

1990 No. 1330

**NATIONAL HEALTH SERVICE, ENGLAND AND
WALES**

**The Family Health Services Authorities (Membership
and Procedure) Regulations 1990**

Made - - - - *2nd July 1990*

Laid before Parliament *5th July 1990*

Coming into force *17th September 1990*

The Secretary of State for Health, as respects England, and the Secretary of State for Wales, as respects Wales, in exercise of powers conferred upon them by sections 16 (1), 126(4) and 128(1) of, and paragraphs 12 and 12A of Schedule 5 to, the National Health Service Act 1977(a) and paragraphs 4 and 5 of Schedule 1 to the National Health Service and Community Care Act 1990(b) and of all other powers enabling them in that behalf, hereby make the following Regulations:

Citation, commencement and interpretation

1.—(1) These Regulations may be cited as the Family Health Services Authorities (Membership and Procedure) Regulations 1990 and shall come into force on 17th September 1990.

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

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

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

“appointing authority” means —

(a) in the case of an Authority in England —

(i) in relation to its Chairman, the Secretary of State, and

(ii) in relation to members appointed under paragraph 4 (1) (b) of Schedule 1 to the 1990 Act, the relevant Regional Health Authority,

(b) in the case of an Authority in Wales, the Secretary of State;

(a) 1977 c.49; section 16 (1) was amended by the Health Services Act 1980 (c.53), sections 1 and 2 and Schedule 1, paragraph 36 and by the National Health Service and Community Care Act 1990 (c.19) (“the 1990 Act”), section 3(3); section 126(4) was amended by the 1990 Act, section 65(2); section 128(1) was amended by the 1990 Act, section 26(2); paragraph 12 of Schedule 5 was amended by the 1990 Act, Schedule 1, paragraph 9; paragraph 12A of Schedule 5 was inserted by paragraph 10 of Schedule 1 to the 1990 Act. Section 128(1) is cited for the definitions of “prescribed” and “regulations”.

(b) 1990 c.19.

“Authority” means a Family Health Services Authority established by the Secretary of State under section 10(1) of the 1977 Act(a);

“Dental Practice Board” means the Board referred to in section 37 (1) of the 1977 Act(b);

“health service body” means –

- (a) a health authority, a Family Health Services Authority or a National Health Service trust;
- (b) a Health Board, a Special Health Board, the Common Services Agency for the Scottish Health Service and a National Health Service Trust respectively constituted under sections 2, 10, and 12A of the National Health Service (Scotland) Act 1978(c);
- (c) a State Hospital Management Committee constituted under section 91 of the Mental Health (Scotland) Act 1984(d);
- (d) the Dental Practice Board or Scottish Dental Practice Board;
- (e) the Public Health Laboratory Service Board; and
- (f) the National Radiological Protection Board established by section 1 of the Radiological Protection Act 1970(e);

“medical audit committee” means a committee whose functions are concerned with the analysis of the quality of medical care;

“member” means a member of an Authority including its Chairman;

“Part II services” means general medical services, general dental services, general ophthalmic services or pharmaceutical services under the 1977 Act;

“service committee” means a medical, pharmaceutical, dental or ophthalmic service committee, a joint services committee or a denture conciliation committee established under the National Health Service (Service Committees and Tribunal) Regulations 1974(f);

“trade union” has the meaning assigned to it in section 28 of the Trade Union and Labour Relations Act 1974(g).

(3) In these Regulations, a reference to a numbered regulation is to the regulation bearing that number in these Regulations and a reference in a regulation to a numbered paragraph is to the paragraph bearing that number in that regulation.

Membership of Authorities

2.—(1) For the purposes of paragraphs 4(1) (b) and 5 (1) (b) of Part II of Schedule 1 to the 1990 Act, the number of members (excluding the Chairman) to be appointed to each Authority by its appointing authority shall be nine.

