

# HEALTH PRACTITIONERS COMPETENCE ASSURANCE ACT 2003 COMPETENCE REVIEW PROCESS

## Introduction

This booklet explains the process for nurses who have been referred to the Nursing Council (the Council) for a review of their competence. The Council encourages anyone involved in the process, particularly nurses, to contact the Nursing Council staff or their professional body (such as NZNO) to discuss the process.

The Council is a statutory body continued in existence by the Health Practitioners Competence Assurance Act 2003 (HPCA Act). The HPCA Act sets out several functions concerning the registration, continuing competence and fitness to practise of nurses.

Under the HPCA Act, the Council can review the competence of a nurse if he or she has not maintained the required standard of competence or there is evidence to suggest the nurse's practice poses a risk of harm to the public, or at any other time.

Although the Council's main purpose is public safety it makes every effort to assist and support nurses through the competence review process. A nurse advisor is available as a point of contact for nurses. Nurses are also encouraged to contact a support person and/or legal representative to assist them.

## Notifications

### Mandatory notifications

An employer **must** notify the Council when a nurse has resigned or been dismissed for reasons relating to competence. A notification must also be made to the Council by the Health and Disability Commissioner or the Director of Proceedings if he or she believes that a nurse poses a risk of harm to the public by practising below the required standard of competence.

### Notifications from other health professionals

Any health professional **may** notify the Council if he or she believes a nurse poses a risk of harm to the public by practising below the required standard of competence. Professional conduct committees appointed by the Council may also recommend that the Council review the competence of a nurse following the investigation of a complaint.

### Protection for those making a notification

Any person who makes a notification about a nurse cannot be the subject of civil or disciplinary proceedings, unless that person has acted in bad faith.

### Form of notification

The notification must be in writing to the Registrar of the Nursing Council (the Registrar) and include the reasons why the person making it believes the nurse poses a risk of harm to the public by practising below the required standard of competence. The Council has forms on its website to assist in making a notification.

## **Competence review process**

### **Initial assessment/inquiry**

The Council is required to make inquiries into the competence of the nurse before deciding whether his or her competence should be reviewed.

A copy of the notification is sent to the nurse requesting any information he or she might wish to provide to assist in making a decision as to whether the nurse's competence should be reviewed. This may include evidence of professional development and competence assessments completed within the last three years.

Nurses are asked to complete a practice profile to provide the Council with information about their previous and current practice and practice intentions.

Information may also be sought from the person or organisation that made the notification, or other sources. It could include previous competence assessments, appraisals, professional development that has been completed and further detailed information about the competence issues identified in the notification.

Nurses are encouraged, to seek the representation or support of a legal representative, professional advisor or support person through this process. Professional organisations, including NZNO, PSA or the College of Nurses, may provide representation and support for their members.

The Council will decide whether a competence review is required once the relevant information has been assessed.

If no further action is being taken then the nurse will receive a letter with the reasons for this decision.

If the Council has decided that a review of competence is required then the nurse will be informed of that decision and the reasons for that decision.

### **Retirement**

It may be at this stage that nurses decide that they will stop practising or retire from nursing. If that is the case then no further action is taken on the notification, unless the nurse decides to commence practising at a later date.

### **Mental or physical condition**

If a nurse believes that she or he has a health issue (mental or physical condition) that has impacted on his or her ability to practise competently these issues may be raised with the nurse advisor. The Council may then decide that a medical assessment is required before a competence review. If the medical assessor concludes that a health issue has caused or contributed to the competence issues raised then the nurse may be referred to the health process and may be offered a meeting with a health committee to discuss his or her practice. There is further information about that process in the health process booklet.

## **Failure to respond**

If the nurse fails to respond adequately to the requirement to undertake a competence review and the Council is unable to conduct or complete that review this means that the Council has reason to believe that the nurse fails to meet the required standard of competence and must make an order set out below under proposed orders.

## **Notification of risk of harm to other agencies**

If the Council believes the practice of a nurse poses a risk of harm to the public, it must notify the following agencies in writing of the circumstances that led to that belief:

- Accident Compensation Corporation
- Director-General of Health
- Health and Disability Commissioner
- Employer of the nurse.

A copy of this notice is also given to the nurse. When the Council is of the view that the nurse's practice never posed or no longer poses a risk to the public it must notify the above agencies of this view.

