
EXPLANATORY NOTE

(This note is not part of the Regulations)

These Regulations make consequential provision in connection with the abolition of the NHS Tribunal in England with effect from 14th December 2001, the abolition being however subject to savings in accordance with article 2(5) of the Health and Social Care Act (Commencement No. 6) (England) Order 2001. They provide for the Tribunal to continue dealing with certain cases which were not concluded by that date, give effect to decisions in respect of such cases and also give continuing effect to decisions of the Tribunal made before that date.

The Tribunal has powers under sections 46 to 49E of the National Health Service Act 1977 (“the 1977 Act”) to suspend and to disqualify practitioners from the lists maintained by Health Authorities under Part II of the 1977 Act (“Part II lists”) of practitioners in their areas who provide general medical, general dental, general ophthalmic or pharmaceutical services.

However, with effect from 14th December 2001 Health Authorities in England will themselves have new powers in respect of such practitioners other than those providing pharmaceutical services, including powers to suspend or remove them from their Part II lists. Such practitioners then have a right of appeal to the Family Health Services Appeal Authority (“FHSAA”) which also has the power to impose national disqualification on practitioners which prevents them joining any Part II list in England. Health Authorities will have these powers in relation to those providing pharmaceutical services at a future date, and these Regulations will then apply from that date in such cases.

The Tribunal also has powers under the National Health Service (Primary Care) Act 1997 (“1997 Act”). Where Health Authorities do not wish to re-admit to their general medical services list under Part II a medical practitioner who has been providing personal medical services in a pilot scheme under the 1997 Act, they may apply to the Tribunal for a direction to this effect. Where it imposes such directions the Tribunal may also terminate them. Any such cases arising on or after 14th December 2001 will be dealt with by the FHSAA.

A person who has been disqualified by the Tribunal under the 1977 Act in relation to a single Health Authority before 14th December 2001, and whose right of appeal to the High Court has either lapsed or been exhausted by that date, will be treated from that date as having been removed by the Health Authority in question from its Part II list (regulation 3).

A person who has been disqualified by the Tribunal under the 1977 Act in relation to all Health Authorities in England before 14th December 2001, and whose right of appeal to the High Court has either lapsed or been exhausted by that date, will be treated from that date as having had a national disqualification imposed on him by the FHSAA. Such a person also has the right to have that disqualification reviewed by the FHSAA subject to certain periods of time having first ended (regulation 4).

Where the Tribunal has made a local or national disqualification under the 1977 Act before 14th December 2001 but the period within which an appeal to the High Court must be filed has not ended by that date, but no appeal is then filed, is filed and withdrawn or is unsuccessful, a person subject to a local disqualification will be treated as having been removed from a Health Authority’s Part II list from the day after whichever of those events occurs (“the effective date”). A person subject to a national disqualification will be treated from the effective date as having had a national disqualification imposed by the FHSAA and will also have the right to have that disqualification reviewed by the FHSAA subject to certain periods of time having elapsed (regulation 5).

Status: This is the original version (as it was originally made). This item of legislation is currently only available in its original format.

Where proceedings under the 1977 Act commenced on or after 1st November 2001 they will cease to be dealt with by the Tribunal from 14th December 2001. Any suspension direction will be treated as a suspension by a Health Authority from that date and it becomes a matter for the Health Authority as to whether they exercise their new powers in relation to the practitioner (regulation 6(1) and (2)).

Where proceedings commenced before 1st November 2001 they will continue to be dealt with by the Tribunal until they are finally concluded. Thereafter, any local disqualification imposed by the Tribunal will be treated as a removal from a Health Authority list. A national disqualification will be treated as having been imposed by the FHSAA and the person then has the right to have that disqualification reviewed by the FHSAA subject to certain periods of time having elapsed (regulation 6(3) to (5)).

Where proceedings commenced before the Tribunal under the 1997 Act before 14th December 2001, they will continue until concluded. If the Tribunal impose a direction that the practitioner not be permitted to join a Part II general medical services list, it will then be treated as having been imposed by the FHSAA (regulation 7) and the person then has the right to make representations that the decision be reviewed by the FHSAA, subject to certain periods of time having first ended.

All case files held by the Tribunal will be transferred to the FHSAA once cases are finally concluded (regulation 8).