(2) For the purposes of and subject to paragraphs 4(2) and 5(2) of Part II of Schedule 1 to the 1990 Act the members of an Authority appointed under paragraphs 4(1) (b) and 5 (1) (b) of Part II of Schedule 1 to the 1990 Act shall fulfil the following conditions—

- (a) one shall at the time of his appointment be a medical practitioner who provides general medical services under Part II of the 1977 Act;
- (b) one shall at the time of his appointment be a dental practitioner who provides general dental services under Part II of the 1977 Act;
- (c) one shall at the time of his appointment be a registered pharmacist who provides or assists in providing pharmaceutical services under Part II of the 1977 Act;

(a) Section 10 was substituted by section 5(1) of the Health and Social Security Act 1984 (c.48) and amended by section 2(3) of the 1990 Act. (b) See also the Health and Medicines Act 1988 (c.49), section 31. (c) 1978 c.29; section 2 was amended by the Health and Social Services and Social Security Adjudications Act 1983 (c.41); Schedule 7, paragraph 1 and by the 1990 Act, section 28; section 10 was amended by the Health Services Act 1980 (c.53), Schedule 6, paragraph 2; section 31 was inserted by the 1990 Act, section 30. (d) 1984 c.36. (e) 1970 c.46. (f) S.I. 1974/455; to which there are amendments not relevant to these Regulations. (g) 1974 c.52.

- (d) one shall be a person who is registered in the register of qualified nurses, midwives and health visitors (maintained under section 10 of the Nurses, Midwives and Health Visitors Act 1979(a)) as either –
 - (i) a registered nurse with an additional recorded qualification in district nursing,
 - (ii) a registered midwife, or
 - (iii) a registered health visitor,and who has had, in the twelve months immediately preceding his appointment, experience of managing services to patients (other than patients resident in hospital) in any such capacity;
- (e) the five others shall be persons who do not provide, or assist in providing, Part II services.

Term of office

3.—(1) Subject to paragraph (2) and to regulations 4 and 7, a member's term of office shall be for such period, not exceeding four years, as the appointing authority shall specify on appointing him.

(2) The term of office of a member appointed to replace a member whose term of office ceased before the expiry of the period for which he was appointed shall be for the remainder of that period.

Termination of term of office

4.—(1) A member may resign his office at any time following his appointment by giving notice in writing to that effect to the appointing authority.

(2) The date on which a resignation by notice given pursuant to paragraph (1) shall take effect shall be –

- (a) where a date is specified in the notice as being that on which the resignation is to take effect, that date; and
- (b) in any other case, the date on which the notice is received by the appointing authority.

(3) If a member has not attended for six consecutive months a meeting of the Authority of which he is a member the Chairman of the Authority shall cause the Secretary of State to be so informed, whereupon the Secretary of State shall terminate the term of office of that member unless he is satisfied both that the absence was due to reasonable cause and that the member will be able to attend meetings within a reasonable time.

(4) If it appears to the Secretary of State that a member of an Authority has failed to comply with regulation 13(1) (disclosure etc. on grounds of pecuniary interest) he may forthwith terminate that person's term of office.

(5) The appointing authority may with the consent of the Secretary of State (unless he is the appointing authority) terminate the term of office of a member who –

- (a) was originally registered –
 - (i) in the register of medical practitioners kept under section 2 of the Medical Act 1983(b) or in the register of medical practitioners with limited registration kept under that section, or
 - (ii) in the dentists register kept under section 14 of the Dentists Act 1984(c),but then has his name erased from the register or has his registration suspended;

(a) 1979 c.36. (b) 1983 c.54. (c) 1984 c.24.

- (b) was originally registered in the register of pharmaceutical chemists maintained under section 2 (1) of the Pharmacy Act 1954^(a) but then has his name removed from the register either under section 13(1) (b) of that Act or pursuant to a direction under section 8 (1) (ii) of that Act;
- (c) originally had his name on a list prepared under Part II of the Act but then has his name withdrawn from that list.

(6) If the appointing authority is of the opinion that it is not in the interest of the health service in the locality for which an Authority is established that a member should continue to hold office on that Authority it may, with the consent of the Secretary of State (unless he is the appointing authority), terminate his term of office.

(7) The appointing authority shall terminate such term of office as a person has as member of an Authority –

- (a) if that person becomes disqualified for appointment under regulation 6; or
- (b) if it comes to the appointing authority's notice that that person was originally so disqualified.

(8) In paragraphs (5) and (7) "originally" means, in relation to a person's term of office, the date on which he was appointed as a member in respect of that term of office.

Reappointment

5. Subject to regulations 6 and 7, a member shall, on the expiry or earlier termination of his term of office, be eligible for reappointment.

