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E/NL.1975/61-64
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ENGLISH ONLY

LAWS AND REGULATIONS

PROMULGATED TO GIVE EFFECT TO THE PROVISIONS OF
THE INTERNATIONAL TREATIES ON NARCOTIC DRUGS

UNITED KINGDOM

Communicated by the Government of the United Kingdom of Great Britain and Northern Ireland

NOTE BY THE SECRETARY-GENERAL - In accordance with the relevant Articles of the International Treaties on Narcotic Drugs, the Secretary-General has the honour to communicate the following legislative texts.

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No. 85 (L.1) - Dangerous Drugs

THE MISUSE OF DRUGS TRIBUNAL (ENGLAND AND WALES) RULES 1974

Made	22 January 1974
Laid before Parliament	7 February 1974
Coming into Operation	1 March 1974

The Lord Chancellor, in exercise of the powers conferred on him by paragraph 4 of Schedule 3 to the Misuse of Drugs Act 1971 ^{1/} and after consultation with the Council on Tribunals in accordance with section 10 of the Tribunals and Inquiries Act 1971, hereby makes the following Rules:

^{1/} Note by the Secretariat: E/NL.1971/42.

CITATION AND COMMENCEMENT

1. These Rules may be cited as the Misuse of Drugs Tribunal (England and Wales) Rules 1974 and shall come into operation on 1 March 1974.

INTERPRETATION

2. (1) In these Rules, unless the context otherwise requires:

"the Act" means the Misuse of Drugs Act 1971; 1/

"the chairman" means the person appointed by the Lord Chancellor to be the chairman of the tribunal;

"hearing" means the hearing by the tribunal of a case referred to it under section 14 of the Act;

"the respondent" has the same meaning as in section 14(2) of the Act;

"the secretary" means, in relation to any proceedings, the person whose services are made available by the Secretary of State to act as secretary to the tribunal either generally or in relation to those proceedings;

"the solicitor" means, in relation to any proceedings, the solicitor nominated for the purposes of these Rules by the Secretary of State either generally or in relation to those proceedings;

"the tribunal" means a tribunal in England and Wales constituted under Part I of Schedule 3 to the Act.

(2) In these Rules a form referred to by number means the form so numbered in the Appendix to these Rules, or a form substantially to the like effect, with such variations as the circumstances of the particular case require.

(3) The Interpretation Act 1889 shall apply to the interpretation of these Rules as it applies to the interpretation of an Act of Parliament.

TERMS OF REFERENCE AND PARTIES

3. (1) As soon as the Secretary of State has referred a case to the tribunal under section 14(1) of the Act, he shall serve on the solicitor and on the respondent a notice in writing specifying the terms of the reference, and the names and addresses of the secretary and of the solicitor.

(2) The solicitor shall thereafter be responsible for the preparation and presentation before the tribunal of the case against the respondent and shall be a party to the proceedings on the reference.

(3) No person other than the solicitor and the respondent shall be a party to the proceedings on the reference.

NOTICE OF PROCEEDINGS

4. (1) Within twenty-eight days after service on him of the notice of the terms of reference the solicitor shall serve on the respondent a notice of proceedings in Form 1, together with a copy of the Act and of these Rules (and of any instrument amending these Rules) and shall send a copy of the notice of proceedings to the tribunal.

(2) The notice of proceedings may be amended:

(a) before the hearing, with the leave of the chairman of an ex parte application (which may be disposed of if the chairman thinks fit without a hearing of the application), or

(b) at any time during the hearing, with the leave of the tribunal,

and where the notice of proceedings is amended before the hearing, the solicitor shall forthwith serve notice in writing of the amendment on the respondent and send a copy of the notice to the tribunal.

NOTICE OF HEARING

5. The chairman shall fix a date, time and place at which the proceedings are to be held, and, not less than twenty-eight days before the date so fixed, the secretary shall serve a notice in Form 2 on the solicitor and on the respondent.

INSPECTION OF DOCUMENTS

6. (1) The solicitor shall within fourteen days after the issue of the notice of proceedings and the respondent may at any time serve on the other party a list of the documents on which he proposes to rely, and the solicitor and the respondent shall send to the tribunal a copy of any list served under this paragraph.

