; or
- (d) in any other case, by sending it in a prepaid letter addressed to him at his usual or last known address.

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

*Power to dispense with requirements as to notices*

51. The Secretary of State or the Tribunal may dispense with any requirements of these regulations respecting notices, applications, documents or other-

wise in any case where it appears to the Secretary of State or the Tribunal just and proper to do so.

*Power of Secretary of State to make fresh appointments*

52. Where the Secretary of State has made an appointment under any of the provisions of regulations 12 to 23 or 48 respectively, and any person so appointed has died, or resigned for any cause whatsoever, before the completion of the purpose for which he was appointed, or is unable, or has refused to complete such purpose, the Secretary of State may in his discretion rescind the appointment and make a fresh appointment in accordance with the provisions of the appropriate regulation, and in such event any case referred to the person appointed shall be considered *de novo*.

For the purposes of this regulation a person shall be deemed to have completed the purpose for which he was appointed where he has indicated to the other persons appointed with him the decision to be given, or the recommendation to be made to the Secretary of State, even though a report embodying such decision or recommendation is not signed by him.

*Power of Secretary of State to extend time for appeals*

53. The Secretary of State may, on the application of any person desiring to appeal under the provisions of regulation 11, 13, 16 to 18, 20 to 23 or 47 respectively, extend the time for giving notice of appeal, and may do so although the application is not made until after the expiration of the time prescribed for the making of an appeal.

An application for the extension of the time for giving notice of appeal must be made in writing to the Secretary of State, stating the grounds for the application.

*Attendance by member of Council on Tribunals*

54. Nothing in these regulations shall prevent a member of the Council on Tribunals in that capacity from attending any hearing before the Tribunal, a service committee, a Committee when they are considering reports of service committees, or a person or persons holding a hearing under regulation 12, 14 or 48.

PART V  
REVOCATION

*Revocation of regulations*

55. The National Health Service (Service Committees and Tribunal) Regulations, 1956(a), the National Health Service (Service Committees and Tribunal) (Amendment) Regulations, 1965(b) and the National Health Service (Service Committees and Tribunal) (Amendment) Regulations, 1969(c), are hereby revoked:

Provided that—

- (a) such revocation shall not affect any right, privilege, obligation or liability acquired, accrued or incurred, or anything duly done or suffered, under those regulations;
- (b) such revocation shall not affect any legal proceedings commenced before the revocation, or the commencement of any proceedings to

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(a) S.I. 1956/1077 (1956 I, p. 1554).  
(c) S.I. 1969/354 (1969 I, p. 988).

(b) S.I. 1965/1366 (1965 II, p. 3878).

enforce any such right, privilege, obligation or liability as aforesaid, but any such proceedings may be continued or commenced as if these regulations had not been made;

- (c) such revocation shall not affect any appeal, appointment, application, consent, decision, determination, investigation, nomination, notice, proceedings, reference, report, representation, requirement, selection, or standing order made, commenced, prepared, issued or given under the regulations so revoked, and every such appeal, appointment, application, consent, decision, determination, investigation, nomination, notice, proceedings, reference, report, representation, requirement, selection, or standing order, shall, so far as it could have been made, commenced, prepared, issued or given under these regulations, have effect as if it had been so made, commenced, prepared, issued or given.

15th March 1974.

*Barbara Castle,*  
Secretary of State for Social Services.

## SCHEDULE 1

## RULES OF PROCEDURE UNDER REGULATION 9

*Procedure of service committees*

1.—(1) The Administrator shall as soon as practicable send to the chairman of the appropriate service committee a copy of the complainant's statement. If in the opinion of the chairman the statement discloses no failure by the practitioner, chemist or optician against whom the complaint has been made, to comply with his terms of service, the Administrator shall so inform the complainant and notify him that he may within fourteen days submit a further statement in amplification of his complaint. If no further statement is submitted within that period or if, after considering such further statement, the chairman considers that a hearing of the case is unnecessary, the case shall as soon as practicable be brought before the service committee who may then report on the matter without holding a hearing.

(2) If the chairman considers that the complainant's statement, or further statement if any, discloses reasonable grounds for believing that the practitioner, chemist or optician has failed to comply with his terms of service, he shall instruct the Administrator to send such statement to, and seek the comments of, the practitioner, chemist or optician with regard to the complaint and to inform him that such comments must be made within a period of four weeks, or such longer period as the service committee may allow. The Administrator shall send to the complainant a copy of any comments made by the practitioner, chemist or optician, or the substance thereof, and shall give the complainant a period of fourteen days, or such longer period as the service committee may allow, in which to make observations on those comments.

(3) If having considered comments made by the practitioner, chemist or optician and any observations made by the complainant thereon the chairman is of the opinion that a hearing of the case is unnecessary, the case shall as soon as practicable be brought before the service committee who may then report on the matter without holding a hearing.

