18. SERVICE COMMITTEES AND TRIBUNAL

The National Health Service (Service Committees and Tribunal) Regulations, 1948

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The Minister of Health, in exercise of his powers under sections 32, 33, 38, 40, 42 and 74 of, and the Fifth and Seventh Schedules to, the National Health Service Act, 1946, and of all other powers enabling him in that behalf, hereby makes the following regulations:—

9 & 10 Geo. 6. c. 81.

PART I

General

Short title and commencement.

1. These regulations may be cited as the National Health Service (Service Committees and Tribunal) Regulations, 1948, and shall come into operation on the twenty-fourth day of March, 1948.

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;

" Council " means the Executive Council constituted for any area;

" dental officer " means any dental officer appointed by the Minister for a district in which general dental services are provided;

" drugs " includes in the case of persons receiving general medical services medicines and any prescribed chemical reagents and in the case of persons receiving general dental services means any prescribed drug;

" Drug Tariff " means the statement prepared by the Minister under regulation 28 of the General Service Regulations hereinafter defined specifying the prices and standards of drugs and appliances to be provided under those regulations;

" General Dental Regulations " means the National Health Service (General Dental Services) Regulations, 1948(**a**);

" General Service Regulations " means the National Health Service (General Medical and Pharmaceutical Services) Regulations, 1948(**b**);

" health centre " means premises provided by a local health authority in accordance with the provisions of section 21 of the Act;

" medical officer " means any medical officer appointed by the Minister for a district in which general medical services are provided;

" practitioner " means either a registered medical or registered dental practitioner as the context may require;

" 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 terms of service " means the terms of service for medical practitioners contained in Part I of the first schedule to the General Service Regulations, the terms of service for chemists contained in Part I of the fourth schedule to the General Service Regulations and the terms of service for dental practitioners contained in Parts I and II of the first schedule to the General Dental Regulations, as the case may be;

" the Tribunal " means the Tribunal constituted under section 42 of the Act.

(2) In these regulations the expression " chemist " means a registered pharmacist or authorised seller of poisons within the meaning of the Pharmacy and Poisons Act, 1933, who provides pharmaceutical services. The regulations shall also apply (except so far as the context may otherwise require) to any other person, firm or body corporate (other than a practitioner) providing pharmaceutical services, as if that person, firm or body were a chemist as so defined. 23 & 24 Geo. 5. c. 25.

(3) The Interpretation Act, 1889, applies to the interpretation of these regulations as it applies to the interpretation of an Act of Parliament. 52 & 53 Vict. c. 63.

PART II

Provisions relating to investigations, disputes, appeals, etc.

3.—(1) Every Council shall establish a medical service committee, a pharmaceutical service committee, a dental service committee, and a joint services committee. Constitution of service committee.

(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 Council, 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 Council and three shall be appointed by the Local Pharmaceutical Committee.

(**a**) S.I. 1948 No. 505, p. 2107 above. (**b**) S.I. 1948 No. 506, p. 2140 above.

(*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 Council and three shall be appointed by the Local Dental Committee.

(*d*) The joint services committee shall consist of a chairman and eight other persons of whom two shall be appointed by and from the lay members of the Council, two shall be appointed by the medical service committee from their members or deputies who are medical practitioners, two shall be appointed by the dental service committee from their members or deputies who are dental practitioners, and two shall be appointed by the pharmaceutical service committee from their members or deputies who are registered pharmacists.

(*e*) A corresponding number of persons shall be appointed in the same manner to act as deputies for the members (other than the chairman) of the medical, pharmaceutical and dental services committees and joint services committee and in the absence of a member a deputy having the same qualifications shall be entitled to act in his place.

(*f*) When any matter stands referred under paragraph (7) of regulation 4 of these regulations 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 medical practitioner, the members appointed by the dental service committee shall not take part in the hearing unless the matter involves a question relating to a dental practitioner, and the members appointed by the pharmaceutical service committee shall not take part unless the matter involves a question relating to a chemist.

(3) The following provisions shall have effect with regard to the appointment of the chairman of each of the said committees:—

(*a*) The chairman shall be appointed at a meeting of the members of the committee to be specially summoned for the purpose. The chairman of the Council or, if he is a member of the committee or is unable to attend, the vice-chairman or some other member of the Council (not being a member of the 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*) The persons eligible for appointment shall be the lay members of the Council or a person appointed as chairman by the Council or the Minister under the following provisions of this regulation whose term of office has expired.

(*c*) If no appointment is made at the said meeting, or if within seven days after the meeting a statement signed by the lay members of the committee, or by the members appointed by the Local Medical, Pharmaceutical or Dental Committees, or in the case of the joint services committee by the members appointed by the medical, pharmaceutical or dental service committees, is sent to the Council asserting that the chairman appointed at the meeting is not acceptable, the Council shall appoint a person to be chairman and the chairman, if any, appointed by the committee shall thereupon cease to hold office as chairman and member of the committee.

(*d*) If a chairman has been appointed by the Council and within seven days after the meeting at which the appointment is made a statement signed by the lay members of the committee or by those

members appointed by the Local Medical, Pharmaceutical or Dental Committees, or in the case of the joint services committee by the lay members of the committee or by the members appointed by either the medical, pharmaceutical or dental services committee is sent to the Council, asserting that the chairman appointed by the Council is not acceptable, the Council shall within two months refer the appointment to the Minister, and the Minister may after consultation with the Council and the Local Medical, Pharmaceutical or Dental Committees, as the case may be, appoint a chairman in place of the existing chairman who shall thereupon cease to hold office as chairman and member of the committee.

