

## 1983 No. 1275

## NATIONAL HEALTH SERVICE, ENGLAND AND WALES

**The National Health Service (Appointment of Consultants)  
(Wales) Regulations 1983**

*Made* - - - - 16th August 1983

*Laid before Parliament* 2nd September 1983

*Coming into Operation* 23th September 1983

The Secretary of State for Wales, in exercise of powers conferred on him by paragraph 10 of Schedule 5 to the National Health Service Act 1977(a), and of all other powers enabling him in that behalf, after consultation in accordance with paragraph 11(1) of the said Schedule 5 with bodies recognised by him as representing persons likely to be affected, hereby makes the following regulations:—

*Citation and commencement*

1. These regulations may be cited as the National Health Service (Appointment of Consultants) (Wales) Regulations 1983 and shall come into operation on 23rd September 1983.

*Interpretation*

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

“appropriate body” in relation to a proposed appointment, means such of the following bodies, namely, the Royal College of Physicians of London and its associated Faculty of Occupational Medicine, the Royal College of Surgeons of England and its associated Faculties of Anaesthetists and Dental Surgery, the Royal College of Obstetricians and Gynaecologists, the Royal College of Pathologists, the Royal College of Psychiatrists or the Royal College of Radiologists, as, in the opinion of the Authority concerned, is substantially concerned with the specialty in which the appointment will be made;

“Authority” means a District Health Authority for a district in Wales or two or more such authorities;

“Committee” means an Advisory Appointments Committee constituted pursuant to the provisions of regulation 6;

“consultant” in relation to a relevant specialty, means a consultant specialising or who has recently specialised in the relevant specialty, or

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(a) 1977 c. 49.

where such specialty has not yet been established, a consultant specialising or who has recently specialised in a specialty which in the opinion of the appropriate body is closely related to the relevant specialty;

“hospital” means premises in which or an institution to or for which an Authority provides facilities or staff for the provision of personal services to a patient for the purpose of the prevention, diagnosis and treatment of illness;

“lay member” means a person who is not a registered medical or dental practitioner or an officer of any Authority;

“member of the clinical staff”, in relation to a proposed appointment, means a person of consultant status on the medical or dental staff of a hospital or a group of hospitals in which the duties or the major part of the duties of the appointment will be performed, or where there is no such person, a person of consultant status employed in a hospital;

“professional member”, in relation to a proposed appointment, means, if it is a medical appointment, a registered medical practitioner and, if it is a dental appointment, a registered dental practitioner;

“relevant specialty”, in relation to a proposed appointment, means the branch of medicine or dentistry in which it is proposed to make the appointment;

“Teaching Authority” for the purpose of regulation 4(1)(e) has the same meaning as in regulation 2(1) of the National Health Service (Appointment of Consultants) Regulations 1982(a) and otherwise for the purpose of these regulations means a District Health Authority the membership of which specified in the Order establishing it includes more than one member nominated by the University so specified as being associated with the provision of the health services in that Authority’s district;

“University” means a University providing substantial facilities for undergraduate or postgraduate clinical teaching;

“Welsh Medical Committee” means the Committee recognised by the Secretary of State under section 19 of the National Health Service Act 1977 as being representative of the medical practitioners of Wales;

“Welsh Dental Committee” means the Committee recognised by the Secretary of State under section 19 of the National Health Service Act 1977 as being representative of the dental practitioners of Wales.

(2) For the purposes of these regulations and Schedule 4 a body shall be deemed to have a substantial interest in an appointment where the duties of the appointment include duties on behalf of that body or duties which will be carried out in association with that body, or where that body proposes to invite the person appointed to undertake duties on behalf of that body otherwise than as part of the duties of the appointment.

(3) Unless the context otherwise requires, any reference in these regulations to a numbered regulation or Schedule is a reference to the regulation in, or, as the case may be, the Schedule to these regulations which bears that number, and any reference in a regulation or Schedule to a numbered paragraph is a reference to the paragraph bearing that number in that regulation or Schedule.

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(a) S.I. 1982/276.

*Regulated appointments*

3. These regulations apply to appointments of whatever nature to consultant posts on the staff of an Authority in Wales except appointments which are exempted appointments under regulation 4.

