
STATUTORY INSTRUMENTS

1991 No. 554

**NATIONAL HEALTH SERVICE,
ENGLAND AND WALES**

**The National Health Service Functions
(Directions to Authorities and Administration
Arrangements) Regulations 1991**

<i>Made</i>	- - - -	<i>8th March 1991</i>
<i>Laid before Parliament</i>		<i>11th March 1991</i>
<i>Coming into force</i>	- -	<i>1st April 1991</i>

The Secretary of State for Health, as respects England, and the Secretary of State for Wales, as respects Wales, in exercise of powers conferred by sections 13, 14(2), 15(1)(b), 16(1), 17(1), 18 and 126(4) and (5) of the National Health Service Act 1977(1) and of all other powers enabling them in that behalf, hereby make the following Regulations:

**PART I
GENERAL**

Citation and commencement

1. These Regulations may be cited as the National Health Service Functions (Directions to Authorities and Administration Arrangements) Regulations 1991 and shall come into force on 1st April 1991.

(1) 1977 c. 49; see section 128(1) for the definition of “regulations”. Sections 13, 14 and 16 were amended by the Health Services Act 1980 (c. 53) (“the 1980 Act”), Schedule 1 paragraphs 33, 34 and 36 respectively. Sections 15, 16 and 18 were amended by the National Health Service and Community Care Act 1990 (c. 19) (“the 1990 Act”), section 2(1). Sections 13 and 14 were amended by the 1990 Act, Schedule 10. Section 15 was amended by the Health and Social Security Act 1984 (c. 48) (“the 1984 Act”), section 5(2) and Part I of Schedule 4 and the 1990 Act, section 12(1). Section 16 was amended by the 1990 Act, section 3(3) and Schedule 10. Section 17 was substituted by the 1984 Act, Schedule 3, paragraph 2 and amended by the 1990 Act, sections 3(4) and 12(2). Section 18 was amended by the 1980 Act, Schedule 1, paragraph 38 and the 1990 Act, section 2(1) and Schedule 10 and modified by S.I. 1985/39, article 7(2). Section 126(4) was amended by, and section 126(5) was inserted by, the 1990 Act, section 65(2).

Interpretation

2.—(1) In these Regulations, unless the context otherwise requires—

“the Act” means the National Health Service Act 1977;

“the 1990 Act” means the National Health Service and Community Care Act 1990⁽²⁾;

“directions” means directions given in the exercise of a power conferred by the Act and “direct” shall be construed accordingly;

“District Authority” means a District Health Authority;

“Family Authority” means a Family Health Services Authority;

“recognised fund-holding practice” shall be construed in accordance with section 14 of the 1990 Act;

“Regional Authority” means a Regional Health Authority;

“relevant Regional Authority” in relation to any District Authority means the Regional Authority of which the region includes the district of that District Authority;

“the specified health service functions” means the Secretary of State’s functions relating to the health service⁽³⁾ under the enactments specified in column 1 of the Schedule to these Regulations (the subject matter of the relevant functions being indicated in column 2 of that Schedule), including functions under any regulations made under any of those enactments.

(2) Unless the context otherwise requires, any reference in these Regulations to a numbered regulation is a reference to the regulation bearing that number in these Regulations, and any reference in a regulation to a numbered paragraph is a reference to the paragraph bearing that number in that regulation.

(3) In these Regulations, references to accident and emergency services are references to those services provided at the accident and emergency department of a hospital and do not include any subsequent treatment connected with the provision of those services.

(4) For the purposes of paragraph 5(c) and regulations 3, 5 and 7, a person shall be treated as present in a region or district not only when he is present within that region or district but also when he presents himself at a hospital or establishment managed by the Regional or District Authority for that region or district, even if it is outside that region or district.

(5) Subject to any directions which the Secretary of State may give as to any particular case or class of case, if there is doubt as to where a person is usually resident for the purposes of regulation 3(1)(a)(i), 5(1)(a)(i) and 7(1)(a)(i)—

(a) he shall be treated as usually resident at the address which he gives to the person or body providing him with services as being that at which he usually resides;

(b) where he gives no such address he shall be treated as usually resident at his most recent address being the address which he gives as his most recent address to the person or body providing him with services;

(c) where his usual residence cannot be determined under paragraphs (a) and (b) above he should be treated as usually resident in the region or district in which he is present.