## **Interim suspension/conditions in scope of practice**

If the Council believes the nurse poses a risk of **serious** harm to the public by practising below the required standard of competence it may refer that notification to a Competence Review Committee ("Committee"). The Committee may suspend the nurse's practising certificate or include conditions in his or her scope of practice before a competence review, or after the review has been completed.

The nurse will have an opportunity to respond, orally and in writing, and meet with the Committee before it makes any such order. The Committee meets in Auckland, Wellington, or Christchurch whichever is closest to where the nurse lives.

If the Committee decides to take any action, it will advise the nurse in writing, including the reasons for its decision. An order takes effect from the date the nurse receives it or from a later date if stated in the order.

An order ceases to have effect once the nurse has completed the review or attained a pass in an examination or assessment.

## **Committee membership**

Committees are made up of two nurses selected from a panel appointed by the Council. One of those nurses will have expertise and knowledge in the general area in which the nurse practises. The areas of practice are mental health, primary health, continuing care and acute care. If the nurse is a Pacific, Maori or male nurse, this will be reflected in the Committee membership.

A letter is sent to the nurse informing him or her of the membership of the proposed Committee. The nurse has the opportunity to object to a member(s) if the nurse believes there may be a conflict of interest.

## **Interim orders process**

Interim orders may be considered by the Registrar at the following times:

- At the time the notification is received by Council
- During the competence review process
- After the competence review has been completed

The nurse is invited to send any information he or she would like the Committee to consider in advance, but this can also be provided at the meeting. The meeting is recorded, is relatively informal and is not a disciplinary meeting. However, as the outcome of the meeting may be that the nurse's practising certificate is suspended or conditions are included, a certain degree of formality is required. The nurse may choose to have representation and support for this part of the process.

The Committee will assess whether there are reasonable grounds for believing that the nurse poses a risk of serious harm to the public by practising below the required standard of competence.

If the meeting occurs before the competence review has taken place, the Committee will be relying on the notification about competence and any other information the notifier and nurse provides about that notification.

If the meeting occurs following the completion of a competence review it will generally only be where there are reasonable grounds to believe that the nurse's practising certificate should be suspended. This is because conditions may be included in a nurse's scope of practice following a review.

### **Suspension of the nurse's practising certificate.**

The Committee may suspend the nurse's practising certificate if it is of the view that the nurse poses a risk of serious harm and it is not satisfied that the safety issues could be dealt with by including conditions in the nurse's scope of practice.

### **Including conditions in scope of practice**

These may include employer approval, employer reports, working under direct or indirect supervision depending on the issues that have been identified.

## **Competence review process**

The competence review process uses three methods for reviewing competence:

- Simulated nursing scenario (SNS)
- Assessment and care planning (ACE)
- Written multi choice questions (MCQ)

### **Simulated nursing scenario**

The nurse is required to complete a simulated nursing scenario at an assessment centre. The scenario that forms the basis of the assessment will be in the area of practice where the nurse last practised and will take approximately 40 minutes.

Each nurse will be given an orientation by a facilitator before commencing the assessment. There will be an actor with a script taking the place of the health consumer and the equipment needed for the scenario will be available. The scenario will be videoed.

### **Assessment and care planning**

The nurse will then be asked to plan the care for a health consumer. The information on which this assessment and care planning exercise is based will be provided by a facilitator and the assessment will take approximately 60 minutes. This assessment is also videoed.

### **Multi Choice test**

The nurse is then required to complete a multi choice test of approximately 90 questions, similar to the state examination, covering most of the competencies of the nurse's scope of practice. The nurse will complete this test at one of the education providers closest to where he or she lives, after other assessments of competence on the same day. A supervisor will sit in during the test.

### **Assessors**

The video recordings of the simulated nursing scenario and care planning exercises are then sent to three assessors who are registered nurses appointed by the Council. The assessors carry out independent assessments of these recordings assessing the nurse's practice against the competencies. Each assessor provides a report to the Council and the results are collated.

Three assessors are used to ensure that there is a consistency in approach. The assessors do not receive a copy of the original notification and are basing their assessment on the objective information provided by the video recordings.

### **Proposed orders concerning competence**

The nurse advisor then considers the following information.