(2) A list under paragraph (1) shall specify a reasonable period (commencing not earlier than seven days and ending not later than fourteen days after the date of the list) during which, and a reasonable place at which, the other party may inspect and take copies of the documents contained in the list.

(3) A party shall be entitled to inspect and take copies of any document set out in the list of documents served by the other party during the period and at the place specified by such other party in his list of documents or during such period and at such place as the tribunal may direct.

(4) Unless the tribunal otherwise directs, a party shall produce any document set out in his list of documents at the hearing of the case when called upon to do so by the other party.

INTERLOCUTORY APPLICATIONS

7. (1) An application for directions of an interlocutory nature in connexion with the proceedings may be made by the solicitor or the respondent to the chairman.

(2) The application shall be in writing and shall state the matters on which directions are sought and the grounds upon which the application is made.

(3) Notice of the application shall be served on the respondent or on the solicitor, as the case may be, who may send to the chairman and serve on the other party written notice of objection.

(4) Where written notice of objection is sent the chairman shall, before giving any direction on the application, consider such objection and, if he considers it necessary for the proper determination of the application, shall give the parties an opportunity of appearing before him.

(5) The chairman shall serve notice in writing of his decision on the solicitor and on the respondent.

(6) If at any stage the chairman decides that an application involves a question which ought to be decided by the tribunal, he shall fix a date, time and place for a hearing of the application by the tribunal and the secretary shall serve notice thereof on the solicitor and on the respondent not less than fourteen days before the date fixed.

RIGHT OF AUDIENCE

8. At the hearing and at the hearing of an application under rule 7 the parties shall be entitled to appear and be heard either in person or by counsel or a solicitor.

DEFAULT OF APPEARANCE

9. (1) Where, on the date fixed for the hearing, the solicitor does not appear, then, whether or not the respondent appears, the tribunal shall adjourn the proceedings on such terms (if any) as it thinks fit.

(2) Where, on the date fixed for the hearing, the respondent does not appear, it shall be the duty of the solicitor to satisfy the tribunal that the notice of proceedings and the notice of hearing have been served on the respondent in accordance with rule 18 and, if so satisfied, the tribunal may proceed, if it thinks fit, in the absence of the respondent.

(3) Where, on the date fixed for the hearing of an application under rule 7, the solicitor or the respondent does, or both of them do, not appear, the tribunal may make such order as it thinks fit.

PROCEDURE AT HEARING

10. (1) Where the respondent appears at the hearing the following order of proceedings shall, unless the tribunal otherwise directs, be observed, that is to say:

- (a) the solicitor shall read out the allegations in the notice of proceedings;
- (b) the chairman shall ask the respondent whether he admits each such allegation, and if the respondent admits any allegation there shall be recorded a finding that there has been such a contravention or such conduct as is alleged therein;
- (c) in respect of any allegation which is not admitted the chairman may ask the respondent whether he is willing to admit any of the facts stated in the allegation;
- (d) the solicitor may, in relation to any allegation which is not admitted, address the tribunal and adduce evidence in respect of any fact which has not been admitted;
- (e) the respondent may address the tribunal and adduce evidence in relation to any allegation still undisposed of;
- (f) on the application of either party the tribunal may then allow evidence in reply or rebuttal if it considers it to be in the interests of the fair disposal of any such allegation to do so;

(g) the solicitor may then address the tribunal;

(h) the respondent may then address the tribunal.

(2) Where the respondent does not appear at the hearing and the tribunal proceeds in his absence, the solicitor may address the tribunal both before and after he has adduced evidence.

EVIDENCE

11. (1) Any witness called by a party to the proceedings shall be liable to cross-examination by the other party and, if cross-examined, to re-examination by the party calling him.

(2) The tribunal may accept without proof any matter admitted by a party to the proceedings.

(3) Where any document is put in evidence at the hearing it shall not be necessary to prove its authenticity unless the tribunal otherwise directs.

(4) The tribunal shall not be bound to reject evidence on the ground only that it would be inadmissible in a court of law.

FINDINGS OF TRIBUNAL

12. In respect of each allegation, other than one in respect of which a finding has been recorded under rule 10(1)(b), the tribunal shall make and record a finding either -

(a) that there has been such a contravention or such conduct as is alleged; or

(b) that there has been no such contravention or conduct.