(4) Subject to the provisions of sub-paragraph (7) hereof, if no comments by the practitioner, chemist or optician on the complainant's statement have been received within the period allowed under sub-paragraph (2) hereof, or if such comments have been received and notwithstanding them the chairman is of the opinion that a hearing of the case is necessary, or if the correspondence discloses a material difference between the parties with regard to the facts of the case, the chairman shall instruct the Administrator to arrange a hearing thereof, to inform the parties of those arrangements and to send them copies of all relevant correspondence.

(5) The Administrator shall inform both the complainant and the practitioner, chemist or optician that copies of any documents including written comments or observations submitted in connection with a complaint will be furnished to the other party and will be produced in evidence at a hearing of the case if one is held.

(6) Where any complaint against a doctor, dentist or chemist concerns the conduct of either a deputy or an assistant to such practitioner or of a chemist employed by the chemist, the Administrator shall also send a copy of the complainant's statement to such deputy, assistant or chemist, as the case may be, who, subject as hereinafter provided, shall be treated as if he were a party to the investigation if within fourteen days of receipt of the statement he applies to the service committee to be so treated, but shall not be the subject of any action by the Committee under regulation 10, and shall have no right of appeal under regulation 11, of these regulations:

Provided that where the name of the deputy to a doctor is also included in the medical list the deputy shall be a party to the investigation and the Committee shall be entitled to take action under the said regulation 10 against him, subject to his right of appeal under the said regulation 11.

(7) If the statement made by the complainant concerns the alleged acts or omissions of a deputy to a doctor whose name is also included in the medical list, and if in the opinion of the chairman that statement and the ensuing correspondence disclose no

failure by the doctor personally to comply with his terms of service and the doctor has carried out his obligations under his terms of service in relation to ensuring the provision of services for his patients, the case concerning that doctor shall be brought before the service committee who shall have power to dispense with a hearing and report on the case forthwith, without prejudice however to the investigation of the case so far as it concerns the deputy.

(8) Except in cases disposed of without a hearing the Administrator shall give to both parties and to the Secretary of the Local Medical, Pharmaceutical, Dental or Optical Committee, as the case may be, not less than twenty-one days' notice of the meeting at which the case will be heard.

(9) The chairman may, upon the application of either party, postpone the hearing if he is satisfied that the attendance of the party or any witness on the date fixed for the hearing is not reasonably practicable or if for any other reason he thinks fit.

(10) The Administrator shall seven clear days before the hearing supply to each member of the service committee copies of the statement and the reply, if any, thereto, and of any further correspondence relating to the matter which has taken place between the Administrator and either party. Copies of such correspondence shall also be sent to the Secretary of the Local Medical, Pharmaceutical, Dental or Optical Committee as the case may be.

(11) Either party shall be entitled to be present at the hearing and to give and call such evidence as is relevant to the matters at issue, and to put questions relevant to the matter in dispute to the other party or to any witness called by him, either directly or, if the service committee so direct, through the chairman of the service committee. Subject as aforesaid, the procedure at the hearing shall be such as the service committee may determine.

(12) If either party fails to appear at the hearing, and the service committee are satisfied that his absence is due to illness or other reasonable cause, or if for any other reason the service committee think fit, they may adjourn the hearing, but, before so doing, they should invite the observations of any party who is present.

(13) Prior to the commencement of a hearing, the chairman shall ask the members of the service committee whether any of them is interested in a question referred to them either directly or through association with a party concerned. If in the opinion of the chairman any member is so interested, that member shall take no part in the hearing of the question but a deputy appointed in the like manner may act in his place.

(14) Where a member or deputy member of a dental service committee has been a member of a denture conciliation committee who in accordance with paragraph (2) of regulation 13 have referred a complaint or matter for investigation by the dental service committee, the member or deputy member shall take no part in the hearing thereof but a deputy appointed in the like manner may act in his place.

(15) The chairman shall have a casting vote in the case of an equality of votes, but otherwise he shall not be entitled to vote.

(16) The deputy chairman if the chairman is absent shall exercise the powers and perform the duties of the chairman. If the chairman is present the deputy chairman shall be entitled to attend but shall take no part in the proceedings of the service committee.

(17) If in the course of a hearing the complainant introduces any issue which in the opinion of the chairman was not sufficiently disclosed in the written statement or statements sent to the respondent, it shall be within the discretion of the chairman to admit or exclude such issue as he thinks fit, but if the issue is admitted the hearing shall be adjourned unless the respondent, after consultation with the person, if any, assisting him in the presentation of his case or the representative of the Local Medical, Pharmaceutical, Dental or Optical Committee, as the case may be, if present, requests that the hearing should proceed and the chairman agrees thereto.

