

1976 No. 1679 (S.134)**NATIONAL HEALTH SERVICE, SCOTLAND****The National Health Service (Appointment of Consultants)
(Scotland) Regulations 1976**

<i>Made</i> - - - -	<i>4th October 1976</i>
<i>Laid before Parliament</i>	<i>19th October 1976</i>
<i>Coming into Operation</i>	<i>9th November 1976</i>

In exercise of the powers conferred on me by sections 13(1) and 19(1) of, and paragraph 8 of Part I of Schedule 1 and paragraph 8 of Schedule 3 to, the National Health Service (Scotland) Act 1972(a) and of all other powers enabling me in that behalf, I hereby make the following regulations:—

Citation and commencement

1. These regulations may be cited as the National Health Service (Appointment of Consultants) (Scotland) Regulations 1976 and shall come into operation on 9th November 1976.

Interpretation

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

“the Act” means the National Health Service (Scotland) Act 1972;

“Advisory Appointments Committee” means a committee appointed under regulation 7;

“the Agency” means the Common Services Agency for the Scottish Health Service constituted under Section 19 of the Act;

“Authority” means—

(a) a Health Board, or

(b) the Agency, acting through the Management Committee;

“consultant in the speciality” means a consultant who is specialising, or who has recently specialised, in the branch of medicine or dentistry with which the proposed appointment is concerned;

“the Management Committee” means the management committee of the Agency constituted under Schedule 3 to the Act;

“Panel” means the National Panel of Specialists constituted under regulation 6.

(2) In relation to the Agency any reference in these regulations to a committee of an Authority shall be construed as a reference to a sub-committee of the Management Committee.

(3) 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.

(4) The Interpretation Act 1889 (a) shall apply for the interpretation of these regulations as it applies for the interpretation of an Act of Parliament.

Appointments to which the regulations apply

3.—(1) These regulations shall apply to the appointment of any medical or dental officer to a post of consultant on the staff of an Authority, other than the appointment of any person in any of the classes specified in regulation 4.

(2) For the purposes of this regulation “appointment” includes any appointment to a post, whether existing or new, and whether whole-time or part-time.

Exempted Appointments

4.—(1) These regulations shall not apply to—

- (a) professors, readers or other members of a medical or dental department of a university who receive no remuneration (other than a distinction award) from an Authority;
- (b) persons who are primarily engaged in research which necessitates their appointment to the staff of an Authority and who receive no remuneration (other than a distinction award) for that appointment from the Authority;
- (c) any other person to be appointed to the staff of an Authority who receives no remuneration (other than a distinction award) for that appointment from the Authority;
- (d) persons to be appointed to locum posts or to posts which are, with the approval of the Secretary of State, limited in duration to a period of two years or less;
- (e) consultants employed by an Authority who are transferred with the approval of the Secretary of State to the employment of another Authority as part of or in consequence of a local reorganisation to fill posts, the duties of which are substantially the same as the posts in which they were employed by that first Authority;
- (f) redundant officers whose employment, or whose last employment by an Authority (or, in England or Wales, by a Regional or Area Health Authority, Area Health Authority (Teaching) or any Board of Governors of a teaching hospital in respect of which an order has been made under section 15(1) of the National Health Service Reorganisation Act 1973(b)), is or was, in a post as consultant;
- (g) honorary consultants providing a service for the National Health Service, although employed by universities or the Medical Research Council or other similar bodies, on transfer of their posts wholly or in part without substantial change of duties to the National Health Service, with the approval of the Secretary of State.

(2) In this regulation, “redundant officers” means persons whose employment has been terminated owing to redundancy or local change of organisation and whose names have at the discretion of the Secretary of State for Scotland, the

(a) 1889 c. 63.

(b) 1973 c. 32.

Secretary of State for Social Services or the Secretary of State for Wales been notified to Authorities as officers to whom this regulation applies; and "employment" includes part-time employment, whether or not the officer is also employed by any other Authority (or, in England or Wales, by a Regional or Area Health Authority, Area Health Authority (Teaching) or any Board of Governors of a teaching hospital), but does not include employment in a post where the appointment was expressly limited in duration.

Advertisement of Vacancy

5.—(1) Where an Authority propose to make an appointment to a vacancy in a post to which these regulations apply, they shall place an advertisement in not less than two publications circulating throughout the United Kingdom which are commonly used for similar advertisements relating to the profession concerned; but where such advertisement is not reasonably practicable the Authority shall advertise the vacancy in such other publications as they think appropriate.

(2) Any advertisement shall specify the exact nature of the appointment and the closing date for receipt of applications, which shall be not less than one month from the date on which the advertisement is to appear.