SUBMISSIONS AND EVIDENCE WITH REFERENCE TO RECOMMENDATION

13. Where there has been recorded any such finding as is mentioned in rule 10(1)(b) or 12(a) the solicitor and, if he appears, the respondent may address the tribunal and adduce evidence with reference to the recommendation to be made in respect of the respondent.

MAJORITY DECISION, ETC.

14. In the event of disagreement between the members of the tribunal any decision of the tribunal may be taken by a majority thereof and, if the members are equally divided, the chairman shall have a second and casting vote.

REPORT OF TRIBUNAL

15. (1) At the conclusion of the hearing the tribunal may adjourn in order to consider its report to the Secretary of State.

(2) The report shall contain a statement -

(a) of the findings of the tribunal;

(b) of the reasons for the findings;

(c) (in the event of a finding under rule 10(1)(b) or 12(a))

- (i) of the recommendation of the tribunal, or, as the case may be, of the fact that the tribunal considers that a direction should not be given, and
- (ii) of the reasons for the recommendation, or, as the case may be, for so considering; and
- (d) (in the event of a disagreement between the members of the tribunal) of the names of the majority and of the minority, and of the latter's reasons, so far as at variance with those of the majority, on -
 - (i) the findings, or, as the case may be,
 - (ii) the question whether a recommendation should be made, or
 - (iii) the terms of any recommendation.

(3) The chairman shall sign the report on behalf of the tribunal and the secretary shall serve a copy of the report on the solicitor and on the respondent.

(4) Where the hearing has taken place in private the tribunal shall ensure that the report does not disclose the identity of any person, other than the respondent, about whom an adverse finding of fact has been made, or of any person referred to in the report as being addicted to or having taken controlled drugs of any description.

REFERENCE BACK TO OR TO ANOTHER TRIBUNAL

16. (1) When the Secretary of State has referred a case to the tribunal under section 14(7)(b) of the Act he shall serve on the solicitor and on the respondent notice in writing of the terms of the reference under that paragraph, and, subject to paragraph (2) of this rule, the provisions of these Rules shall apply to the proceedings on that reference as they apply to proceedings on a reference under section 14(1) of the Act.

(2) Where the notice of proceedings served under paragraph (1) is the same, or substantially the same, as that on the previous reference under section 14(1) or, as the case may be, under section 14(7)(b) of the Act (in this paragraph alike referred to as the "previous reference") an order may be made on an application under rule 7 that the list or lists of documents supplied under rule 6 and any order made under rule 7 or under this paragraph for the purposes of the previous reference shall be deemed to have been supplied or made in the proceedings on the reference (or latest reference) under section 14(7)(b) of the Act.

APPLICATION FOR CONSENT OF TRIBUNAL UNDER SECTION 15(6) OF THE ACT

17. (1) An application by the Secretary of State for the consent of the tribunal under section 15(6) of the Act to the extension of a direction may be made by sending to the chairman a notice of application in writing, together with a copy of the report of the professional panel, and an application for consent under that subsection to a further extension may be made by sending to him a notice of application in writing.

(2) The Secretary of State shall serve a copy of the notice of application, and, as the case may be, of the report, on the respondent and shall at the same time inform the respondent that he may, within five days of service upon him, send to the chairman written representations relating to the proposed extension or further extension.

(3) On the expiration of the time limit for the sending of representations the chairman shall consider the application and any representations and may give or withhold the consent of the tribunal.

(4) The secretary shall as soon as may be inform the Secretary of State and serve notice on the respondent of the consent or of the withholding of the consent of the tribunal.

SERVICE OF NOTICE

18. (1) Any notice or document required to be served on the respondent under these Rules shall be deemed to have been duly served if it is sent or given to a solicitor acting on behalf of the respondent or is delivered to the respondent personally or left at his proper address or sent to him there -

(a) in the case of notices under rules 3, 4 and 5, by registered post or by recorded delivery service, or

(b) in any other case, by post.

(2) Any notice or document required to be served on the solicitor may be sent to the address for service specified in the notice of the terms of reference.

(3) Any notice or document to be sent to the tribunal or to the chairman may be sent to the address of the secretary specified in the notice of the terms of reference.