- The notification
- The information provided during the initial inquiry
- The assessors' reports on the simulated nursing scenario
- The assessors' reports on the care planning and assessment
- The multi choice test results
- Any information the nurse submits

The nurse advisor then decides whether there is reason to believe that the nurse fails to meet the required standard of competence. If that is the case then the nurse adviser must propose one or more of the following orders:

- the nurse completes a competence programme
- one or more conditions are included in the nurse's scope of practice
- the nurse sits an examination or undertakes an assessment
- one or more people are nominated to assist or counsel the nurse.

If the nurse advisor is of the view that the nurse does meet the required standard of competence, the nurse will be advised of this in a written decision with reasons.

## **Competence programme**

A competence programme may require a nurse to do one or more of the following:

- Pass any examinations or assessments or both
- Complete a period of practical training
- Complete a period of practical experience
- Undertake a course of instruction
- Permit another health practitioner (specified by the Council) to examine the clinical records of the nurse in relation to his or her clients
- Undertake a period of supervised practice

The most common requirements are to pass a competence assessment, undertake a course of instruction and/or undertake a period of supervised practice.

The Council will specify the timeframe in which the nurse must comply with the requirements of the programme. The nurse will be notified in writing that he or she is required to undertake a competence programme (and what it will entail) within 20 working days of the date the Council set or recognised the programme.

## **Competence assessment**

The Council may require an assessment against the competencies for the nurse's scope of practice at a specified period of time after he or she returns to practice. The order will also specify whether this is to be carried out by a peer or by a senior nurse and whether the assessor needs to be approved by Council.

## **Supervised practice**

The supervising registered nurse is senior in terms of position or experience and agrees to be the supervisor. The supervising nurse is approved by Council after providing a CV. The supervisor provides reports to Council at specific times or whenever he or she has a concern about the nurse's competence to practise or at the Council's request.

## **Undertake a course of instruction**

The proposed orders will be specific to any competencies that the adviser believes the nurse has failed to meet. If the nurse advisor is proposing a course of instruction then he or she will have identified the kind of course, or the specific course, that will meet the requirements of Council.

The assessor and/or programme provider will report to the Council on the completion of the competence programme and the nurse will receive a copy of assessments completed.

## **Conditions in practice**

The order may require conditions in practice such as employer approval, or employer reports. In some circumstances the nurse may be required to administer medication

under supervision or there may be a condition that he or she is not the sole registered nurse on duty, or a condition around supervision or clinical oversight.

### **Direct supervision**

This means another registered nurse must be working alongside the nurse supervising his or her practice at all times.

### **Indirect supervision**

Indirect supervision is when the supervisor works in the same facility or organisation as the supervised person but does not constantly observe their activities. The supervisor must be available for reasonable access. What is reasonable access will depend on the context, the needs of the consumers and the needs of the person who is being supervised.

### **Clinical oversight**

Clinical oversight is support from another registered nurse for the purposes of developing, refining and integrating a range of clinical skills, nursing knowledge and attitudes specific to the particular needs of the individual nurse. This occurs in practice. The professional peer or mentor in practice will report to Council at specified times

### **Professional oversight**

Professional oversight is structured professional support and assistance and/or counselling provided by a registered nurse for the purposes of professional development. The aim is to assist the nurse to further develop their professional role and will be individualised and structured to meet the specific learning needs of the nurse. This is generally outside the practice setting.

### **Proposed order**

A copy of the proposed orders is sent to the nurse. If the nurse agrees with the proposed orders then they will be put in place.

If the nurse does not agree with the orders he or she will be provided with a reasonable opportunity to provide a response to those proposed orders at a meeting with a competence review committee (see above for the composition and meetings of the competence review committee).

### **Competence Review Committee meeting**

Before meeting the Committee the nurse will be provided with copies of the assessors' reports and a copy of the analysis of the multi choice testing results.

The Committee will consider:

- The notification
- The information provided during the initial inquiry
- The multi choice test results
- The assessors' reports on the simulated nursing scenario
- The assessors' reports on the care planning and assessment

- The proposed orders
- Any information the nurse submits

The Committee will confirm, vary or decline to confirm the proposed orders.

### **Unsatisfactory results of a competence programme or orders**

If the nurse does not meet the requirements of a competence programme or other Council orders, the Council may propose to make either of the following orders:

- alter the nurse's scope of practice by changing any health services he or she is permitted to perform or include appropriate conditions
- suspend the nurse's registration.

The Council has delegated this function to the competence review committees. Before making these orders the Committee must give the nurse the opportunity to make oral and written submissions.

Failure to meet the competence requirements is not grounds for the Council to take disciplinary action.