(2) 1990 c. 19.

(3) These include functions under enactments relating to mental health and nursing homes (see section 13(2) of the National Health Service Act 1977).

PART II

DIRECTIONS TO REGIONAL AUTHORITIES

Functions exercisable by Regional Authorities

3.—(1) Subject to paragraph (2) and regulation 4, every Regional Authority shall exercise the specified health service functions on behalf of the Secretary of State—

- (a) in so far as those functions consist of providing or securing the provision of services to patients, other than the services specified in sub-paragraph (b) of this paragraph, for the benefit of—
 - (i) persons usually resident in its region;
 - (ii) persons resident outside the United Kingdom who are present in its region;
- (b) in so far as those functions consist of providing or securing the provision of—
 - (i) accident and emergency services, including ambulance services provided in connection with those services; and
 - (ii) any other services which the Secretary of State may direct, for the benefit of all persons present in its region; and
- (c) in so far as those functions consist of any other functions, generally as respects its region.

(2) The functions exercisable by a Regional Authority under paragraph (1)(a) do not include providing or securing the provision of any services which are, or are to be, purchased by the members of a recognised fund-holding practice in accordance with Regulations under section 15(7) of the 1990 Act.

(3) A Regional Authority shall exercise the specified health service functions in accordance with paragraph (1) at or from hospitals, establishments and facilities owned by the Secretary of State for the purposes of the health service and situated in its region or anywhere outside its region as the Secretary of State may direct, as well as by means of NHS and other contracts.

Restriction on the exercise of functions by Regional Authorities

4.—(1) The exercise by a Regional Authority of specified health service functions is subject to such limitations as the Secretary of State may direct and shall be in accordance with any directions which are given by the Secretary of State.

(2) Nothing in these Regulations is to be taken as giving directions for the exercise of any function conferred on or vested in the Secretary of State with respect to the making of any Order or Regulations.

(3) Nothing in these Regulations enables a Regional Authority to exercise the functions of the Secretary of State under section 87(1) of the Act with respect to—

- (a) the compulsory acquisition of land; or
- (b) land or other property where the function is exercisable by a Family Authority by virtue of regulation 11(3)(a)

or to give directions to a District Authority which would empower a District Authority to exercise those functions.

(4) The power of the Secretary of State under section 2 of the Act is exercisable by a Regional Authority only to such extent as is necessary for the proper exercise of one or more other functions which the Secretary of State has directed that Authority to exercise on his behalf.

(5) Where, in the exercise of specified health service functions, arrangements are made with medical practitioners for the vaccination or immunisation of persons against disease, every medical practitioner providing general medical services shall, so far as is reasonably practicable, be given an opportunity to participate in the arrangements.

(6) Approval of a medical practitioner for the purposes of section 12(2) of the Mental Health Act 1983⁽⁴⁾ (approval of medical specialists) as having special experience in the diagnosis and treatment of mental disorder shall be given only—

- (a) after the carrying out of such consultations, and obtaining of such advice, as the Secretary of State shall direct;
- (b) for such periods as the Secretary of State shall direct.

(7) The exercise of the Secretary of State's function under section 3(1)(c) of the act with respect to the provision of ambulance services is subject to obtaining his approval to the proposed arrangements for such exercise.

(8) In the exercise of the Secretary of State's specified health service functions under section 25 of the Act, such charges shall be made with respect to the supplies of human blood as are determined by the Secretary of State.

PART III

DIRECTIONS TO DISTRICT AUTHORITIES

Functions to be made exercisable by District Authorities in England

5.—(1) Subject to paragraph (2) and regulation 6, every Regional Authority shall secure, by a direction given by an instrument in writing, that each District Authority of which the district is included in its region shall exercise—

- (a) functions exercisable under regulation 3(1)(a) for the benefit of—
 - (i) persons usually resident in its district;
 - (ii) persons resident outside the United Kingdom who are present in its district;
- (b) functions exercisable under regulation 3(1)(b) for the benefit of persons present in its district;
- (c) functions exercisable under regulation 3(1)(c) generally as respects its district;

at or from hospitals, establishments and facilities owned by the Secretary of State for the purpose of the health service and situated in its district or anywhere outside its district that the Secretary of State or the relevant Regional Authority may direct, as well as by means of NHS and other contracts.