(*e*) Where an appointment of the chairman of the committee falls to be made by the Council or by the Minister, a person who is not a member of the Council shall be eligible for appointment provided that he is not a practitioner or registered pharmacist, and any person not being a member of the Council who is appointed chairman shall be entitled to attend and take part in the proceedings of the meetings of the Council but not to vote.

(*f*) The foregoing provisions with respect to the appointment of a chairman shall apply to the appointment of a deputy chairman.

(*g*) If the person appointed as chairman or deputy chairman of a committee is already a member of the 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.

In this regulation the expression " lay members " in relation to the Council means members appointed by the local health authority or the Minister, and in relation to a committee means members of the committee appointed by the lay members of the Council.

(4) If in the opinion of the chairman any member of a committee is interested, or is partner, principal, assistant or manager to a practitioner or chemist, who is interested in a question referred to them, that member shall take no part in the hearing thereof but a deputy having the same qualifications shall act in his place.

(5) The deputy chairman if the chairman is absent shall exercise and perform the powers and duties of the chairman, and shall otherwise be entitled to be present at, and take part in, the proceedings of the committee, but not to vote.

(6) The Council may make standing orders with respect to the term of office of the chairman, deputy chairman, members and deputy members of the committee: Provided that the term of office of the chairman shall not exceed one year unless he is re-appointed.

Investigations by service committee.

4.—(1) Subject as hereinafter provided any complaint made by a person against a medical practitioner in respect of an alleged failure to comply with the terms of service shall be investigated by the medical service committee.

(2) Subject as hereinafter provided any complaint made by a person against a chemist in respect of an alleged failure to comply with the terms of service shall be investigated by the pharmaceutical service committee.

(3) Subject as hereinafter provided any complaint made by a person against a dental practitioner in respect of an alleged failure to comply with the terms of service shall be investigated by the dental service committee.

(4) (*a*) The person desiring to make a complaint under this regulation against a medical practitioner or a chemist shall within six weeks after the event which gave rise to the complaint give written notice to the clerk of the Council stating the substance of the matter which it is desired to have investigated.

(*b*) The person desiring to make a complaint under this regulation against a dental practitioner shall within six months after completion of the treatment or within six 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 clerk of the Council stating the substance of the matter which it is desired to have investigated.

(*c*) Notwithstanding failure to give notice within the periods specified in the two preceding sub-paragraphs, the committee may investigate the matter if they are satisfied that such failure was occasioned by illness or other reasonable cause and—

(i) in the case of a complaint against a medical practitioner or chemist the complaint is made within two months after the said event, or

(ii) in the case of a complaint against a dental practitioner the complaint is made within six months after the completion of the treatment or within two months after the matter came to the complainant's notice, whichever is the sooner, or

(iii) the practitioner or chemist, as the case may be, consents to the investigation taking place notwithstanding the failure to give notice in time, or

(iv) the Minister's consent to the investigation has been obtained. In applying for such consent the committee shall furnish the Minister and the practitioner or chemist, with a copy of the said notice, a statement of the reasons for the failure to give notice in time and with any further information which the Minister may require, and the practitioner or chemist shall be entitled within seven days after the receipt by him of such statement or further information to forward to the Minister a statement of the grounds on which he contends that the investigation should not take place.

(5) Subject as hereinafter provided the medical service committee shall in relation to medical practitioners, the pharmaceutical service committee shall in relation to chemists, and the dental service committee shall in relation to dental practitioners, investigate any matters referred to them by the Council, or any committee of the Council duly authorised in that behalf by the Council, or the Dental Estimates Board relating to the administration of general medical services, pharmaceutical services or general dental 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 of a breach of the terms of service shall, without the consent of the Minister, or of the practitioner concerned, be referred for investigation under this paragraph, except within the period specified in sub-paragraphs (*a*) and (*b*) of the last preceding paragraph, and the provisions of sub-paragraph (*c*) of that paragraph with reference to the procedure to be adopted on application for the Minister's consent shall *mutatis mutandis* apply to any application for his consent under this paragraph.

(6) 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 26 of the General Service Regulations.

(7) If in the opinion of the medical service committee any matter referred to that committee involves a question relating to a dental practitioner or a chemist, or if in the opinion of the dental service committee any matter referred to that committee involves a question relating to a medical practitioner or a chemist, or if in the opinion of the pharmaceutical service committee any matter referred to that committee involves a question relating to a practitioner, the committee shall, in lieu of dealing with the matter themselves, refer it to the joint services committee.

(8) Any matter which would otherwise be referred by the Council or any committee duly authorised in that behalf by the Council to the medical service committee or pharmaceutical service committee or the dental service committee for investigation may, if the Council or committee are satisfied that it is appropriate to the joint services committee, be referred by them to that committee.

Procedure of service committees.

5.—(1) A service committee shall permit a party to an investigation to be assisted in the presentation of his case by some other person: Provided that no person shall be entitled in the capacity of counsel, solicitor or other paid advocate to conduct the case for any party by addressing the committee or examining or cross-examining witnesses.