### **Review of delegated decision**

A nurse may ask the full Council for a review of Competence Review Committees' decisions. This request must be in writing and be made within 20 working days of the nurse receiving the decision. A review is conducted on the information provided to the Committee and any written or oral submission the nurse may wish the Council to consider.

### **Appeal**

Alternatively, the nurse may appeal the following decisions made by the Committee or Council to the District Court within 20 working days of receiving the decision.

- suspension of his or her practising certificate
- inclusion or variation of conditions included in his or her scope of practice.

A decision or order against which the nurse has lodged an appeal continues in force unless the District Court orders otherwise.

### **Judicial review**

Decisions of competence review committees or the Council may be reviewed in the High Court. The purpose of a judicial review is to assess the process that the decision maker used to come to a decision and ensure that the decision itself is within the confines of the Act and is not clearly unreasonable. The question is whether a fair and reasonable process resulted in a fair and reasonable outcome.

### **Enquiries**

Any enquiries about the competence review process should be addressed to the Nurse Advisor and/or the Manager: Fitness to Practise.

**The relevant sections of the Health Practitioners Competence Assurance Act 2003 follow.**

### **Relevant sections of Health Practitioners Assurance Act 2003**

#### **34. Notification that practice below required standard of competence**

- (1) If a health practitioner ("health practitioner A") has reason to believe that another health practitioner ("health practitioner B") may pose a risk of harm to the public by practising below the required standard of competence, health practitioner A may give the Registrar of the authority that health practitioner B is registered with written notice of the reasons on which that belief is based.
- (2) If a person holding office as Health and Disability Commissioner or as Director of Proceedings under the Health and Disability Commissioner Act 1994 has reason to believe that a health practitioner may pose a risk of harm to the public by practising below the required standard of competence, the person must promptly give the Registrar of the responsible authority written notice of the circumstances on which that belief is based.
- (3) Whenever an employee employed as a health practitioner resigns or is dismissed from his or her employment for reasons relating to competence, the person who employed the employee immediately before that resignation or dismissal must promptly give the Registrar of the responsible authority written notice of the reasons for that resignation or dismissal.
- (4) No civil or disciplinary proceedings lie against any person in respect of a notice given under this section by that person, unless the person has acted in bad faith.

#### **35. Authority must notify certain persons of risk of harm to public**

- (1) Whenever an authority that a health practitioner is registered with has reason to believe that the practice of the health practitioner may pose a risk of harm to the public, the authority must promptly give the following persons written notice of the circumstances that have given rise to that belief:
  - (a) the Accident Compensation Corporation:
  - (b) the Director-General of Health:
  - (c) the Health and Disability Commissioner:
  - (d) any person who, to the knowledge of the authority, is the employer of the health practitioner.
- (2) Whenever an authority that a health practitioner is registered with has reason to believe that the practice of the health practitioner may pose a risk of harm to the public, the authority may give written notice to any person who works in partnership or in association with the practitioner of the circumstances that have given rise to that belief.
- (3) If, after giving notice under this section in respect of a health practitioner, the authority forms the view that the practice of the health practitioner never posed, or no longer poses, a risk of harm to the public, the authority must promptly notify every recipient of the notice under this section of the current position in respect of the health practitioner.
- (4) Promptly after giving a notice under this section about a health practitioner, the Registrar of the authority must give a copy of the notice to the practitioner.

#### **36. When authority may review health practitioner's competence**

- 1) Promptly after receiving a notice of the kind described in subsection (2), an authority must make inquiries into, and may review, the competence of a health practitioner who is registered with the authority and who holds a current practising certificate.
- 2) The notices referred to in subsection (1) are—
  - (a) a notice of a professional conduct committee's recommendation under section 80(2)(a) or section 79(b), so far as that recommendation relates to competence; or

- (b) a notice given under section 34
- (3) Subsection (1) does not apply if the authority has reason to believe that a notice given under section 34 by a health practitioner is frivolous or vexatious.
- (4) The responsible authority may at any time review the competence of a practitioner who holds a current practising certificate, whether or not—
  - (a) there is reason to believe that the practitioner's competence may be deficient; or
  - (b) the authority receives a notice of the kind described in subsection (2).
- (5) In conducting a review under this section, the authority must consider whether, in the authority's opinion, the health practitioner's practice of the profession meets the required standard of competence