National Panel of Specialists

6.—(1) For the purpose of making nominations to the Advisory Appointments Committee appointed under regulation 7, the Secretary of State shall constitute a National Panel of Specialists, consisting of not more than 200 members holding consultant appointments, made up as follows:—

- (a) not more than 45 members nominated jointly by the Universities of Glasgow, Aberdeen, Edinburgh and Dundee;
- (b) not more than 125 members nominated jointly by the Royal College of Physicians of Edinburgh, the Royal College of Surgeons of Edinburgh, the Royal College of Physicians and Surgeons of Glasgow, the Royal College of Obstetricians and Gynaecologists, the Royal College of Pathologists, the Royal College of Psychiatrists, the Faculty of Anaesthetists, the Royal College of Radiologists and such other specialist professional bodies as the Secretary of State may from time to time determine; and
- (c) not more than 30 members appointed by the Secretary of State.

(2) Members of the Panel shall serve for such period not exceeding four years as may be determined by the Secretary of State.

(3) Any casual vacancy occurring shall be filled in the same manner as applied to the appointment or nomination of the member vacating office.

(4) Except in exceptional circumstances approved by the Secretary of State a member retiring from the Panel shall not be eligible for re-appointment until after a lapse of two years from the date of his retiral from the Panel.

(5) After retiral from a consultant post in the National Health Service a member of the Panel may complete his term of office unless he first attains the age of 70 years, at which age he shall cease to be a member.

(6) The Secretary of State shall appoint a registered medical practitioner as Secretary of the Panel.

Constitution of Advisory Appointments Committee

7. For the purpose of filling each vacancy in a post to which these regulations apply the Authority making the appointment shall appoint an Advisory Appointments Committee, which shall consist of—

- (a) four persons nominated by the Authority, one of whom shall be appointed to act as chairman and at least two of whom shall be registered medical or dental practitioners as appropriate;
- (b) two consultants in the specialty from the Panel constituted under regulation 6, at least one of whom shall not be employed by the Authority making the appointment; and
- (c) in the case of an appointment involving undergraduate teaching duties, two persons nominated by any university concerned, but the university may nominate four persons where it considers that the appointment carries major teaching responsibilities.

Selection by Committee

8.—(1) The Authority shall refer to the Advisory Appointments Committee all applications received on or before the closing date specified in the advertisement and may also refer an application received after that date if they are satisfied that there is a reasonable explanation for the failure to submit the application in time.

(2) The Advisory Appointments Committee shall consider all applications so referred to them and may interview suitable applicants in order to select the persons whom the Committee consider to be suitable for the appointment.

(3) Thereafter the Advisory Appointments Committee shall submit to the Authority a report stating—

- (a) the names of the persons recommended by the Committee as being suitable for the appointment;
- (b) the order in which those persons are so recommended; and
- (c) the comments of the Committee (including in particular the views of the members from the Panel) on the suitability of those persons for appointment as a consultant.

(4) If the Advisory Appointments Committee consider that none of the applicants is suitable for the appointment they shall so inform the Authority.

(5) At any meeting of the Advisory Appointments Committee, in the event of an equality of votes the Chairman shall not have a casting vote.

Appointment by the Authority

9.—(1) An appointment to a vacancy to which these regulations apply shall be made by the Authority or, if the Authority so delegate, by the appropriate committee of the Authority, but neither the Authority nor a committee of the Authority to which power to make an appointment has been delegated shall make such an appointment except from persons selected by an Advisory Appointments Committee.

(2) The Authority shall not delegate power to make an appointment to any Advisory Appointments Committee.

Revocation

10.—(1) The National Health Service (Appointment of Consultants) (Scot-

land) Regulations 1973(a) and the National Health Service (Appointment of Consultants) (Scotland) Regulations 1974(b) are hereby revoked.

(2) Section 38 of the Interpretation Act 1889 shall apply as if these regulations were an Act of Parliament and as if the regulations revoked by paragraph (1) were Acts of Parliament repealed by an Act of Parliament.

Bruce Millan,
One of Her Majesty's Principal
Secretaries of State.

New St Andrew's House,
Edinburgh.
4th October 1976.

EXPLANATORY NOTE

(This Note is not part of the Regulations.)

These Regulations, which provide for the method of appointing consultants in the National Health Service, consolidate with amendments the National Health Service (Appointment of Consultants) (Scotland) Regulations 1973 and the National Health Service (Appointment of Consultants) (Scotland) Regulations 1974. The main amendments relate to an increase in the membership of the National Panel of Specialists from 150 to 200.

(a) S.I. 1973/2212 (1973 III, p. 7813).

(b) S.I. 1974/858 (1974 II, p. 3314).

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