(2) The proceedings at the hearing before the 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 officer of the Local Medical, Pharmaceutical or Dental Committee whichever is concerned;

(*c*) persons whose attendance is required for the purpose of giving evidence and who shall, unless the committee otherwise direct, be excluded from the hearing except when they are actually giving evidence; and

(*d*) such officers of the Council as they may appoint for the purpose.

(3) The first schedule to these regulations shall apply with respect to the investigation of complaints, and the procedure of the committee.

(4) The 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 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 Council, and the Council shall accept as conclusive any finding of fact contained in the report. In presenting such report to the Council the committee may, if they think fit, draw the attention of the Council to any previous reports made by that committee in connection with the practitioner or chemist and to any action taken by the Minister on such reports and may recommend that account should be taken thereof by the Council in reaching their decision.

Action by Council.

6. The Council shall furnish the Minister with a copy of the report of the service committee and a statement of the Council's decision thereon, which may include action in any one or more of the following ways:—

(*a*) If the investigation relates to the conduct of a medical practitioner and the Council are satisfied, after consultation with the Local Medical Committee, that owing to the number of persons included in his list the practitioner is unable to give adequate treatment to all those persons they may impose a special limit on the number of persons for whom the practitioner 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 practitioner was by that number in excess of the general limit fixed for the list of practitioners in the area.

(*b*) The Council may recover from the practitioner or chemist 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 committee) which have been reasonably and necessarily incurred by any person owing to the failure of the practitioner or chemist to comply with the terms of service, and any sum so recovered shall be paid to that person: Provided that in the case of a dental practitioner, the maximum amount which may be deducted shall not exceed the cost of the treatment provided by another dental practitioner to the person concerned calculated in accordance with regulations made under the Act.

(*c*) The Council may make representations to the Minister that, owing to the failure of the practitioner or chemist to comply with the terms of service, an amount should be withheld from his remuneration.

(*d*) If the Council are of the opinion that the continued inclusion of the medical practitioner on the medical list or of the chemist on the pharmaceutical list or of the dental practitioner on the dental list, would be prejudicial to the efficiency of the services in question, they may make representations to that effect to the Tribunal.

(*e*) In the case of a dental practitioner the Council may until further notice require the practitioner, in respect of any treatment other than an examination or emergency treatment, to submit for prior approval to the Dental Estimates Board estimates in respect thereof.

Appeal to Minister from decision of Council.

7.—(1) The Council shall furnish the parties to an investigation with a copy of the service committee's report and of their decision and shall inform them of their right of appeal to the Minister against any decision other than a decision to take action under paragraph (*d*) of the last preceding regulation and of the Minister's power on such an appeal to award costs.

(2) Subject to the next following regulation any party aggrieved by such decision shall be entitled to appeal to the Minister by sending to the Minister notice of appeal within one month from the date on which notification of the decision was received.

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

(4) The Minister may, on the application of any person desiring to appeal, extend the time for giving notice of appeal and may do so although the application is not made until after the expiration of one month from the date on which notice of the Council's decision was received.

(5) An application for the extension of the time for giving notice of appeal must be made in writing to the Minister, stating the grounds for the application.

Representation by Council to Tribunal.

8.—No appeal shall lie against a decision of a Council to make representations with regard to the continued inclusion in any list of the name of any practitioner or chemist and if a Council decides to make such representations and an appeal to the Minister is made against their decision on other matters, the Minister may treat as conclusive for the purpose of the appeal any relevant findings of the Tribunal.

Procedure on appeal.

9.—(1) If the Minister, after considering the notice of appeal and any further particulars furnished by the appellant, is of opinion that the said notice and particulars disclose no reasonable grounds of appeal or that the appeal is otherwise vexatious or frivolous, he may dismiss the appeal forthwith: Provided that an appeal against a decision of the Council to take action under paragraphs (*a*), (*b*), (*c*) or (*e*) of regulation 6 of these regulations shall not be dismissed without an oral hearing unless the appellant does not desire such a hearing.

(2) The Minister shall, unless he dismisses the appeal for the aforementioned ground, send a copy of the notice of appeal and of any further particulars furnished by the appellant to the Council 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) of this regulation, the Minister 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 summarily.

(4) In the event of an oral hearing the Council 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.

(5) For the purpose of an oral hearing the Minister may appoint an officer or officers of the Ministry of Health or some other person or persons, not exceeding three in number, to hold an inquiry and to draw up a report. The Minister, after taking such report into consideration, shall give his decision, which shall be final and conclusive:

Provided that—

(*a*) where one of the parties to an appeal is a medical practitioner and the decision of the Council involves a finding that the practitioner has been guilty of any breach of the terms of service referred to in regulation 11 (3) (*b*) of these regulations the persons appointed to hear the appeal shall include a medical practitioner selected by the Minister from the panel of medical practitioners referred to in that regulation;

(*b*) where one of the parties to an appeal is a dental practitioner and the decision of the Council involves a finding that the dental practitioner has failed to complete satisfactorily dental treatment, or has failed to exercise reasonable care and skill, the persons appointed to hear the appeal shall include a dental practitioner selected by the Minister from the panel of dental practitioners referred to in regulation 11 of these regulations.

(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 Council or other body being a party to any appeal shall be entitled to appear by a member or by their clerk 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 Minister or, in the case of an oral hearing, of the person or persons before whom the hearing takes place, be entitled to rely upon any facts or contentions which do not appear to the Minister or to the person or persons holding the inquiry to have been raised before the 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 Minister or to the person or persons holding the inquiry of any new facts or contentions upon which the party intends to rely.