Cf 1995 No 95 s 60

### **37. Matters to be observed in reviewing competence**

- (1) The form of a review under section 36 is at the authority's discretion, but in every case the authority must give the health practitioner under review—
  - (a) a notice containing sufficient particulars to inform that health practitioner clearly of the substance of the grounds (if any) on which the authority has decided to carry out the review; and
  - (b) information relevant to his or her competence that is in the possession of the authority; and
  - (c) a reasonable opportunity to make written submissions and be heard on the matter, either personally or by his or her representative.
- (2) When a health practitioner exercises the right under subsection (1)(c) to be heard personally, the practitioner is entitled to the presence of a support person of his or her choice.
- (3) Subsection (1)(b) is subject to section 154

### **38. Orders concerning competence**

- (1) If, after conducting a review under section 36, the authority has reason to believe that a health practitioner fails to meet the required standard of competence, the authority must make 1 or more of the following orders:
  - (a) that the health practitioner undertakes a competence programme:
  - (b) that 1 or more conditions be included in the health practitioner's scope of practice:
  - (c) that the health practitioner sit an examination or undertake an assessment specified in the order:
  - (d) that the health practitioner be counselled or assisted by 1 or more nominated persons.
- (2) If the authority is unable to conduct or complete a review of a health practitioner under section 36 because of the health practitioner's failure to respond adequately to a notice under section 37, the authority has, for the purposes of subsection (1), reason to believe that the health practitioner fails to meet the required standard of competence
- (3) The Registrar of the authority must ensure that, after the making of an order under subsection (1),—
  - (a) a copy of the order is given within 5 working days after the making of the order to—
    - (i) the health practitioner concerned; and
    - (ii) any employer of the practitioner; and
    - (iii) any person who works in partnership or association with the practitioner; and
  - (b) all administrative steps are taken to give effect to the order.

- (4) An order made under subsection (1) takes effect on a date stated in the order, which, if the order is sent to the health practitioner by post, may not be earlier than 4 days after it is posted.

**39. Interim suspension of practising certificate or inclusion of conditions in scope of practice pending review or assessment**

- (1) This subsection applies to a health practitioner if —
- (a) the health practitioner has been, or is to be, reviewed under section 36; and
  - (b) there are reasonable grounds for believing that the health practitioner poses a risk of serious harm to the public by practising below the required standard of competence.
- (2) If subsection (1) applies to a health practitioner, the responsible authority may order that—
- (a) the practising certificate of the health practitioner be suspended; or
  - (b) the health practitioner's scope of practice be altered
    - (i) by changing any health services that the practitioner is permitted to perform; or
    - (ii) by including any condition or conditions that the authority considers appropriate.
- (3) The authority may not make an order under subsection (2) unless it has first—
- (a) informed the health practitioner concerned why it is considering making the order; and
  - (b) given the health practitioner a reasonable opportunity to make written submissions and be heard on the question, either personally or by his or her representative
- (4) An order made under subsection (2) takes effect from the day on which the health practitioner receives a copy of the order or from any later date stated in the order
- (5) An order under subsection (2) ceases to have effect on the later of—
- (a) the completion of the review; or
  - (b) the attainment of a pass in any examination or assessment specified in the order under section 38(1)(c).

**40. Competence programmes**

- (1) For the purpose of maintaining, examining, or improving the competence of health practitioners to practise the profession in respect of which an authority is appointed, the authority may from time to time set or recognise competence programmes in respect of health practitioners who hold or apply for practising certificates.
- (2) Any competence programme may be made to apply generally in respect of all such health practitioners, or in respect of a specified health practitioner, or in respect of any specified class or classes of such health practitioners.
- (3) Any competence programme may require a health practitioner to do any 1 or more of the following, within a period, or at intervals, prescribed in the programme:
- (a) pass any examinations or assessments, or both;
  - (b) complete a period of practical training;
  - (c) complete a period of practical experience;
  - (d) undertake a course of instruction;
  - (e) permit another health practitioner specified by the authority to examine the clinical records of the health practitioner in relation to his or her clients;
  - (f) undertake a period of supervised practice.
- (4) The authority may specify a period within which the health practitioners to which a competence programme applies must comply with the requirements of the programme
- 5) The authority may exempt any health practitioner or class of health practitioner from all or any of the requirements of a competence programme.

- (6) Within 20 working days after a competence programme is set or recognised by the authority, the Registrar must notify every health practitioner who is required to undertake the programme of that fact and of the details of the programme.