(4) In this rule "proper address" means the address of the respondent for the time being registered in the Register kept by the relevant body within the meaning of paragraph 1 of Schedule 3 to the Act, and where, in the opinion of the person serving the document or notice, a letter addressed to the respondent at that address appears unlikely to reach him, the last-known residential or professional address of the respondent, or any other address at or through which he may be found.

EXTENSION OF TIME

19. The time appointed by or under these Rules for doing any act or taking any step in connexion with any proceedings may be extended by the chairman, whether or not the period has expired, on such terms and conditions, if any, as appear to him just.

FAILURE TO COMPLY WITH RULES

20. Any failure on the part of any person to comply with the provisions of these Rules shall not render the proceedings, or anything done in pursuance thereof, invalid unless the chairman or the tribunal so directs, but the chairman or the tribunal may give such directions for the purpose of mitigating the consequences of the irregularity as the justice of the case may require.

POWER TO REGULATE PROCEDURE

21. Subject to the provisions of the Act and of these Rules the tribunal shall have power to regulate its own procedure, and may adjourn or postpone the proceedings as it thinks fit.

Dated 22 January 1974.

APPENDIX

Rule 4

Form 1

MISUSE OF DRUGS TRIBUNAL
(England and Wales)

In the matter of [(a doctor)] a/
[(a practitioner)] a/

NOTICE OF PROCEEDINGS

To

of [address]

WHEREAS the Secretary of State considers that there are grounds for giving a direction under section 13[(1)] a/ [(2)] a/ of the Misuse of Drugs Act 1971 (hereinafter called "the Act") on account of [an alleged contravention by a doctor] a/ [alleged conduct by a practitioner] a/ as is there mentioned.

AND WHEREAS he has referred the case to a tribunal constituted in accordance with the Act and has given notice in writing of the terms of reference to you as the respondent [doctor] a/ [practitioner] a/ and to me as the person nominated by him to act as solicitor.

NOW I

of

.....

do hereby give notice that the tribunal is to consider the case on a date to be notified in due course by the tribunal and will inquire in particular into the following [allegation] a/ [allegations] a/ against you:

(1) [If the allegation relates to contravention] That you did on the day of contravene [the provisions of regulation of the Regulations 19)] a/ [the terms of a licence issued to you [or as appropriate] on] a/ in that you [here specify the contravention alleged].

a/ Delete whichever is inapplicable.

EXPLANATORY NOTE

(This Note is not part of the Rules)

These Rules prescribe the procedure to be followed in proceedings before the tribunal in England and Wales constituted under Part 1 of Schedule 3 to the Misuse of Drugs Act 1971. This tribunal is required to consider and report to the Secretary of State on any case referred to it by him where he considers that there are grounds for making a direction inhibiting certain medical practitioners from, inter alia, prescribing controlled drugs. The main provisions of the Rules are as follows.

Proceedings will be begun by a notice of the terms of reference issued by the Secretary of State, which is served on the respondent medical practitioner and on the solicitor nominated by the Secretary of State (rule 3(1)). The solicitor is thereafter to be responsible for the preparation and presentation before the tribunal of the case against the respondent (rule 3(2)) and he and the respondent are made parties to the proceedings (rule 3(3)). The solicitor is to serve on the respondent a notice of proceedings in Form 1 which is to set out the allegations against the respondent (rule 4).

The solicitor is required and the respondent is enabled to list his documents for inspection by the other party (rule 6). Interlocutory applications by either party to the proceedings are covered by rule 7 and the procedure at the hearing (which may take place in default of the respondent's appearance (rule 9)) is regulated by rule 10.

Provision is made for majority decisions of the tribunal (rule 14) and for the content of the tribunal's report to the Secretary of State, a copy of which is to be served on the solicitor and on the respondent (rule 15).

Rule 17 provides a summary means for the obtaining by the Secretary of State of the tribunal's consent to the extension or further extension of a temporary direction imposed by him pending the outcome of proceedings.