(8) The Council may, with the consent of the Minister, make such contribution as they think fit and if directed by the Minister shall make such contribution as he may determine towards the cost of the appeal incurred by the complainant or by the practitioner or chemist.

Provisions of Local Government Act, 1933, to apply. (23 & 24 Geo. 5. c. 51).

10. The provisions of sub-sections (2), (3) and (5) of section 290 of the Local Government Act, 1933, which relate to the summoning of witnesses, the awarding of costs and other matters, shall apply to any inquiry held by the Minister under the last foregoing regulation as if in sub-section (5) the word "Minister" were substituted for the word "Department".

Procedure on withholding money.

11.—(1) If the Minister is satisfied:—

(*a*) after considering any report made by a service committee under paragraph (4) of regulation 5 of these regulations and the decision of the Council thereon or the report of the person or persons hearing an appeal against such decision under paragraph (5) of regulation 9 of these regulations or any report of the Tribunal after an inquiry under Part III of these regulations that a practitioner or chemist has failed or neglected to comply with the terms of service applicable to him; or

(*b*) after considering the report of a medical officer or where a matter has been referred to a Local Medical Committee for consideration under regulation 14 of these regulations the report of the Local Medical Committee or of any other person or persons determining any matter under that regulation that a medical practitioner has failed to comply with sub-paragraphs (12) and (13) of paragraph 7 of the terms of service applicable to him; or

(*c*) after considering the report of a dental officer or, where a matter has been referred to a Local Dental Committee for consideration under regulation 14 of these regulations, the report of the Local Dental Committee or any other person or persons determining any matter under that regulation that any dental practitioner practising elsewhere than at a health centre has failed to comply with paragraph 5 of the terms of service applicable to him;

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

Provided that, except in cases in which the facts have already been the subject of an investigation in the course of an appeal made to the Minister, the Minister shall, before directing that any such amount shall be withheld, afford the practitioner or chemist concerned a reasonable opportunity of making representations to him on the matter and if he decides to make representations orally the Minister shall appoint a person or persons to hear the case. The Council and the Local Medical, Pharmaceutical or Dental 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 case may think fit.

(2) The persons appointed to hear the oral representations of a practitioner under this regulation shall include a practitioner selected for the purpose by the Minister from the panel of medical or dental practitioners as the case may be hereinafter referred to in this regulation.

(3) (*a*) An advisory committee (hereinafter referred to as "the medical advisory committee") shall be constituted for the purpose of assisting the Minister in the discharge of his duties under this regulation in relation to medical practitioners. Before directing the Council to withhold money in respect of an alleged breach of the terms of service applicable to medical practitioners the Minister shall, where such breach is of a kind specified in the following sub-paragraph, and in any other case may, refer the case to such 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 medical practitioner to give a patient the requisite assistance to enable him to obtain any treatment which is not within the scope of the practitioner's obligations under the terms of service.

(4) The medical advisory committee shall consist of the Chief Medical Officer of the Ministry of Health or his deputy and of two other medical practitioners in the service of the Ministry of Health and of three medical practitioners selected so far as may be in rotation by the Minister from a panel of practitioners who are, or have been, practitioners engaged in the provision of general medical services nominated by a body which is, in the Minister's opinion, representative of practitioners engaged in the provision of general medical services. The Chief Medical Officer, or in his absence his deputy, shall act as chairman.

(5) An advisory committee (hereinafter referred to as "the dental advisory committee") shall be constituted for the purpose of assisting the Minister in the discharge of his duties under this regulation in relation to dental practitioners. Before directing the Council to withhold money in respect of an alleged breach of the terms of service applicable to dental practitioners the Minister 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 such committee and consider any report which they may make to him thereon.

(6) The dental advisory committee shall consist of the Principal Dental Officer of the Ministry of Health or his deputy and two other dental practitioners in the service of the Ministry of Health and of

three dental practitioners selected by the Minister from a panel of dental practitioners who are or have been engaged in the provision of general dental services nominated by organisations which are, in the Minister's opinion, representative of the dental profession. The Principal Dental Officer, or in his absence, his deputy, shall act as chairman.

Investigation of excessive prescribing.

12.—(1) Where it appears to the Minister after an investigation of the orders for drugs and appliances given by a medical practitioner to persons on his list and of the accounts furnished by the practitioner for drugs and appliances supplied to those 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 those persons, the Minister may refer the matter to the Local Medical Committee for their consideration.

(2) Where a case has been referred to the Local Medical Committee under the preceding paragraph, the Committee shall furnish the practitioner 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 Minister shall be entitled in case of a hearing to be heard by the Local Medical Committee.

(3) After considering the case the Local Medical Committee shall decide whether any cost has been incurred in excess of what may reasonably be necessary by reason of the character or quantity of the drugs or appliances ordered or supplied by the practitioner as aforesaid and, if so, what is the amount of the excess cost.

(4) Where the Local Medical Committee have decided that excessive cost has been so incurred by reason of the drugs or appliances ordered or supplied by the practitioner, they shall inform the Council, the practitioner and the Minister of their decision and may add a statement of any considerations to which in their opinion the Council and the Minister should have regard in making any recommendation or decision with reference to the withholding of money from the practitioner.