*Exempted appointments*

4.—(1) Appointments which are exempted appointments are of:—

- (a) professors, readers or other members of the academic staff of a University who will receive no remuneration from an Authority in respect of their tenure of their post;
- (b) consultants who have reached the age of 65, or in the case of mental health officers as defined in the National Health Service (Superannuation) Regulations 1980(a), the age of 60, and who will receive no remuneration from an Authority in respect of their tenure of their post;
- (c) persons who are primarily engaged in research which necessitates their appointment to the staff of an Authority and who will receive no remuneration from an Authority in respect of their tenure of their post;
- (d) persons whose employment in a post will be limited in duration to carry out the duties of that post—
  - (i) until a permanent appointment to it can properly be made provided that such employment shall not be for a period exceeding 12 months; or
  - (ii) the duties of or continued existence of which is subject to a review as part of a local reorganisation of the health service: Provided that such employment shall not without the express prior consent of the Secretary of State be for a period exceeding two years;
- (e) persons whose last employment by an Authority, a Regional Health Authority or a Teaching Authority in England or two or more such authorities, or a Health Board in Scotland was in a post as consultant, the termination of which employment was certified by the Secretary of State to be by reason of redundancy and who is appointed to a consultant post in Wales within two years of that termination of employment;
- (f) persons who are transferred, with the approval of the Secretary of State, from employment as a consultant by an Authority to another such post with that Authority or to employment by another Authority where the employment of the officer would otherwise be terminated by reason of redundancy;
- (g) persons whose employment is, with the approval of the Secretary of State, transferred from one Authority to another Authority without any significant alteration in the duties of the post, as part of a local reorganisation of the health service;
- (h) persons who are engaged in providing medical or dental services but are employed by bodies referred to in paragraph 1(b) or (c) of Schedule 4 in posts equivalent to posts in the health service to which consultants are normally appointed, on transfer with the approval of the Secretary of

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(a) S.I. 1980/362; the amending regulations are not relevant to the subject matter of these regulations.

State to the employment of an Authority to fill posts the duties of which are substantially the same as those of the posts in which they were employed immediately before the date of such transfer;

- (i) persons employed as consultants by an Authority other than an appointing Authority and whose duties for the appointing Authority will be limited to the equivalent of one day's work in each fortnight;
- (2) In this regulation—
  - (a) “employment” includes part-time employment, whether or not the person is also employed by another Authority, and “employed” shall be construed accordingly;
  - (b) “remuneration” does not include any distinction award or the defrayment of expenses involved in the carrying out of the duties of a hospital appointment.

#### *Advertisement of proposed appointment*

5.—(1) When an Authority proposes to make an appointment to which these regulations apply, it shall arrange for advertisements setting out the general duties of the post and the closing date for receipt of applications to appear in not less than two publications circulating throughout England and Wales which are commonly used for similar advertisements relating to the profession concerned:

Provided that where compliance with the foregoing provisions of this paragraph is not reasonably practicable the Authority shall arrange for such advertisements to appear in such other publications as it thinks appropriate.

(2) Where such an advertisement is in respect of a whole-time post, the advertisement shall include a statement to the effect that applicants for appointment for less time than is required to carry out the full duties of the post will be considered if they are unable to undertake whole-time professional work, unless that advertisement appears in a publication which states the effect of this paragraph in such manner that it applies to the advertisement.

(3) The Secretary of State may if he thinks fit authorise an Authority to dispense with the requirements of paragraph (1) in relation to an appointment to any post or class of post.

#### *Constitution of Committees*

6. For the purposes of making any appointment to which these regulations apply a Committee to be called an Advisory Appointments Committee shall, subject to any applicable provisions of Schedule 4 be constituted—

- (a) where the appointment is to be made by a single District Health Authority, in accordance with Schedule 1;
- (b) where the appointment is to be made by a single Teaching Authority in accordance with Schedule 2;

- (c) where two or more Authorities agree to combine in the selection of a person for appointment to employment by one of those authorities, in accordance with Schedule 3.

#### *Selection by Committees*

7.—(1) An appointing Authority shall refer to the Committee all applications received by the Authority on or before the advertised closing date and any received after that date but before the Committee has met pursuant to the requirements of paragraph 6(1) of Schedule 4 if the Authority is satisfied that there is a reasonable explanation for their late receipt.

(2) The Committee, acting in accordance with Schedule 4, shall consider all applications so referred to them, shall select from the applicants any persons whom the Committee consider suitable for the appointment and submit their names to the Authority, together with such comments as they consider appropriate.

(3) The Committee shall not submit the name of any person under paragraph (2) without having interviewed him.

(4) Where an Authority proposes to make an appointment to a whole-time post but in the opinion of the Committee one or more of the applicants would be suitable for appointment for less than whole-time they shall submit to the Authority the names of any such applicants and may add such comments as they consider appropriate.

(5) If in the opinion of the Committee none of the applicants is suitable for appointment they shall so inform the Authority.