Disqualification for Appointment

6.—(1) Subject to regulations 7 and 9, a person shall be disqualified for appointment as a member if –

- (a) he has within the preceding five years been convicted in the United Kingdom, the Channel Islands or the Isle of Man of any offence and has had passed on him a sentence of imprisonment (whether suspended or not) for a period of not less than three months without the option of a fine;
- (b) he has been adjudged bankrupt or has made a composition or arrangement with his creditors;
- (c) he has been dismissed, otherwise than by reason of redundancy, from any paid employment with a health service body;
- (d) he has had his name removed, by a direction under section 46 of the 1977 Act, from any list prepared under Part II of the Act and has not subsequently had his name included in such a list;
- (e) he is a person whose term of office has been terminated pursuant to paragraph (3), (5) (a), (b) or (c) or (6) of regulation 4;
- (f) subject to paragraph (3), he holds any paid appointment or office with a health authority, an NHS trust or another Authority;
- (g) he holds any paid appointment or office with the Dental Practice Board other than membership of that Board;
- (h) he holds any paid appointment or office with a trade union which represents the interests of members who are employed by a health service body.

(2) For the purposes of paragraph (1) (a) the date of conviction is the date on which the ordinary period allowed for making an appeal or application with respect to the conviction expires or, if such an appeal or application is made, the date on which the appeal or application is finally disposed of or abandoned or fails by reason of not being prosecuted.

(3) A person shall not be disqualified under paragraph (1) (f) by virtue of holding a paid office or appointment where –

^(a) 1954 c.61.

- (a) he is a person who is appointed under regulation 2 (2) (d); or
- (b) he is a person providing Part II services and the paid appointment or office is a part-time appointment or office, other than as Chairman or as member, with a health authority;
- (c) he is Chairman of an Authority and the paid appointment or office is membership of a Regional Health Authority.

Exceptions for members who are chief officers

7. The provisions of regulations 3, 4, 5, 6 and 9 shall not apply to a member who is appointed by virtue of paragraphs 4 (1) (c) or 5 (1) (c) of Schedule 1 to the 1990 Act (chief officers of authorities).

Suspension from functions of membership of members who are chief officers and sharing of officer membership

8.—(1) If such a member as is specified in regulation 7 (chief officers) of an Authority is suspended from his post in the Authority, he shall be suspended from performing his functions as member for the period of the suspension.

(2) Where more than one person is appointed to a post in the Authority which qualifies the holder to be such a member those persons shall become such a member jointly.

Cessation of disqualification

9.—(1) Where a person is disqualified under regulation 6 (1) (b) by reason of having been adjudged bankrupt—

- (a) if the bankruptcy is annulled on the ground that he ought not to have been adjudged bankrupt or on the ground that his debts have been paid in full, the disqualification shall cease on the date of the annulment;
- (b) if he is discharged the disqualification shall cease on the date of his discharge.

(2) Where a person is disqualified under regulation 6 (1) (b) by reason of his having made a composition or arrangement with his creditors, the disqualification shall cease —

- (a) if he pays his debts in full, on the date on which payment is completed;
- (b) in any other case, on the expiry of the period of five years from the date on which the terms of the deed of composition or arrangement are fulfilled.

(3) Subject to paragraph (4), where a person is disqualified under regulation 6 (1) (c) he may, after the expiry of a period of not less than two years from the date of dismissal, apply in writing to the Secretary of State to remove the disqualification and the Secretary of State may direct that the disqualification shall cease.

(4) Where the Secretary of State refuses an application made by a person to remove a disqualification no further application may be made by that person until the expiry of the period of two years from the date of that application.

(5) Where a person is disqualified under regulation 6 (1) (e), the disqualification shall cease on the expiry of the period of two years from the date on which his term of office is terminated or such longer period as the appointing authority may specify when terminating his term of office, but the Secretary of State may, on application being made to him by that person or by the appointing authority, reduce the period of disqualification.

Vice-chairman

10.—(1) Subject to paragraph (2), the members of an Authority may appoint one of their number, who is not the chief officer of the Authority, to be vice-chairman, for such period, not exceeding the remainder of his term as a member of the Authority, as they may specify on appointing him.

(2) A member appointed as vice-chairman may at any time resign his office as vice-chairman by giving notice in writing to the Chairman.

(3) Where the Chairman of an Authority has died or has ceased to hold office, or where he is unable to perform his duties as Chairman owing to illness, absence from England and Wales or any other cause, the vice-chairman shall act as Chairman until a new Chairman is appointed or the existing Chairman resumes his duties, as the case may be.

Committees

11.—(1) Subject to such directions as may be given by the Secretary of State, or the relevant Regional Health Authority, an Authority may, and if so directed by the Secretary of State or the relevant Regional Health Authority shall, appoint committees of the Authority or, together with one or more other Authorities, appoint joint committees, consisting in either case wholly or partly of the members of the Authority or Authorities or wholly of persons who are not members of the Authority or Authorities in question.