(2) The functions exercisable by a District Authority under paragraph (1) do not include functions under—

- (a) section 19(1) and (2) of, and paragraphs 1, 2 and 3 of Schedule 6 to, the Act (recognition of advisory committees);
- (b) section 25 of the Act (supply of human blood);
- (c) section 12(2) of the Mental Health Act 1983 (approval of medical specialists);

(3) Each Regional Authority shall secure that no directions are given to any District Authority directing it to exercise any functions under the enactments specified in paragraph (2)(a), (b) or (c).

(4) 1983 c. 20.

Restriction on exercise of functions by District Authorities in England

6.—(1) The exercise by a District Authority in England of functions to which regulation 5(1) applies is subject to such limitations as the Secretary of State may direct and shall be in accordance with any directions which are given by the Secretary of State or, subject to any such directions, by the relevant Regional Authority.

(2) The exercise by a District Authority in England of functions to which regulation 5(1) applies is subject to the provisions of regulation 4(2), (5), (7) and (8).

(3) The power of the Secretary of State under section 2 of the Act is exercisable by a District Authority in England only to such extent as is necessary for the proper exercise of one or more other functions which the relevant Regional Authority has directed to be exercisable by that District Authority.

Functions exercisable by District Authorities in Wales

7.—(1) Subject to paragraph (2) and regulation 8, every District Authority in Wales shall exercise on behalf of the Secretary of State the specified health service functions except those under section 19(1) and (2) of, and paragraphs 1, 2 and 3 of Schedule 6 to the Act (recognition of advisory committees)—

(a) in so far as those functions consist of providing or securing the provision of services to patients under the Act, other than the services specified in sub-paragraph (b) of this paragraph, for the benefit of—

(i) persons usually resident in its district;

(ii) persons resident outside the United Kingdom who are present in its district;

(b) in so far as those functions consist of providing or securing the provision of—

(i) accident and emergency services, including ambulance services provided in connection with those services; and

(i) any other services which the Secretary of State may direct,

for the benefit of all persons present in its district; and

(c) in so far as they consist of any other functions, generally as respects its district.

(2) The functions exercisable by a District Authority in Wales under paragraph (1)(a) do not include the providing or securing the provision of any services which are, or are to be, purchased by the members of a recognised fund-holding practice in accordance with regulations under section 15(7) of the 1990 Act.

(3) A District Authority in Wales shall exercise the specified health service functions in accordance with paragraph (1) at or from hospitals, establishments and facilities owned by the Secretary of State for the purposes of the health service and situated in its district or anywhere outside its district that the Secretary of State may direct, as well as by means of NHS and other contracts.

Restrictions on exercise of functions by District Authorities in Wales

8.—(1) The exercise by a District Authority in Wales of the specified health service functions is subject to the provisions of regulation 4(2), (5), (6), (7) and (8) and such limitations as the Secretary of State may direct and shall be in accordance with any directions which are given by the Secretary of State.

(2) Nothing in these Regulations enables a District Authority in Wales to exercise the functions of the Secretary of State under section 87(1) of the Act with respect to—

(a) the compulsory acquisition of land; or

(b) land or other property where the function is exercisable by a Family Authority under regulation 11(3)(a).

(3) The power of the Secretary of State under section 2 of the Act is exercisable by a District Authority in Wales only to such extent as is necessary for the proper exercise of one or more other functions which the Secretary of State has directed that Authority to exercise on his behalf.

PART IV

ADMINISTRATION ARRANGEMENTS

Arrangements by Regional Authorities for exercise of functions

9. Subject to any directions which may be given by the Secretary of State as to its exercise, any function exercisable by a Regional Authority pursuant to a direction given under section 13 of the Act may by arrangement with that Authority be exercised on its behalf by—

- (a) another Regional Authority;
- (b) a committee or sub-committee of another Regional Authority;
- (c) another body of which the members consist only of that and other Regional Authorities; or
- (d) an officer of another Regional Authority or of such other body.