#### *Appointment by Authority*

8.—(1) An Authority shall not make an appointment to which these regulations apply—

- (a) except from persons whose names have been submitted to it by a Committee under regulation 7;
- (b) of any person who has canvassed, in respect of his application for an appointment to which these regulations apply, any member of the Authority or of the Committee.

(2) In any case where an Authority has been informed as provided for by regulation 7(4), it may appoint for less than whole-time employment one or more of the persons named as suitable for such employment.

(3) Where an Authority decides not to make an appointment from persons named by a Committee or where an Authority is informed pursuant to regulation 7(5) that none of the applicants is suitable, the Committee shall be discharged and these regulations shall apply to any further proposal by the Authority to make an appointment to the relevant post as they applied to the original proposal.

*Travelling and subsistence*

9. Members of the Committee shall be entitled to receive from the Authority or, where Authorities are acting jointly, from the Authority by which is employed the administrator specified in paragraph 12 of Schedule 4, such payments in respect of travelling and subsistence allowances as are payable to members of the Authority performing an approved duty.

*Employment by a single Authority of a consultant appointed jointly*

10. Where two or more Authorities agree to appoint the same person to fill posts in hospitals in respect of which they respectively exercise functions, those Authorities shall make arrangements for the person appointed to be employed by such one of those Authorities as may be agreed, or failing agreement as the Secretary of State may direct and for the services of the person appointed to be made available to the other Authority or Authorities so as to enable all the posts to which he was appointed to be filled.

*Revocation of Regulations*

11. The National Health Service (Appointment of Consultants) (Wales) Regulations 1974(a) are hereby revoked.

*Transitional provisions*

12.—(1) Where before 23rd September 1983 an Advisory Appointments Committee has been constituted under the National Health Service (Appointment of Consultants) (Wales) Regulations 1974 to select a person for appointment after that date to an employment to which these regulations apply, the selection shall be made by that Committee in accordance with those regulations and the appointment shall be made by the appropriate Authority.

(2) Subject to paragraph 1 anything done or begun for the purposes of those regulations in relation to such an appointment shall be treated as having been begun or done under the corresponding provisions of these regulations.

*Nicholas Edwards,*  
Secretary of State for Wales.

16th August 1983.

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(a) S.I. 1974/477, amended by S.I. 1982/288.

## Regulation 6(a)

## SCHEDULE 1

## APPOINTMENTS BY A DISTRICT HEALTH AUTHORITY

1. The Authority shall constitute a Committee of seven members.
2. All the members shall be appointed by the Authority and of those members—
  - (1) one shall be a lay member of the Authority,
  - (2) one shall be a lay member of another Authority,
  - (3) one shall be a member of the clinical staff of the Authority,
  - (4) one shall be a consultant in the relevant specialty not being employed in Wales appointed after consultation with the appropriate body,
  - (5) one shall be a professional member appointed after consultation with the Welsh National School of Medicine, and
  - (6) two shall be professional members employed within the district of another Authority nominated by the Welsh Medical Committee in the case of a medical appointment, or by the Welsh Dental Committee in the case of a dental appointment.

## Regulation 6(b)

## SCHEDULE 2

## APPOINTMENTS BY A TEACHING AUTHORITY

1. The Authority shall constitute a Committee of seven members.
2. All the members shall be appointed by the Authority and of those members—
  - (1) two shall be lay members one of whom shall be appointed after consultation with the Welsh National School of Medicine,
  - (2) two shall be consultants in the relevant specialty and of those two—
    - (a) one, not being employed in Wales, shall be appointed after consultation with the appropriate body, and
    - (b) one, being employed within the district of another Authority, shall be nominated by the Welsh Medical Committee in the case of a medical appointment, or by the Welsh Dental Committee in the case of a dental appointment.
  - (3) one shall be a member of the clinical staff of the Authority, and
  - (4) two shall be professional members appointed after consultation with the Welsh National School of Medicine.

## Regulation 6(c)

## SCHEDULE 3

## APPOINTMENTS BY AUTHORITIES ACTING TOGETHER

1. The Authorities acting together shall constitute a Committee.
2. Where the Authorities acting together are a District Health Authority and a Teaching Authority they shall appoint a Committee of nine members of which—
  - (1) five members shall be appointed by the Authorities jointly, the five consisting of—
    - (a) two lay members, one appointed after consultation with the Welsh National School of Medicine,
    - (b) three professional members of whom—

- (i) one shall be a consultant in the relevant specialty not being employed in Wales appointed after consultation with the appropriate body;
  - (ii) two shall be appointed after consultation with the Welsh National School of Medicine, and
- (2) two professional members shall be appointed by each Authority one of each pair being a member of the clinical staff of that authority, and the other appointed after consultation with the Welsh Medical Committee in the case of a medical appointment or with the Welsh Dental Committee in the case of a dental appointment.
3. Where the Authorities acting together are—
- (a) more than two in number and
  - (b) one Authority is a Teaching Authority
- then they shall comply with paragraph 2 with Authorities of the same description acting jointly as though they were a single Authority.
4. Where the Authorities acting together are two or more District Health Authorities and no Authority is a Teaching Authority they shall comply jointly with Schedule 1 as though their districts were a single district.