Cf 1995 No 95 s 62

**42. Health practitioners may be required to make records available—**

An authority that is reviewing the competence of a health practitioner or that has set a competence programme or recertification programme for a health practitioner may, for the purposes of the review or programme, inspect all or any of the clinical records of the health practitioner, and that health practitioner must make those records available for those purposes to any person duly authorised by the authority

**43. Unsatisfactory results of competence programme or recertification programme—**

- (1) If a health practitioner who is required to complete a competence programme or a recertification programme does not satisfy the requirements of the programme, the responsible authority may make either of the following orders:

- (a) that the health practitioner's scope of practice be altered—  
(i) by changing any health services that the practitioner is permitted to perform; or  
(ii) by including any condition or conditions that the authority considers appropriate:  
(b) that the practitioner's registration be suspended.

- (2) If the authority proposes to make an order under subsection (1), it must give to the health practitioner concerned—

- (a) a notice stating—  
(i) why the authority proposes to make the order; and  
(ii) that he or she has a reasonable opportunity to make written submissions and to be heard on the matter, either personally or by his or her representative; and  
(b) a copy of any information on which the authority is relying in proposing to make the order.

- (3) The notice under subsection (2)(a)(i) must contain sufficient detail to inform the person clearly of the particular grounds for the proposal to make the order.

- (4) Any order made under subsection (1) remains in effect until the health practitioner concerned has satisfied all the requirements of the competence programme or, as the case requires, the recertification programme, and for that purpose the authority may, on the application of the practitioner, extend the period within which the practitioner is required to satisfy those requirements.

- (5) The failure of a health practitioner to satisfy the requirements of any competence programme or recertification programme that applies to the health practitioner is not, of itself, a ground for taking disciplinary action under Part 4 against that health practitioner.

- (6) Subsection (2)(b) is subject to section 154.

**44. Confidentiality of information—**

- (1) No person who examines any clinical records of any health practitioner under a requirement of a competence review, competence programme, or recertification programme may disclose any information (being information about any identifiable individual) obtained by that person as a result of that examination, except for 1 or more of the following purposes:

- (a) for the purpose of making a report to the authority in relation to the health practitioner concerned:

- (b) for the purposes of any criminal investigation or any criminal proceedings taken against that health practitioner:
  - (c) for the purpose of making the information available to the person to whom the information relates in any case where -
    - (i) the authority directs that the information be made available; or
    - (ii) the person requests access to the information.
- (2) Subsection (1)(c)(ii) does not affect the Privacy Act 1993
- (3) Every person commits an offence and is liable on summary conviction to a fine not exceeding \$10,000 who discloses any information in contravention of subsection (1).
- (4) No information, statement, or admission that is disclosed or made by any health practitioner in the course of, or for the purposes of satisfying the requirements of, any competence review, competence programme, or recertification programme and that relates to any conduct of that health practitioner (whether that conduct occurred before or during that review or programme) -
- a) may be used or disclosed for any purpose other than the purposes of that review or programme; or
  - b) is admissible against that person, or any other person, in any proceedings in any court or before any person acting judicially:

Cf 1995 No 95 s 65

**106. Rights of appeal—**

- (1) A person may appeal to a District Court against any decision or direction of an authority to-
- (a) decline to register the person as a health practitioner with the authority; or
  - (b) decline to authorise a change to the existing scope of practice of the person; or
  - (c) decline to issue a practicing certificate to the person; or
  - (d) suspend his or her practising certificate or registration; or
  - (e) cancel his or her registration with the authority; or
  - (f) include conditions in the person's scope of practice; or
  - (g) vary any conditions in the person's scope of practice.
- (4) An appeal-
- (a) must be brought to the appropriate court by way of notice of appeal in accordance with rules of court; and
  - (b) must be lodged within 20 working days after notice of the decision or order is communicated to the appellant, or within any further time a District Court Judge or, as the case requires, a High Court Judge allows on application made before or after the period expires.

**107. Notice of right of appeal—**

When notifying a person under this Act of any decision or order which section 106 gives him or her a right of appeal, the Registrar or, as the case requires, the appropriate executive officer of the Tribunal must also notify him or her in writing of the right of appeal and the time within which an appeal must be lodged.

**108. Orders to have effect pending determination of appeal—**

A decision or order against which an appeal is lodged under this Part continues in force unless the District Court or the High Court orders otherwise.