(2) On a committee or joint committee appointed under paragraph (1), except a service committee, a committee whose sole function is to advise the Authority or a medical audit committee, the majority of the members shall be persons who do not provide, or assist in providing, Part II services.

(3) Subject to any directions given by the Secretary of State, or the relevant Regional Health Authority, an Authority may make arrangements for the exercise, on its behalf, of any of its functions by a committee or joint committee appointed under paragraph (1) or by an officer of the Authority, in each case subject to such restrictions and conditions as the Authority thinks fit.

(4) The provisions of regulations 3, 4, 5, 6 and 9 apply to a committee and to a joint committee appointed under paragraph (1) except a service committee, a committee whose sole function is to advise the Authority or a medical audit committee as they apply to an Authority and apply to a member of such a committee or joint committee other than an officer of an Authority (whether or not he is also a member of an Authority) as they apply to a member of an Authority as though references to the appointing authority or the Secretary of State were references to an Authority and as though in regulations 4(5) and 4(6) the words from "with the consent of" to "appointing authority" were omitted.

Meetings and proceedings

12.—(1) The meetings and proceedings of an Authority shall be conducted in accordance with the rules set out in the Schedule to these Regulations and with Standing Orders made under paragraph (2).

(2) Subject to the rules set out in that Schedule, to regulation 13 and to such directions as may be given by the Secretary of State or the relevant Regional Health Authority an Authority shall make, and may vary or revoke, Standing Orders for the regulation of its proceedings and business which may include provision for suspension of the Standing Orders.

Disability of members in proceedings on account of pecuniary interest

13.—(1) Subject to the following provisions of this regulation, if a member has any pecuniary interest, direct or indirect, in any matter and is present at a meeting of the Authority at which the matter is under consideration –

- (a) he shall at the meeting and as soon as practicable after its commencement disclose the fact that he has such an interest; and
- (b) he shall not take part in the consideration or discussion of that matter or vote on any question with respect to it.

(2) An Authority may, by its Standing Orders, provide for the exclusion of a member from a meeting of the Authority while any matter in which he has a pecuniary interest, direct or indirect, is under consideration.

(3) Subject to paragraphs (4) and (5), a member shall be treated for the purposes of this regulation as having an indirect pecuniary interest in a matter if he is connected with a person –

- (a) who has a direct pecuniary interest in that matter; or
- (b) where that matter is a contract, with whom the contract is or is proposed to be made;

and for those purposes a member is connected with a person if he is in the employment of, or is a partner of, that person and also if, where that person is a company, the member or a nominee of his is a director of that company.

(4) A member shall not be treated as having a pecuniary interest in any matter by reason only –

- (a) of his membership of a company if he has no beneficial interest in any securities of that company;
- (b) of an interest of his as a person providing Part II services which cannot reasonably be regarded as an interest more substantial than that of others providing such of those services as he provides;
- (c) of an interest of his or of any person with whom he is connected which is so remote or insignificant that it cannot reasonably be regarded as likely to influence a member in the consideration or discussion of, or in voting on, any question with respect to that matter; or
- (d) that a sum may be payable to him under paragraph 9 of Schedule 5 to the 1977 Act (pay and allowances).

(5) Where–

- (a) a member has an indirect pecuniary interest in a matter by reason only of a beneficial interest in securities of a company; and
- (b) the total nominal value of those securities does not exceed –
 - (i) £5,000, or
 - (ii) one-hundredth of the total value of the issued share capital of the company, whichever is the lesser sum; and
- (c) if the share capital of the company is of more than one class, the total nominal value of shares of any one class in which he has a beneficial interest does not exceed one-hundredth of the total issued share capital of that class,

that member is not prohibited by this regulation by reason of that pecuniary interest from taking part in the consideration or discussion of that matter or from voting on any question with respect to it, but without prejudice to his duty to disclose his interest.

(6) For the purposes of this regulation the interest of one of a married couple living together shall, if known to the other of that couple, be treated as being also an interest of that other.

(7) This regulation applies to a committee and to a joint committee appointed under regulation 11(1) as it applies to an Authority and applies to a member of such committee or joint committee (whether or not he is also a member of an Authority) as it applies to a member of an Authority.