(5) The practitioner shall be entitled to appeal against the decision of the Local Medical Committee by sending to the Minister notice of appeal within one month from the date on which notice of the Committee's decision was received. The Minister shall appoint a person or persons (not exceeding three in number and not being officers of the Ministry of Health) of whom at least one shall be a medical practitioner who shall hear and determine the appeal.

(6) If the Minister is dissatisfied with the decision of the Local Medical Committee in any case referred by him to that Committee under paragraph (1) of this regulation 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 Local Medical 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 Council shall, if such decision is that excessive

cost has been incurred, make a recommendation to the Minister with regard to the withholding of money from the practitioner and the Minister may direct the Council to withhold such sum as he thinks fit and the provisions of regulation 11 of these regulations, including the right of the practitioner to make representations to the Minister, shall apply accordingly.

Investigation of certification.

13.—(1) Where it appears to the Minister, after an investigation of the medical certificates issued under and for the purposes of the National Insurance Acts, 1946, by a medical practitioner 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 practitioner has failed to exercise reasonable care in the issue of such certificates, the Minister may refer the matter for consideration to the Local Medical Committee or to a joint committee of two or more Local Medical Committees constituted in such manner as he may approve and any reference in this regulation to the Local Medical Committee shall be construed as including any such joint committee.

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

(3) (*a*) The 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 Minister by the Committee for his observations and a representative or representatives of the Minister shall be entitled, in case of a hearing, to attend and be heard by the Committee.

(4) (*a*) After considering the case the Committee shall draw up a report of their findings on the question whether there has been a failure on the part of the practitioner 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 Minister.

(*b*) The Committee shall forward the report to the Minister and shall furnish the practitioner with a copy of the report.

(5) (*a*) The practitioner shall be entitled to appeal against any findings of the Committee contained in the report by sending to the Minister 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 12 of these regulations relating to the determination of appeals shall apply accordingly.

(*b*) If the Minister is dissatisfied with any findings of the Committee he may appoint a person or persons to hear and determine the matter in the manner provided in paragraph (5) of regulation 12 of these regulations 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 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 Minister may, if he is satisfied

that there has been a failure on the part of the practitioner to exercise reasonable care in certification, direct the Council to withhold such amount as he thinks fit from the remuneration of the practitioner and the provisions of regulation 11 of these regulations, including the practitioner's right to make representations to the Minister, shall apply accordingly.

Investigation of record keeping.

14.—(1) Where it appears to the Minister, after an examination by the medical officer or the dental officer of any record cards held by a medical practitioner, or a dental practitioner practising elsewhere than at a health centre, that there is a *prima facie* case for considering that the medical practitioner has failed to carry out his obligations under sub-paragraph (12) of paragraph 7 of the terms of service, so far as such obligations involve the recording of clinical data regarding his patients, or that the dental practitioner has failed to carry out his obligations under paragraph 5 of the terms of service, the Minister may refer the matter for consideration of the Local Medical or Dental Committee, whichever is appropriate.

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

(3) (*a*) The 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 Minister by the Committee for his observations and a representative or representatives of the Minister shall be entitled, in case of a hearing, to attend and be heard by that Committee.

(4) If so required by notice in writing signed by the chairman of the 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 medical practitioner to any members of the Committee specified in the notice or in the case of a dental practitioner 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 Committee shall report to the Minister 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 Minister. A copy of such report shall be forwarded by the Committee to the practitioner.

(6) (*a*) The practitioner shall be entitled to appeal against any findings of the Committee contained in the report by sending to the Minister 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 12 of these regulations relating to the determination of appeals shall apply accordingly: Provided that if the appellant is a dental practitioner, a reference to a dental practitioner shall be substituted for the reference to a medical practitioner.

(*b*) If the Minister is dissatisfied with the findings of the Committee he may appoint a person or persons to hear and determine the matter in the manner provided in paragraph (5) of regulation 12 of these regulations 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 medical practitioner, the cards on which he is required to keep records of the illnesses of his patients and of his treatment of them under sub-paragraph (12) of paragraph 7 of the terms of service, and

(*b*) in the case of a dental practitioner, the records which under paragraph 5 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.

Decisions as to treatment for which fees may be charged.

15.—(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 medical practitioner 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 (1) (*a*) or (*e*) of paragraph 10 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 Committee and the Council disagree, the matter shall be submitted to referees appointed under these regulations for decision in accordance with the rules set out in the second schedule to these regulations; and the decision of the referees, given after hearing such parties and taking such evidence as they think just, shall be final.

(2) For the purpose of giving effect to this regulation the Minister shall, upon any such disagreement arising, nominate as referees two medical practitioners not being officers of the Ministry of Health (who shall be selected from any panel of practitioners set up by the Minister for the purpose or if no such panel exists, from among practitioners in actual practice) and one barrister-at-law 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 Committee and the Council are agreed, the Council shall report the matter to the Minister 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.

16.—(1) Any question whether a substance supplied by a medical practitioner or chemist on the prescription of a medical practitioner was a drug forming part of pharmaceutical services provided under the Act, shall, if the practitioner concerned so desires in accordance with regulation 17 of these regulations and may, in any other case in which the Council or the Minister think fit, be referred to the Local Medical Committee, and the Council or the Minister, as the case may be, shall inform the Local Pharmaceutical Committee that the question has been so referred.

