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STATUTORY INSTRUMENTS

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**2000 No. 124**

**The Health Service Medicines (Price Control Appeals) Regulations 2000**

PART III

RESPONSE TO THE APPEAL

**Acknowledgement and notification**

**10.**—(1) On receiving the notice of appeal and the additional material, the tribunal must in each case without delay—

- (a) send an acknowledgement of its receipt to the appellant, and
- (b) send a copy of it to the Secretary of State.

(2) This regulation is subject to regulation 11.

**Costs warning**

**11.**—(1) Where a notice of an appeal has been received by the tribunal, and at the end of the period within which the appellant is required to send the additional material under regulation 6, the tribunal is of the opinion—

- (a) that it is so unlikely that the appeal will succeed on the basis of the notice and any additional material supplied that to proceed with it would be unfair to the Secretary of State, or
- (b) that the notice and any additional material supplied reveal no valid grounds of appeal, or that the appeal is otherwise misconceived,

it may, before sending the additional material to the Secretary of State, serve a notice to that effect on the appellant.

(2) A notice under this regulation must state the reasons for the opinion and inform the appellant—

- (a) that the appeal will not proceed unless the appellant informs the tribunal in writing within 14 days of the date of the notice that he wishes it to proceed, and
- (b) that if he makes such a statement, and the appeal is subsequently withdrawn or decided against him, he may be liable, subject to the limitations imposed by regulation 33, to pay the costs incurred by the Secretary of State in connection with the appeal.

(3) Where a notice is given under this regulation in relation to an appeal, unless the appellant informs the tribunal in writing before the end of the period of 14 days starting with the date of the notice, that he wishes to proceed with the appeal—

- (a) no further proceedings shall be taken in relation to the appeal, and
- (b) at the end of the period, any interim order made or direction given under regulation 16 immediately ceases to have effect.

### **Incomplete appeals**

**12.**—(1) Where notice of an appeal and additional material have been received by the tribunal, and it considers that the appeal could be decided more fairly and efficiently if the appellant provided further additional material, the tribunal may serve on the appellant a notice to that effect, inviting him to supply that material to the tribunal within 14 days of the date of the notice.

(2) Where the tribunal serves a notice under paragraph (1), it must at the same time inform the Secretary of State that it has done so.

(3) Where the tribunal has served a notice under paragraph (1) on the appellant, the time limit imposed by regulation 13 shall not begin until the expiry of the period within which the further additional material may be supplied.

(4) The tribunal must without delay send to the Secretary of State a copy of any material it receives under this regulation.

### **Reply by the Secretary of State**

**13.**—(1) The Secretary of State must send to the tribunal the documents required under this regulation and regulation 14 (“the reply”) so that they are received not later than the end of the period of 28 days beginning with the first date on which it has received the copies of the notice of appeal and of the additional material.

(2) The reply must—

- (a) acknowledge that the Secretary of State has received the notice of appeal and the additional material,
- (b) indicate whether the Secretary of State seeks to uphold the enforcement decision, and
- (c) give the information required under paragraph (3).

(3) The following information is required under this paragraph—

- (a) the Secretary of State’s address;
- (b) the name, address and profession of the person (if any) representing the Secretary of State and whether the tribunal should send documents concerning the appeal to the representative rather than to the Secretary of State;
- (c) if in the opinion of the Secretary of State any other person has a direct interest in the subject matter of the appeal, the name and address of such other person.

(4) The tribunal may extend the time limit imposed by paragraph (1), but must not do so unless it is satisfied—

- (a) that the circumstances are such that it would not be reasonable to expect the Secretary of State to comply with the time limit, and
- (b) that it is necessary to extend the time limit in order to avoid a significant risk of harm to any person.

(5) On receiving the reply, the tribunal must without delay send a copy to the appellant.

### **Further documents**

**14.** Where the Secretary of State seeks to uphold the disputed action, he must send to the tribunal—

- (a) a statement summarising his answer to each ground of appeal supplied by the appellant,
- (b) two copies of every document on which he relies for the purposes of opposing the appeal, —
- (d) a statement indicating whether or not the Secretary of State requests an oral hearing.

### **Withdrawal of opposition**

15. Where the Secretary of State states in the reply or at any time in writing that he does not seek to uphold the enforcement decision, the tribunal must without delay allow the appeal.