(8) In this regulation –

“company” includes any body of persons except a public body; and for this purpose “public body” includes –

- (a) any body established for the purpose of carrying on under national ownership any industry or undertaking,
- (b) the governing body of any university, university college or college, school or hall of a university, and
- (c) the National Trust for Places of Historic Interest or Natural Beauty incorporated by the National Trust Act 1907(a);

“securities” means –

- (a) shares or debentures whether constituting a charge on the assets of the company or not, or rights or interests in any shares or such debentures, or
- (b) rights (whether actual or contingent) in respect of money lent to, or deposited with, any industrial and provident society or building society;

(a) 1907 c. xxxvi.

“shares” means shares in the share capital of a company or stock of a company.

(9) The Secretary of State may, subject to such conditions as he may think fit to impose, remove any disability imposed by this regulation in any case in which it appears to him in the interests of the health service that the disability should be removed.

Revocations

14. The Family Practitioner Committees (Membership and Procedure) Regulations 1985(a) are hereby revoked.

2nd July 1990

K. Clarke
Secretary of State for Health

2nd July 1990

David Hunt
Secretary of State for Wales

(a) S.I. 1985/213.

RULES AS TO MEETINGS AND PROCEEDINGS OF AUTHORITIES

1. The first meeting of an Authority constituted under Part II of Schedule 1 to the 1990 Act shall be held on such day and at such place as may be fixed by the Chairman and he shall be responsible for convening the meeting.

2.—(1) The Chairman may call a meeting of the Authority at any time.

(2) If a requisition for a meeting, signed by at least one-third of the members, is presented to the Chairman and the Chairman either –

- (a) refuses to call a meeting; or
- (b) without so refusing, does not within seven days after the requisition has been presented to him call a meeting,

those one-third or more of the members may forthwith call a meeting.

(3) Before each meeting of an Authority, a notice of the meeting which –

- (a) specifies the business proposed to be transacted at it, and
- (b) is signed by the Chairman or by an officer of the Authority (other than the chief officer) authorised by the Chairman to sign on his behalf,

shall be delivered to each member, or sent by post to his usual place of residence or business, so as to be available to him at least three clear days before the meeting.

(4) Lack of service of the notice on any member shall not affect the validity of a meeting.

(5) In the case of a meeting called by members in default of the Chairman, the notice shall be signed by those members and no business shall be transacted at the meeting other than that specified in the notice.

3.—(1) At any meeting of an Authority the Chairman, if present, shall preside.

(2) If the Chairman is absent from the meeting the vice-chairman, if there is one and he is present, shall preside.

(3) If the Chairman and any vice-chairman are absent, such member, other than the chief officer of the Authority, as the members present shall choose shall preside.

4. Every question at a meeting shall be determined by a majority of the votes of the members present and competent to vote on the question and, in the case of an equality of votes, the person presiding shall have a second and casting vote.

5. The names of members present at the meeting shall be recorded.

6. No business shall be transacted at a meeting unless at least one-third of the members are present.

7. The minutes of the proceedings of a meeting shall be drawn up and entered in a book kept for that purpose and shall be signed at the next ensuing meeting by the person presiding at that next meeting.

8. In paragraphs 1 and 2 of this Schedule “Chairman” includes a vice-chairman acting as Chairman pursuant to regulation 10 (3).

9. Where the post of officer member is shared by two persons in pursuance of regulation 8(2) –

- (a) both persons shall be entitled to attend meetings of the Authority;
- (b) one or other of those persons shall be eligible to vote in the case of agreement between them;
- (c) in the case of disagreement between them no vote shall be cast by either of them;
- (d) the presence of either or both of those persons shall count as one person for the purposes of paragraph 6.

EXPLANATORY NOTE

(This note is not part of the Regulations)

These Regulations make provision concerning the membership and procedure of Family Health Services Authorities established under the National Health Service Act 1977. They include provisions relating to membership – as to the number of members and conditions of membership (regulation 2), the tenure of office of members, the termination and suspension of tenure of office and eligibility for reappointment (regulations 3 to 5 and 8) and disqualification for appointment and cessation of disqualification (regulations 6 and 9). They also include provisions relating to the constitution of authorities and to meetings and proceedings of those authorities – as to the vice-chairman (regulation 10), committees and joint committees (regulation 11) and the conduct of meetings and proceedings (regulations 12 and 13 and the Schedule), including provisions relating to restriction on members participating in meetings on account of pecuniary interest.

The Regulations relating to the membership and procedure of Family Practitioner Committees, as those authorities were called before the coming into force of these Regulations, are revoked by regulation 14.

£2.00 net

ISBN 0 11 004330 8

Printed in the United Kingdom for HMSO

880 WO1263 C16 7/90 452 7102 O/N 88174