(2) The Local Medical Committee shall furnish the practitioner 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 Committee shall further consider any representations made to them by the Council or the Minister and, if the practitioner appears before and is heard by them, shall afford an opportunity to a representative of the Council and the Minister of appearing before and being heard by them.

(3) The Committee shall inform the practitioner, the Council and the Minister of the finding at which they have arrived on the question referred to them.

(4) If the practitioner, or the Council are dissatisfied with the finding of the Committee and inform the Minister accordingly within one month from the date on which the notice of the finding was received, the question shall be referred for decision to referees nominated by the Minister under this regulation and if the Minister is dissatisfied with the finding of the Committee he may, if he thinks fit, also refer the question for decision to referees so nominated.

(5) For the purpose of obtaining a decision under paragraph (4) of this regulation the Minister shall nominate as referees a person or persons (not exceeding three in number and not being an officer or officers of the Ministry of Health) of whom at least one shall be a medical practitioner. 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.

Recovery of cost of substance held not to be a drug.

17.—(1) If it appears to the Council that any substance supplied to a person under these regulations was not a drug forming part of pharmaceutical services provided under the Act, the Council shall recover from the practitioner, by deduction from his remuneration or otherwise, an amount calculated in the manner provided in paragraph (2) of this regulation:

Provided that before recovering any such amount the Council shall, unless it has already been decided in accordance with the last foregoing regulation that the substance supplied in that case was not such a drug, bring the question to the practitioner's notice in writing and inquire whether he desires it to be referred for decision under that regulation; and if the practitioner within one week after the receipt of such notice informs the Council that he desires the question to be so referred, the Council shall refer it to the Local Medical Committee and the provisions of regulation 16 shall apply accordingly.

(2) For the purpose of paragraph (1) of this regulation the amount to be recovered in respect of the supply of any substance shall be a sum calculated in the manner set forth in the Drug Tariff:

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 price of that substance calculated in the manner set forth in the Drug Tariff, together with half the amount of the dispensing fee payable in respect of the supply of the preparation.

Appeals from Dental Estimates Board.

18.—(1) Any person aggrieved by a decision of the Dental Estimates Board shall be entitled to appeal by sending to the Minister a notice of appeal within one month from the date on which notice of the decision of the Board was received by that person.

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

(3) The Minister shall appoint two dental practitioners, of whom one shall be selected from the panel referred to in paragraph (6) of regulation 11 of these regulations, who shall hear the representations of the appellant and the Dental Estimates Board and determine the appeal.

Power of Local Medical Committee to consider complaints.

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

Power of Local Pharmaceutical Committee to consider complaints.

20. 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 Committee is constituted involving any question of the efficiency of the pharmaceutical services.

Power of Local Dental Committee to consider complaints.

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

PART III

Inquiries relating to practitioners and chemists

Interpretation and forms.

22.—(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 medical practitioner in any medical list or a chemist in any pharmaceutical list or a dental practitioner in any dental list would be prejudicial to the efficiency of the general medical, pharmaceutical or general dental services as the case may be;

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

" respondent " means any practitioner or chemist against whom a representation is made.

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

Chairman of Tribunal.

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

(2) The members of the Tribunal shall hold office during the pleasure of the Minister.

Officers of Tribunal.

24. The chairman of the Tribunal shall appoint a person approved by the Minister to act as clerk of the Tribunal and shall also appoint such other officers as may be necessary.

Representation and preliminary statement.

25.—(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.

26. 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 Council, 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.

27.—(1) The Tribunal shall, in all cases where an inquiry is to be held, send the following notices, namely:—

Form 1.

(*a*) A notice to the respondent informing him that it is proposed to hold an inquiry as to the representation made by the complainant; and

Form 2.

Form 2A.

(*b*) A notice 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 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 proper, on the application of the complainant extend the time for sending to them the statement of complaint.

Respondent may admit or deny allegations. Form 3.

28. 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 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.

29. 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.

30.—(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 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. Form 4.

31.—(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 to the complainant and the respondent informing them of the date, time and place of the inquiry.

Form 5.

(2) The Tribunal shall if they think fit also send to any other Council on whose medical, pharmaceutical or dental list the name of the respondent appears, notice of the date, time and place of the inquiry and each such Council may appear and take such part in the proceedings at the inquiry as the Tribunal shall think proper.

Power to postpone inquiry.

32. 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.

33. 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.

34.—(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.

Procedure at inquiry.

35. The proceedings shall be held *in camera* unless the respondent has applied for the inquiry to be held in public but otherwise the procedure at the inquiry shall be within the discretion of the Tribunal.

Appearance by representatives.

36.—(1) Any Council or other body (whether corporate or incorporate) entitled to appear at the inquiry may appear by their clerk 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, and shall be entitled to call witnesses and to produce other evidence upon his behalf.

Provisions of Local Government Act, 1933 to apply (23 & 24 Geo. 5. c. 51).

37. The provisions of sub-sections (2), (3) and (5) of section 290 of the Local Government Act, 1933, which relate to the summoning of witnesses, awarding of costs and other matters shall apply to an inquiry held under this part of these regulations as if in sub-section (5) the word " Tribunal " were substituted for the word " Department ".

Power to suspend proceedings in certain cases.

38. 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.

39. 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.

40.—(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 conclusion which they have reached and such directions as they may give under subsection (3) 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 Minister, the respondent and the complainant, and the Minister shall send a copy of the statement to such Councils as appear to him to be concerned.