Arrangements by District Authorities for exercise of functions

10.—(1) Subject to any directions which may be given by the Secretary of State and, in the case of a District Authority in England, to any directions given by the relevant Regional Authority as to the exercise of any function exercisable by virtue of a direction given under section 14 of the Act, functions exercisable by a District Authority by virtue of any provision of the Act may by arrangement with that Authority be exercised on its behalf by—

- (a) another District Authority;
- (b) a committee or sub-committee of another District Authority;
- (c) another body of which the members consist only of that and other District Authorities; or
- (d) an officer of another District Authority or of such other body.

(2) Subject to any directions which may be given by the Secretary of State, functions of a District Authority exercisable by virtue of an Order⁽⁵⁾ under section 103(1) of the Act may by arrangement with that Authority be exercised on its behalf by a Family Authority.

Arrangements by Family Authorities for exercise of functions

11.—(1) Subject to the provisions of paragraphs (2) and (3) and to any directions given by the Secretary of State, any function exercisable by a Family Authority may by arrangement with that Authority be exercised on its behalf by—

- (a) another Family Authority;
- (b) another body of which the members consist only of that and other Family Authorities;
- (c) a committee of another Family Authority;
- (d) a special health authority;
- (e) an officer of a special health authority or of a Family Authority; or

(5) See S.I. 1988/865.

(f) an officer of a District Authority any part of the district of which is in the locality of the Family Authority.

(2) The functions of a Family Authority under section 15(1)(a) of the Act with regard to the examination, checking and pricing of prescriptions for drugs, medicines and appliances supplied under arrangements made by a Family Authority for the provision of pharmaceutical services shall be exercisable—

(a) on behalf of a Family Authority the locality of which is in England by the Prescription Pricing Authority(6);

(b) on behalf of a Family Authority the locality of which is in Wales by the Welsh Health Common Services Authority(7);

and arrangements shall be made by Family Authorities in accordance with directions given by the Secretary of State with respect to the exercise of such functions.

(3) The following functions are prescribed for the purpose of section 15(1)(b) of the Act—

(a) (i) the acquisition (otherwise than in the exercise of powers of compulsory purchase) and the disposal of land and other property,

(ii) the control, maintenance and management of land and other property,

on behalf of the Secretary of State in circumstances where the land or other property is, as the case may be, required or wholly or mainly occupied for purposes relating to the exercise of a Family Authority's functions under section 15(1)(a) of the Act or is in the possession or control of a Family Authority for such purposes;

(b) the provision on behalf of the Secretary of State by virtue of section 63(1), (3), (5) and (6) of the Health Services and Public Health Act 1968(8) of instruction and the provision of materials and premises necessary for or in connection with the provision of any such instruction.

PART V

Revocations

12. The National Health Service Functions (Directions to Authorities and Administration Arrangements) Regulations 1989(9) are hereby revoked.

(6) See S.I. 1990/1718.

(7) See S.I. 1990/2647.

(8) 1968 c. 46; the relevant parts of section 63 were amended by S.I. 1968/1699, Articles 2 and 5, the National Health Service (Scotland) Act 1972 (c. 58), Schedule 6, paragraph 135 and Schedule 7, Part II, the National Health Service Reorganisation Act 1973 (c. 32), Schedule 4, paragraph 124 and Schedule 5, the National Health Service Act 1977 (c. 49), Schedule 15, paragraph 45 and Schedule 16, the National Health Service (Scotland) Act 1978 (c. 29), Schedule 16, paragraph 26, and Schedule 17, the Health Services Act 1980 (c. 53), Schedule 1, paragraph 19(3), S.I. 1985/39, Article 6, the Local Government Act 1985 (c. 51), Schedule 17, the Health and Medicines Act 1988 (c. 49), section 20 and the National Health Service and Community Care Act 1990 (c. 19), section 2.

(9) S.I. 1989/51.

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Signed by authority of the Secretary of State for Health.