(18) Where a case has been opened before any service committee and the meeting



is adjourned for the purpose of hearing further evidence or of preparing or considering the report, a member of the service committee who was not present at the meeting shall not be entitled to be present or take part in the proceedings at the adjourned meeting, and it shall not be necessary for the Administrator to send him notice of such meeting.

(19) The service committee shall draw up a report stating such relevant facts as appear to them to be established by the evidence placed before them and the inferences, whether of a breach of the terms of service or otherwise, which in their opinion may properly be drawn from the facts, together with a recommendation as to the action, if any, which should be taken, and shall present the report to the Committee. In presenting such report to the Committee the service committee may in cases where they infer a breach of the terms of service draw the attention of the Committee to any previous reports based on a finding of a breach of the terms of service in connection with the practitioner, chemist or optician and to any action taken by the Secretary of State on such reports and may recommend that account should be taken thereof by the Committee in reaching their decision.

(20) At any meeting of a service committee, the quorum shall consist of a chairman and one lay member together with—

- (a) in the case of a medical service committee, one medical member;
- (b) in the case of a pharmaceutical service committee, one pharmaceutical member;
- (c) in the case of a dental service committee, one dental member; and
- (d) in the case of an ophthalmic service committee, one member belonging to the same branch of the service as the respondent.

(21) The foregoing provisions of this schedule shall apply to cases which are referred to any medical, pharmaceutical, dental or ophthalmic service committee by the Committee or by any duly authorised sub-committee thereof or by the Dental Estimates Board, with such modifications as the circumstances may require.

#### *Procedure of joint services committees*

2. Where any question is referred to any joint services committee the following procedure shall apply:

(1) The Administrator shall, as soon as practicable, send to the chairman of the service committee and to the practitioner, chemist or optician concerned a copy of the complainant's statement and of any ensuing correspondence on the matter.

(2) The quorum shall consist of the chairman together with one lay member and, in the case of a question relating to—

- (a) a doctor, one medical member;
- (b) a chemist, one pharmaceutical member;
- (c) a dentist, one dental member;
- (d) an ophthalmic medical practitioner or optician, one member belonging to the same branch of the service as that person.

(3) Subject as aforesaid, the procedure of any joint services committee shall be similar to that of a service committee with such modifications as are rendered necessary by the inclusion of a third party.

#### *Interpretation*

3. In these rules, unless the context otherwise requires, the following expressions have the respective meanings hereby assigned to them:—

“chairman” includes a deputy chairman acting in his place.

“member” includes a deputy member acting in the place of a member.

“lay member” in relation to a service committee means a member appointed by

and from the members of the Committee who were appointed by the Area Health Authority or a local authority.

“medical member”, “pharmaceutical member”, “dental member” or “ophthalmic member” of a service committee means a member appointed by the Local Medical, Pharmaceutical, Dental or Optical Committee, as the case may be, and in the case of a joint services committee a member appointed by and from the medical, pharmaceutical, dental and ophthalmic members of the medical, pharmaceutical, dental or ophthalmic service committee.

## SCHEDULE 2

### RULES OF PROCEDURE UNDER REGULATION 19

1. Where a Committee and a Local Medical Committee fail to agree as to the decision of any question—

(a) the Committee shall prepare and submit to the Local Medical Committee a written statement of the facts in connection with which the question has arisen and of the decision given by the Committee and the grounds on which the decision is based;

(b) the Local Medical Committee shall, as soon as may be after the receipt of the said statement, furnish to the Committee a written statement of the decision given by the Local Medical Committee and the grounds on which the decision is based and shall inform the Committee whether they concur in the statement of facts prepared by the Committee and, if not, in what respects they do not concur in that statement;

(c) the Committee shall send the statements prepared by the Committee and the Local Medical Committee to the Secretary of State and he may, if he thinks fit, require both or either of the said bodies to furnish to him further particulars with regard to the facts of the case, or the decision, or the grounds of the decision.

2. Where the Secretary of State thinks fit to refer for decision to referees any question on which the Committee and the Local Medical Committee are agreed, the Secretary of State may require either or both of the said bodies to furnish written statements of the facts in connection with which the question has arisen and of their decision and the grounds on which the decision is based, and the Secretary of State shall inform the body or bodies furnishing such statements whether he concurs in the statement of facts contained therein and, if not, in what respect he does not concur therein and shall further inform the body or bodies of his grounds for disagreeing with their decision.

3. The Secretary of State shall furnish copies of all such documents to each of the referees appointed by him for the purpose of deciding the question.

4. If the referees on consideration of such documents are of the opinion that the question referred to them is similar to a question previously determined by referees under regulation 19, they may dispense with a hearing and determine the case summarily.

5. Except in a case in which the referees dispense with a hearing in accordance with the last foregoing rule, the Secretary of State shall fix the time and place of the hearing and shall give not less than twenty-one days' notice thereof to the Committee and the Local Medical Committee.