Appeal to Minister.

41. The Tribunal shall give notice to the respondent of his right of appeal to the Minister against any direction given by them for the removal of his name from any list, and the right may be exercised by submitting to the Minister a notice of appeal within fourteen days after such notice has been forwarded to the respondent, or within such further time as the Minister may allow.

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

Procedure on appeal.

42.—(1) The Minister shall appoint a person to hear the appeal and report thereon to him. He shall also appoint:—

(*a*) where the appellant is a medical practitioner, a medical practitioner from the panel of medical practitioners referred to in regulation 11 of these regulations; or

(*b*) where the appellant is a chemist, a registered pharmacist; or

(*c*) where the appellant is a dental practitioner, a dental practitioner from the panel of dental practitioners referred to in regulation 11 of these regulations

for the purpose of assisting the person hearing the appeal.

The Minister shall consider the report made by the person hearing the appeal and in the case of a medical or dental practitioner any recommendation made by the medical or dental advisory committee constituted

under regulation 11 of these regulations to whom he shall refer such report and thereafter give his decision and shall send a notice thereof to the appellant, the Tribunal, the complainant and such Councils as may appear to him to be concerned.

(2) Regulations 30, 31, 32, 35 and 36 of these regulations 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 Minister.

(4) When an appeal has been withdrawn the Minister shall forthwith confirm the direction of the Tribunal.

Publication of decisions of Tribunal, etc.

43. Notice of any decision of the Tribunal or the Minister under section 42 of the Act and of the imposition and removal of any disqualification imposed by virtue of subsection (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) shall be published by the Minister in such manner as he thinks fit.

PART IV

Notices

Service of notices, etc.

44.—(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 Minister, the Tribunal or any Council, or committee, by delivering it to their secretary or clerk or by sending it in a prepaid letter, addressed to them at their principal office; or

(*c*) in the case of a practitioner or chemist, 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 an inquiry is represented by a solicitor it shall be a 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.

(3) Until the contrary is proved, any document sent as aforesaid shall be deemed to be served at the time at which a letter would be delivered in the ordinary course of post.

Power to dispense with requirements as to notices.

45. The Minister or the Tribunal may dispense with any requirements of these regulations respecting notices, applications, documents or otherwise in any case where it appears to the Minister or the Tribunal just and proper to do so.

PART V

The Isles of Scilly

Application of regulations.

46. These regulations shall extend to the Isles of Scilly subject to the following exceptions, adaptations and modifications:—

(*a*) Any provision in the regulations requiring consultation with, or the opinion of the Local Medical, Pharmaceutical or Dental Committees

in respect of any matter shall not apply to the Council unless a Local Medical, Pharmaceutical or Dental Committee has been formed for the Isles and recognised by the Minister under section 32 of the Act.

(*b*) For regulation 3 there shall be substituted the following provision:—

"3.—(1) The Council shall appoint a medical service committee, a pharmaceutical service committee, a dental service committee, and a joint services committee.

(2) Each committee shall consist of a chairman and such other members as the Council shall think fit.

(3) The following provisions shall have effect with regard to the appointment of the chairman of each of the said committees:—

(*a*) The chairman shall be appointed at a meeting of the members of the committee to be specially summoned for the purpose. The chairman of the Council or, if he is a member of the committee or is unable to attend, the vice-chairman or some other member of the Council (not being a member of the 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*) The persons eligible for appointment shall be any member of the Executive Council being also a member of the Council of the Isles of Scilly.

(*c*) The foregoing provisions with respect to the appointment of a chairman shall apply to the appointment of a deputy chairman.

(*d*) If the person appointed as chairman or deputy chairman of a committee is already a member of the 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.

(4) If in the opinion of the chairman any member of a committee is interested, or is partner, principal, assistant or manager to a practitioner or chemist who is interested, in a question referred to them, that member shall take no part in the hearing thereof.

(5) The deputy chairman if the chairman is absent shall exercise and perform the powers and duties of the chairman, and shall otherwise be entitled to be present at, and take part in, the proceedings of the committee, but not to vote.

(6) The Council may make standing orders with respect to the term of office of the chairman, deputy chairman, members and deputy members of the committee: Provided that the term of office of the chairman shall not exceed one year unless he is re-appointed."

(*c*) Regulations 12, 13, 14, 15, 16 and 17 shall not apply to the Isles.

FIRST SCHEDULE

Rules of Procedure under Regulation 5

Procedure of medical, pharmaceutical and dental service committees.

1.—(1) Where under the provisions of the regulations any question or matter is required to be investigated by any medical, pharmaceutical or dental service committee, the following procedure shall be adopted:—

(*a*) If in the opinion of the chairman the statement made by the complainant discloses no prima facie ground of complaint, or is frivolous or vexatious, the clerk of the Council shall so inform the complainant and shall invite him within seven days to submit a further statement. If no further statement is submitted by the complainant within that

period, or if the statement so submitted does not in the opinion of the chairman render a hearing of the case necessary, the case shall be brought before the committee which shall have power to dispense with a hearing and to report on the matter forthwith.

(*b*) The clerk of the Council shall, as soon as practicable, send to the chairman of the appropriate committee and to the practitioner or chemist concerned a copy of the complainant's statement and any ensuing correspondence on the matter.