SCHEDULE 4                      Regulation 7(1) and 7(2)

GENERAL PROVISIONS APPLYING IN ALL CASES

1. Where—
- (a) the person to be appointed will be required to carry out duties on behalf of a local authority; or
  - (b) the person to be appointed may be required or invited to carry out duties on behalf of the Medical Research Council, the Armed Forces, the Public Health Laboratory Service Board, a Government Department or any body provided or constituted under the National Health Service Act 1977(a); or
  - (c) a University proposes to invite the person appointed to undertake duties on behalf of the University otherwise than as part of the duties of the appointment by the Authority; or
  - (d) the person to be appointed will be required to carry out duties in more than one place within the district of an Authority and where the Authority feels that the organisation of services in that district is such that the views of all clinical staff with whom the appointee will work for a significant part of his time cannot be represented solely by the member of the clinical staff appointed to the Committee under paragraph 2(3) of Schedule 1, 2(3) of Schedule 2 or 2(2) of Schedule 3;
- then the Authority may appoint one or more additional members to the Committee after consultation—
- (i) with any of the bodies mentioned in sub-paragraph (a) or (b) as the case may require, where the Authority feels those bodies have a substantial interest in the appointment; and
  - (ii) with the University mentioned in sub-paragraph (c) in a case to which that sub-paragraph applies:
- so however that the Authority may not under the provision of this paragraph, appoint to the Committee more than three additional members.

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(a) 1977 c. 49.



2. Where an appointed member is unwilling or unable to perform his functions another person may be appointed in the same manner to be a member in his place.
- 3.—(1) An Authority entitled to appoint any members of the Committee shall send the name of its appointee to the administrator.
  - (2) If more than one body appoints the same person the administrator shall forthwith inform each of those bodies of the identity of the other or others.
  - (3) Where any body is so informed, it shall either confirm its appointment or appoint another person in place of the person originally appointed, and if more than one such body confirms its appointment the membership of the Committee shall be reduced accordingly.
4. The administrator shall provide the Committee with such clerical or other assistance as the Committee may require.
- 5.—(1) The Chairman of the Committee shall be the lay member or such one of the lay members (not being an additional member appointed under paragraph 1 above) as shall be so designated by the Authority.
  - (2) The Chairman shall convene, and if present shall preside at any meeting of the Committee.
  - (3) If the Chairman is not present at any meeting of the Committee, they shall select one of the members present to preside.
- 6.—(1) For the purposes of regulation 7(2) the Committee shall meet and may adjourn as necessary.
  - (2) Subject to the provisions of this Schedule the procedure of the Committee shall be such as they think fit.
7. The Committee may invite any applicant to attend before them for the purpose of an interview.
8. In the event of an equality of votes the Chairman shall not have a second or casting vote and no applicant shall be considered suitable for appointment unless a majority of the Committee considers him to be so suitable.
9. The Committee shall not transact any business in the absence of either more than one of the lay members or more than one of the professional members, in each case being members other than additional members appointed under paragraph 1 above.
10. Subject to the provisions of paragraphs 5 and 9 above the proceedings of the Committee shall not be invalidated by any vacancy in, or failure to appoint to, or defect in the appointment or qualification of any member of, the Committee.
11. When in the opinion of the Authority there is more than one appropriate body, the Authority may appoint for each such body after consultation therewith a member to the Committee who shall be a consultant in a relevant specialty, not being a consultant employed within the district of the Authority, and the Committee shall be enlarged accordingly.
12. In this Schedule—

“administrator” means the Chief administrator of the Authority by which the Committee is constituted or where Authorities are acting jointly in constituting the Committee, the Chief administrator of such one of those Authorities as they may agree;

“local authority” means a County Council or a District Council; and

“the Authority” means the Authority or Authorities by which the Committee is constituted.

## EXPLANATORY NOTE

*(This Note is not part of the Regulations.)*

These regulations make provision for the constitution by District Health Authorities in Wales of Advisory Appointment Committees to select candidates for appointments as clinical consultants. They lay down the procedure to be followed and include provision for the making of part-time appointments. These regulations supersede the National Health Service (Appointment of Consultants) (Wales) Regulations 1974.

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