6. Each body shall be entitled to appear at the hearing by the chairman, Administrator or secretary of the body or by a member or by an officer duly appointed for the purpose, or by counsel or solicitor and the Secretary of State may appear by one of his officers and the bodies and the Secretary of State may produce such evidence as in the opinion of the referees may be relevant to the matters at issue.

7. The referees shall, as soon as may be after the hearing or after determining a case summarily, report to the Secretary of State the decision at which they have arrived.

SCHEDULE 3

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 National Health Service Act, 1946.

To \_\_\_\_\_ of \_\_\_\_\_

Take notice that a representation has been made by \_\_\_\_\_ of \_\_\_\_\_ to the Tribunal that your continued inclusion in the † \_\_\_\_\_ list of the \_\_\_\_\_ Family Practitioner Committee would be prejudicial to the efficiency of the ‡ \_\_\_\_\_ services provided under Part IV of the Act, 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 National Health Service (Service Committees and Tribunal) Regulations, 1974, is enclosed herewith for your information.

Signed \_\_\_\_\_

Clerk of the Tribunal

Dated.....

FORM 2

NOTICE TO COMPLAINANT OF INTENTION TO HOLD INQUIRY

In the matter of \_\_\_\_\_ a\*  
and \_\_\_\_\_

In the matter of the National Health Service Act, 1946.

To \_\_\_\_\_ of \_\_\_\_\_

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 of the \_\_\_\_\_ Family Practitioner Committee would be prejudicial to the efficiency of the ‡ \_\_\_\_\_ services provided under Part IV of the Act.

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 National Health Service (Service Committees and Tribunal) Regulations, 1974, is enclosed herewith for your information.

Signed \_\_\_\_\_

Clerk of the Tribunal

Dated.....

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

†State whether medical, pharmaceutical, dental or ophthalmic.

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

FORM 2A  
STATEMENT OF COMPLAINT

In the matter of \_\_\_\_\_ and \_\_\_\_\_ a\*  
In the matter of the National Health Service Act, 1946.  
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.]

Signed

Dated.....

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FORM 3  
NOTICE TO RESPONDENT OF ALLEGED FACTS AND GROUNDS  
ON WHICH REPRESENTATION IS BASED

In the matter of \_\_\_\_\_ and \_\_\_\_\_ a\*  
In the matter of the National Health Service Act, 1946.  
To \_\_\_\_\_ of \_\_\_\_\_  
With reference to the representation made by \_\_\_\_\_ 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.

Signed

Clerk of the Tribunal

Dated.....

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

FORM 4

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

In the matter of \_\_\_\_\_ a\*  
 and \_\_\_\_\_  
 In the matter of the National Health Service Act, 1946.  
 To \_\_\_\_\_ of \_\_\_\_\_  
 With further reference to the representation made by you with respect to the above-named respondent by \_\_\_\_\_ of \_\_\_\_\_ with respect to you  
 Take notice that the Tribunal will on \_\_\_\_\_ day the \_\_\_\_\_ day of 19\_\_\_\_ at \_\_\_\_\_ a.m. at \_\_\_\_\_ 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.

Signed

Clerk of the Tribunal

Dated.....

FORM 5

NOTICE OF INQUIRY TO BE SENT TO ANY FAMILY PRACTITIONER COMMITTEE WHICH IS NOT THE COMPLAINANT

In the matter of \_\_\_\_\_ a\*  
 and \_\_\_\_\_  
 In the matter of the National Health Service Act, 1946.  
 To the Family Practitioner Committee 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 of the \_\_\_\_\_ Family Practitioner Committee would be prejudicial to the efficiency of the ‡ services provided under Part IV of the said Act.  
 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. at \_\_\_\_\_ 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.

Signed

Clerk of the Tribunal

Dated.....

\*State whether respondent is a doctor, chemist, dentist, ophthalmic medical practitioner, or an ophthalmic or dispensing optician.  
 †State whether medical, pharmaceutical, dental or ophthalmic.  
 ‡State whether general medical, pharmaceutical, general dental, or general ophthalmic.

## EXPLANATORY NOTE

*(This Note is not part of the Regulations.)*

These Regulations consolidate the National Health Service (Service Committees and Tribunal) Regulations, 1956, as amended, and make a number of further amendments. The time limit for giving notice of a complaint is extended. A complainant is given a right of appeal to the Secretary of State against the refusal of a service committee to seek the Secretary of State's consent to the investigation of a late complaint. Provision is made for a doctor, dentist, chemist or optician who has been disqualified for inclusion on any medical, dental, pharmaceutical or ophthalmic list, as the case may be, to apply to the Tribunal or to the Secretary of State for the removal of that disqualification. The other amendments are consequential on the National Health Service Reorganisation Act 1973 or are of a minor nature.

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