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STATUTORY INSTRUMENTS

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**1993 No. 3057 (S.286)**

**NATIONAL HEALTH SERVICE, SCOTLAND**

**The National Health Service Trusts (Consultation on Dissolution) (Scotland) Regulations 1993**

*Made* - - - - *3rd December 1993*  
*Laid before Parliament* *10th December 1993*  
*Coming into force* - - *31st December 1993*

The Secretary of State, in exercise of the powers conferred on him by sections 12A(2), 105(7) and 108(1) of and paragraphs 25(3) and 26(3) of Schedule 7A to the National Health Service (Scotland) Act 1978(1), and of all other powers enabling him in that behalf, hereby makes the following Regulations:

**Citation, commencement and interpretation**

1.—(1) These Regulations may be cited as the National Health Service Trusts (Consultation on Dissolution) (Scotland) Regulations 1993 and shall come into force on 31st December 1993.

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

“the Act” means the National Health Service (Scotland) Act 1978;

“dissolution order” means an order under paragraph 25 of Schedule 7A to the Act dissolving an NHS trust;

“relevant body” has the meaning given in regulation 2(2);

“trade union” has the meaning given in section 28(1) of the Trade Union and Labour Relations Act 1974(2).

**Duty to consult in relation to a proposal for dissolution**

2.—(1) Where the Secretary of State receives an application under paragraph 25(2)(a) of Schedule 7A to the Act, or is considering dissolution of an NHS trust under paragraph 25(2)(b) of

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(1) 1978 c. 29; section 12A was inserted by section 31 of the National Health Service and Community Care Act 1990 (c. 19); section 105(7), which was amended by the Health Services Act 1980 (c. 53), Schedule 6, paragraph 5 and Schedule 7 and by the Health and Social Services and Social Security Adjudications Act 1983 (c. 41), Schedule 9, paragraph 24 contains provisions relevant to the making of Regulations; section 108(1) contains definitions of “regulations” and “prescribed” relevant to the exercise of the statutory powers under which these Regulations are made; Schedule 7A was inserted by the National Health Service and Community Care Act 1990, Schedule 6.

(2) 1974 c. 52.

that Schedule, he shall give notice in writing to the relevant body, and on receipt of such a notice it shall be the duty of the relevant body to carry out consultation on the proposed dissolution within such period as may be specified in the notice.

(2) In these Regulations “relevant body” means—

- (a) the Health Board within whose area the hospital or other establishment or facility in respect of which the NHS trust was established, is situated; or
- (b) the Agency in a case where the NHS trust either provides and manages or has assumed responsibility for the ownership and management of any hospital or other establishment or facility, the provision and management or the ownership and management of which would have been a function of the Agency but for the establishment of that trust; or
- (c) in a case where the hospital or other establishment or facility in respect of which the NHS trust was established is situated in the areas of more than one Health Board, or the ownership and management or provision and management of any hospital or other establishment or facility which forms part of the trust was previously the function of the Health Board in part and the Agency in part, the body which the Secretary of State determines to have the major interest in the dissolution.

#### **Bodies to be consulted in relation to a proposal for dissolution**

3. The relevant body which is under a duty to consult by virtue of regulation 2, in addition to commenting itself on the proposed dissolution, shall consult the following bodies:—

- (a) any local health council within whose area or district the NHS trust operates;
- (b) any local authority within whose area or district the NHS trust operates;
- (c) any trade union or professional body representing the interests of any persons who are employed by the NHS trust; and
- (d) the NHS trust in any case in which the dissolution order is to be made under paragraph 25(2)(b) of Schedule 7A to the Act.

#### **Consultation on transfer of property etc. of dissolved NHS Trust**

4.—(1) Where the Secretary of State is considering the transfer under paragraph 26(1) of Schedule 7A to the Act of such of the property, rights and liabilities as he considers appropriate, of an NHS trust which is dissolved, he shall give notice in writing to the relevant body, and on receipt of such notice it shall be the duty of the relevant body to consult on the proposed transfer with the bodies specified in paragraphs (a) to (c) of regulation 3, within such period as may be specified in the notice.

(2) The consultation required by paragraph (1) of this regulation may be combined with the consultation required by paragraph (1) of regulation 2.

#### **Report to the Secretary of State**

5. The relevant body which is under a duty to consult by virtue of regulation 2 or regulation 4 shall report to the Secretary of State all responses to the consultation, together with any comments which the relevant body wishes to make as to such responses, by not later than one month after the close of the period specified for consultation.

#### **Combined consultation**

6. Where the Secretary of State is considering whether to make an order under section 12A of the Act for the establishment of an NHS trust to which he proposes to transfer such of the property, rights

and liabilities as he considers appropriate of the NHS trust which is to be dissolved, the consultation which is to be carried out under regulations 2 and 4 may be combined with the consultation required by regulation 2 of the National Health Service Trusts (Consultation before Establishment) (Scotland) Regulations 1991(3).

St Andrew's House,  
Edinburgh  
3rd December 1993

*Fraser of Carmyllie*  
Minister of State, Scottish Office

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

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## **EXPLANATORY NOTE**

*(This note is not part of the Regulations)*

These Regulations prescribe the consultation to be completed before the Secretary of State may make an order dissolving an NHS trust under paragraph 25 of Schedule 7A to the National Health Service (Scotland) Act 1978. The Regulations also prescribe the consultation which must be carried out under paragraph 26 of Schedule 7A before the Secretary of State may make an order transferring any property, rights or liabilities of a trust which has been dissolved. Provision is made for consultation under paragraphs 25 and 26 to be combined with the consultation required under the National Health Service (Consultation before Establishment) (Scotland) Regulations 1991 before an NHS trust is established.