8th March 1991

Virginia Bottomley
Minister of State,
Department of Health

8th March 1991

David Hunt
Secretary of State for Wales

SCHEDULE

Regulation 2(1)

ENACTMENTS CONFERRING FUNCTIONS EXERCISABLE
BY REGIONAL AND DISTRICT AUTHORITIES

Column 1 Enactment	Column 2 Subject matter
Health Services and Public Health Act 1968—	
section 63(1), (3), (5) and (6)	Providing for instruction of officers of health authorities and other persons employed or contemplating employment by health authorities or in authorities connected with health or welfare.
section 64(10)	Giving financial assistance to voluntary organisations.
Chronically Sick and Disabled Persons Act 1970(11)	
section 17	Provisions with respect to persons under 65.
The Act—	
section 2	Providing services considered appropriate for discharging duties imposed on the Secretary of State and doing other things calculated to facilitate the discharge of any such duty.
section 3(1)(a) and (b)	Providing hospital and other accommodation.
section 3(1)(c)	Providing medical, dental, nursing and ambulance services.
section 3(1)(d)	Providing facilities for the care of expectant and nursing mothers and young children.
section 3(1)(e)	Providing facilities for the prevention of illness, the care of persons suffering from illness and the after-care of persons who have suffered from illness.
section 3(1)(f)	Providing other services required for the diagnosis and treatment of illness.
section 5(1), (1A) and paragraph 1 of Schedule 1(12)	Providing for the medical inspection and treatment of pupils, their dental inspection and treatment and their education in dental health.

(10) 1968 c. 46; the relevant parts of section 64 were amended by the Local Government Act 1972 (c. 70), Schedule 23, paragraph 15, the National Health Service Reorganisation Act 1973 (c. 32), Schedule 4, paragraph 125, the Children Act 1975 (c. 72), Schedule 3, paragraph 46, the Adoption Act 1976 (c. 36), section 23, Schedule 3, paragraph 10 and Schedule 4, the National Health Service Act 1977, Schedule 5, paragraph 47, the Domestic Proceedings and Magistrates' Courts Act 1978 (c. 22), section 89 and Schedule 2, paragraph 23, the Child Care Act 1980 (c. 5), Schedule 5 and Schedule 6, the Foster Children Act 1980 (c. 6), Schedule 2, S.I. 1985/39, Article 6, and the National Health Service and Community Care Act 1990, section 2.

(11) 1970 c. 44, the relevant parts of section 17 were amended by the National Health Service Reorganisation Act 1973 (c. 32), Schedule 4, paragraph 132; *see* also the National Health Service Act 1977 (c. 49), Schedule 14, paragraph 13(1)(b).

(12) Section 5 and Schedule 1 were amended by the Health and Medicines Act 1988 (c. 49), section 10 and Schedule 2 respectively and Schedule 1 was amended by the Education Act 1980 (c. 20), Schedule 1.

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Column 1 Enactment	Column 2 Subject matter
section 5(1)(b)	Arranging for the giving of advice on contraception, for the medical examination of persons seeking such advice, for the treatment of such persons and for the supply of contraceptive substances and appliances.
section 5(2)(d)	Conducting or assisting, by grants or otherwise, persons to conduct research into matters relating to illness or other matters connected with a service provided under the Act.
section 19(1), (2) and (3) and paragraphs 1, 2 and 3 of Schedule 6(13)	Recognising regional and district advisory committees.
section 23(1)	Arranging with any person or body (including a voluntary organisation) for that person or body to provide or assist in providing any service under the Act.
section 23(2)	Making available to certain persons or bodies (including voluntary organisations) facilities and services of persons employed in connection with such facilities.
section 23(3)	Agreeing terms and making payments in respect of facilities or services provided under section 23 of the Act.
section 25 other than paragraphs (b) and (c)	Making available supplies of human blood.
section 26(1)	Supplying goods, services and other facilities to local authorities and other public bodies and carrying out maintenance work in connection with any land or building the maintenance of which is a local authority responsibility.
section 26(2)	Supplying prescribed goods, materials or other facilities to persons providing general medical services, general dental services, general ophthalmic services or pharmaceutical services.
section 26(3)	Making available to local authorities any services or other facilities and the services of employed persons to enable local authorities to discharge their functions relating to social services, education and public health.
section 26(4)(14)	Making available to local authorities the services of contractors to enable such authorities to discharge their functions relating to social services, education and public health.

(13) Section 19 was amended by the Health Services Act 1980 (c. 53), Schedule 1, paragraph 39. Schedule 6 was amended by the Health Services Act 1980, Schedule 1, paragraph 81.