(*c*) Except in cases dealt with under (*a*) without a hearing the clerk shall give to both parties and to the secretary of the Local Medical, Pharmaceutical or Dental Committee, as the case may be, not less than fourteen days' notice of the meeting at which the case will be heard.

(*d*) 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.

(*e*) The clerk shall three clear days before the hearing supply to each member of the 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 clerk and either party.

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

(*g*) If either party fails to appear at the hearing, and the committee are satisfied that his absence is due to illness or other reasonable cause, or if for any other reason the committee think fit, they may adjourn the hearing.

(*h*) 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 will be adjourned if the respondent desires an opportunity of producing further evidence, and desires an adjournment for that purpose.

(*i*) In the case of any medical service committee the chairman, together with one lay member and one medical member and in the case of any pharmaceutical service committee the chairman, together with one lay member and one pharmacist member, and in the case of any dental service committee the chairman together with one lay member and one dental member shall form a quorum.

(2) The foregoing provisions of this schedule shall apply to cases which are referred to any medical, pharmaceutical or dental service committee by the Council or by any other committee with such modifications as the circumstances may require.

(3) Where a case has been opened before any committee and the meeting is adjourned for the purpose of hearing further evidence or of preparing or considering the report, a member of the 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 clerk to send him notice of such meeting.

Procedure of joint services committees.

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

(*a*) The clerk of the Council shall, as soon as practicable, send to the chairman of the committee and to the practitioner and chemist (if any) concerned a copy of the complainant's statement and any ensuing correspondence on the matter.

(*b*) A quorum shall be formed by the chairman together with one lay member and, in the case of a question relating to

(i) a medical practitioner and a chemist, one medical member and one pharmaceutical member;

(ii) a chemist and a dental practitioner, one pharmaceutical member and one dental member;

(iii) a medical practitioner and a dental practitioner, one medical member and one dental member.

(*c*) Subject as aforesaid, the procedure of any joint services committee shall be similar to that of a medical 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 " means a member appointed to the medical, pharmaceutical or dental service committees or the joint services committee by and from the members of the Council who were appointed by the local health authority or the Minister.

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

SECOND SCHEDULE

Rules of Procedure under Regulation 15

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

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

(2) The Committee shall, as soon as may be after receipt of the said statement, furnish to the Council a written statement of the decision given by the Committee and the grounds on which the decision is based and shall inform the Council whether it concurs in the statement of facts prepared by the Council and, if not, in what respects it does not concur in that statement.

(3) The Council shall send the statements prepared by the Council and the Committee to the Minister and he may, if he thinks fit, require both or either of the said bodies to furnish to him further particulars either with regard to the facts of the case or the decision or the grounds of the decision.

2. Where the Minister thinks fit to refer for decision to referees any question on which the Council and the Committee are agreed, the Minister 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 Minister 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 Minister 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 15 of these regulations 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 Minister shall fix the time and place of the hearing and shall give not less than twenty-one days' notice thereof to the Council and the Committee.

6. Each body shall be entitled to appear at the hearing by the chairman, clerk or secretary of the body or by counsel or solicitor and the Minister may appear by one of his officers and the bodies and the Minister 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 Minister the decision at which they have arrived.

THIRD SCHEDULE

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 Executive Council 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, 1948, is enclosed herewith for your information.

Signed,

Clerk of the Tribunal.

Dated .....

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*State whether respondent is a medical or dental practitioner or chemist.
†State whether medical, pharmaceutical or dental list.
‡ State whether general medical, pharmaceutical or general dental.

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 Executive Council 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, 1948, is enclosed herewith for your information.

Signed

Clerk of the Tribunal.

Dated .....

*State whether respondent is a medical or dental practitioner or chemist.
‡State whether medical, pharmaceutical or dental.
§State whether general medical, pharmaceutical or general dental.

FORM 2A

Statement of complaint

In the matter of a*

and

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 .....

*State whether respondent is a medical or dental practitioner or chemist.

FORM 3

Notice to respondent of alleged facts and grounds on which representation is based

In the matter of a*

and

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

To of

With reference to the representation made by of 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 .....

*State whether respondent is a medical or dental practitioner or chemist.

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./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 .....

*State whether respondent is a medical or dental practitioner or chemist.

FORM 5

Notice of inquiry to be sent to any Executive Council which is not the complainant

In the matter of a*

and

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

To the Executive Council 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
Executive Council 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 and
p.m.

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 .....

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*State whether respondent is a medical or dental practitioner or chemist.

†State whether medical, pharmaceutical or dental.

‡State whether general medical, pharmaceutical or general dental.

Given under the official seal of the Minister of Health this twelfth day of March, nineteen hundred and forty-eight.

(L.S.) *Aneurin Bevan,*
Minister of Health.

EXPLANATORY NOTE

(This Note is not part of the regulations, but is intended to indicate their general purport.)

The regulations provide for disciplinary matters and the determination of disputes arising in connection with the provision of general medical and dental services and pharmaceutical services under Part IV of the National Health Service Act 1946. Provision is made for the constitution by an Executive Council of service committees, for their investigation of complaints and for the action which may be taken against practitioners on such complaints. In certain cases it is provided that disputes may be referred to Local Medical or Dental Committees. The regulations include provisions governing the procedure before the Council, the service committees, and the Local Medical and Dental Committees, and for appeals against the decisions of these bodies.

The regulations further prescribe the procedure to be followed in the hearing of representations for the removal of a practitioner or chemist from a list under section 42 of the Act.