E/NL.1975/62

Statutory Instruments 1974

No. 402 - Dangerous Drugs

THE MISUSE OF DRUGS (AMENDMENT) REGULATIONS 1974

Made	7 March 1974
Laid before Parliament	19 March 1974
Coming into Operation	1 April 1974

In pursuance of sections 7, 10 and 31 of the Misuse of Drugs Act 1971 1/ and after consultation with the Advisory Council on the Misuse of Drugs, I hereby make the following Regulations:

1. (1) These Regulations may be cited as the Misuse of Drugs (Amendment) Regulations 1974 and shall come into operation on 1 April 1974.

(2) In these Regulations "the principal Regulations" means the Misuse of Drugs Regulations 1973. 2/

2. The principal Regulations shall be amended as follows, that is to say, in Regulations 2(1), 8(2)(j), 9(2)(j) and 17:

- (a) for the words "National Health Service Act 1946" there shall be substituted the words "National Health Service Acts 1946 to 1973"; and
- (b) for the words "National Health Service (Scotland) Act 1947" there shall be substituted the words "National Health Service (Scotland) Acts 1947 to 1973".

3. Regulation 11 of the principal Regulations shall be amended as follows:

- (a) the words "of health" wherever they appear shall be omitted;
- (b) in paragraph (3), for sub-paragraphs (a) and (b) there shall be substituted the following sub-paragraph:

"(a) a doctor who is for the time being authorized in writing for the purposes of this Regulation by the local supervising authority for the region or area in which the pethidine was, or is to be, obtained";

and, in that Regulation, references to the Midwives Act 1951 and the Midwives (Scotland) Act 1951 shall be construed as references to those Acts as amended by the National Health Service Reorganisation Act 1973 and the National Health Service (Scotland) Act 1972 respectively.

4. Regulation 14 of the principal Regulations shall be amended by substituting, in paragraph 5(b), for the words "medical officer of health, or the assistant medical officer of health, of the port health authority" the words "proper officer of the port health authority, or, in Scotland, the medical officer designated under section 21 of the National Health Service (Scotland) Act 1972 by the Health Board,".

Home Office,
Whitehall.
7 March 1974.

Roy Jenkins,
One of Her Majesty's
Principal Secretaries of State

EXPLANATORY NOTE

(This Note is not part of the Regulations)

These Regulations amend the Misuse of Drugs Regulations 1973. All the amendments are consequential upon either the reorganization of the National Health Service in England and Wales and in Scotland or local government reorganization in England and Wales; they amend statutory references to take account of the National Health Service (Scotland) Act 1972 and the National Health Service Reorganisation Act 1973 and make the necessary changes in respect of officers of health authorities.

2/ Note by the Secretariat: E/NL.1973/41.

E/NL.1975/63

Statutory Instruments 1974

No. 942 - Dangerous Drugs

THE MISUSE OF DRUGS (LICENCE FEES) REGULATIONS 1974

Made	31 May 1974
Laid before Parliament	10 June 1974
Coming into Operation	1 July 1974

In pursuance of sections 30 and 31 of the Misuse of Drugs Act 1971, 1/ and after consultation with the Advisory Council on the Misuse of Drugs, I hereby make the following Regulations:

1. These Regulations may be cited as the Misuse of Drugs (Licence Fees) Regulations 1974 and shall come into operation on 1 July 1974.

2. (1) In these Regulations, the expression:

"licence" means a licence issued by the Secretary of State for the purposes of the Misuse of Drugs Act 1971 or of regulations made under that Act; and

"the Regulations of 1973" means the Misuse of Drugs Regulations 1973. 2/

(2) The Interpretation Act 1889 shall apply for the interpretation of these Regulations as it applies for the interpretation of an Act of Parliament.

3. (1) Where a licence is, under section 30 of the Misuse of Drugs Act 1971, issued subject to the payment of a fee, the fee payable shall, where the licence is to continue in force (unless sooner revoked) for a period of twelve months, be:

- (a) in the case of a licence authorizing any person to produce, to supply, to offer to supply and to have in his possession any drug specified in any of paragraphs 1 to 4 and 6 to 8 of Schedule 2 or any of paragraphs 1 to 4 of Schedule 4 to the Regulations of 1973 or any preparation or other product containing such a drug, £66 in respect of each class of controlled drugs to which the licence applies;
- (b) in the case of a licence, not being a licence specified in sub-paragraph (a) above, authorizing any person to produce any preparation or other product containing a drug specified in any of paragraphs 1 to 4 and 6 to 8 of Schedule 2 or any of paragraphs 1 to 4 of Schedule 4 to the Regulations of 1973 and to supply, to offer to supply and to have in his possession any drug specified in either of those Schedules, £44 in respect of each class of controlled drugs to which the licence applies;
- (c) in the case of a licence, not being a licence specified in sub-paragraph (a) or (b) above, authorizing any person, for the purposes of research only, to produce and to have in his possession any drug specified in any of paragraphs 1 to 4 and 6 to 8 of Schedule 2 or any of paragraphs 1 to 4 of Schedule 4 to the Regulations of 1973 or any preparation or other product containing such a drug, £22 in respect of each class of controlled drugs to which the licence applies;

- (d) in the case of a licence, not being a licence specified in sub-paragraph (a) or (b) above, authorizing any person to supply, to offer to supply and to have in his possession any drug specified in Schedule 2 or 4 to the Regulations of 1973, £22 in respect of each class of controlled drugs to which the licence applies;
- (e) in the case of a licence, not being a licence specified in any of sub-paragraphs (a) to (d) above, authorizing any person to have in his possession any drug specified in Schedule 2 or 4 to the Regulations of 1973, £11 in respect of each class of controlled drugs to which the licence applies;
- (f) in the case of a licence authorizing any person to cultivate plants of the genus Cannabis, £22.

(2) Where a licence is to continue in force (unless sooner revoked) for any period other than a period of twelve months, the fee payable shall in the case of a licence specified in any of sub-paragraphs (a) to (f) above be such sum as bears the same proportion to the sum specified in that sub-paragraph as the number of months for which the licence is to continue in force bears to twelve, and for this purpose any part of a month shall be treated as a whole month.

(3) For the purposes of this Regulation each of the drugs specified in paragraphs 1, 3 and 6 of Schedule 2 and paragraphs 1 and 3 of Schedule 4 to the Regulations of 1973 together with its salts and any preparation or other product containing it or its salts shall be treated as a separate class, so however that any stereoisomeric form of a controlled drug or its salts shall be classed with that drug.

Roy Jenkins

One of Her Majesty's
Principal Secretaries of State

Home Office,
Whitehall.
31 May 1974

EXPLANATORY NOTE

(This Note is not part of the Regulations)

Section 30 of the Misuse of Drugs Act 1971 provides that a licence issued by the Secretary of State for the purposes of that Act or of regulations made under it may be issued subject to the condition of payment of a fee. These Regulations prescribe the fee payable in relation to a licence to produce, supply, offer to supply or possess controlled drugs or to cultivate plants of the genus Cannabis.

E/NL.1975/64

Statutory Instruments 1974

No. 1449 - Dangerous Drugs

THE MISUSE OF DRUGS (SAFE CUSTODY) (AMENDMENT) REGULATIONS 1974

Made	28 August 1974
Laid before Parliament	5 September 1974
Coming into Operation	27 September 1974

In pursuance of sections 10(2)(a) and 31 of the Misuse of Drugs Act 1971, 1/ after consultation with the Advisory Council on the Misuse of Drugs, I hereby make the following Regulations:

1. These Regulations may be cited as the Misuse of Drugs (Safe Custody) (Amendment) Regulations 1974 and shall come into operation on 27 September 1974.
2. The Misuse of Drugs (Safe Custody) Regulations 1973 3/ shall be amended as follows, that is to say, in Regulation 1 for the words "1 October 1974" there shall be substituted the words "1 April 1975".

Roy Jenkins
One of Her Majesty's
Principal Secretaries of State

Home Office,
Whitehall.
28 August 1974

EXPLANATORY NOTE

(This Note is not part of the Regulations)

These Regulations amend the Misuse of Drugs (Safe Custody) Regulations 1973 by postponing from 1 October 1974 to 1 April 1975 the coming into operation of Regulations 3 and 4 of and Schedule 2 to those Regulations (which require controlled drugs in retail pharmacies and certain other premises to be kept in a locked safe, cabinet or room constructed in accordance with prescribed specifications or, in certain circumstances, certified as adequately secure by the chief officer of police).

3/ Note by the Secretariat: E/NL.1973/42.