(14) Section 26(4) was added by the Health Services Act 1980 (c. 53), section 3(1).

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Column 1 Enactment	Column 2 Subject matter
section 27(1) and (2)	Providing for consultation before the services of any officer of a health authority are made available to a local authority.
section 27(4)	Agreeing terms and charging for services and facilities provided.
section 51	Making available facilities for university clinical teaching and research.
section 52	Making accommodation available.
section 63(15)	Authorising use of hospital accommodation, determining the extent to which it is to be made available and determining and recovering charges in respect of the use of such accommodation.
section 72(1), (3), (4) and (5)	Making available health service accommodation or facilities for the purpose of providing medical, dental, pharmaceutical, ophthalmic or chiropody services to non-resident private patients.
section 81(a)	Charging and recovering the charges for more expensive supplies.
section 82(a)	Charging for replacement or repair of appliances and vehicles in certain circumstances.
section 83A(1)(b)(16)	Paying travelling expenses.
section 87(1) and (2)	Acquiring land or other property required for the purposes of the Act and the use or maintenance of any property belonging to the Secretary of State by virtue of the Act.
section 121(17)	Determining charges for prescribed services provided in respect of prescribed non-residents.
Mental Health Act 1983(18)—	
section 12(2)	Approving medical practitioners as having special experience in the diagnosis and treatment of mental disorder.
Registered Homes Act 1984(19)	

(15) Section 63(1) was amended by section 7(9) of the Health and Medicines Act 1988 (c. 49), Schedule 3 which repealed section 63(2) and by paragraph 18(3) of Schedule 9 to the National Health Service and Community Care Act 1990 (c. 19).

(16) Section 83A was inserted by section 14(1) of the Social Security Act 1988 (c. 7), Schedule 5 which repealed the earlier provision for travelling expenses made by section 5(3) of the National Health Service Act 1977 (c. 49) and section 83A was further amended by the Health and Medicines Act 1988 (c. 49), Schedule 2, paragraph 6 and by the National Health Services and Community Care Act 1990 (c. 19), Schedule 9, paragraph 18(5).

(17) Section 121 was amended by the Health and Medicines Act 1988 (c. 49), section 7(12).

(18) 1983 c. 20.

(19) 1984 c. 23.

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Column 1 Enactment	Column 2 Subject matter
section 23(3), (4) and (5)	Registration of nursing homes and mental nursing homes.
section 25	Refusal of registration.
section 26	Conduct of homes.
section 27	Supplementary.
section 28	Cancellation of registration.
section 29(1), (2) and (3)	Additional registration conditions.
section 30	Urgent procedure for cancellation of registration.
section 31	Ordinary procedure for registration, cancellation, variation of conditions and additional conditions.
section 32	Representations.
section 33(1) and (2)	Decisions.
section 34(2) and (7)	Appeals.
section 35(1), (3) and (4)	Authorisation of persons to inspect mental nursing homes.
section 37	Exemption of Christian Science homes.
section 53(1)	Criminal proceedings.

EXPLANATORY NOTE

(This note is not part of the Regulations)

These Regulations make provision for the Secretary of State's functions relating to the health service to be exercised by Regional Health Authorities (Part 11) and District Health Authorities (Part 111) and for administrative arrangements under which authorities may exercise each other's functions (Part IV).

These Regulations replace with amendments the National Health Service Functions (Directions to Authorities and Administration Arrangements) Regulations 1989. The amendments are made in connection with the coming into force of section 3(1) of the National Health Service and Community Care Act 1990. This section provides that the primary functions of a Regional or District Health Authority are those functions exercisable by the Authorities by virtue of directions under section 13 or section 14 of the National Health Service Act 1977. The principal changes are to be found in regulations 3 and 5 under which the Secretary of State directs Regional Health Authorities and Regional Health Authorities direct District Health Authorities to perform the Secretary of State's functions relating to the health service only (but subject to certain exceptions) in respect of persons

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usually resident in their region or district. Regulation 2 defines certain terms used in the Regulations and in particular the term “usually resident” which is to be found in regulation 2(5).

The instrument which these Regulations replace is revoked by regulation 12.