

2003 No. 1497

NATIONAL HEALTH SERVICE, ENGLAND

The National Health Service (Functions of Strategic Health Authorities and Primary Care Trusts and Administration Arrangements) (England) (Amendment) Regulations 2003

<i>Made</i> - - - - -	<i>9th June 2003</i>
<i>Laid before Parliament</i>	<i>13th June 2003</i>
<i>Coming into force</i> - -	<i>8th July 2003</i>

The Secretary of State for Health, in exercise of the powers conferred upon him by sections 16, 16B, 16D, 17 and 126 of the National Health Service Act 1977(a), and of all other powers enabling him in that behalf, hereby makes the following Regulations:

Citation, commencement, interpretation and application

1.—(1) These Regulations may be cited as the National Health Service (Functions of Strategic Health Authorities and Primary Care Trusts and Administration Arrangements) (England) (Amendment) Regulations 2003 and shall come into force on 8th July 2003.

(2) In these Regulations, “the principal Regulations” means the National Health Service (Functions of Strategic Health Authorities and Primary Care Trusts and Administration Arrangements) (England) Regulations 2002(b).

(3) These Regulations apply only in relation to Strategic Health Authorities and Primary Care Trusts established for areas in England.

Amendment of regulation 2 of the principal Regulations

2. In regulation 2 of the principal Regulations (interpretation), in paragraph (1), in the appropriate alphabetical position, there shall be inserted—

““prison” includes a young offender institution but not a secure training centre or a naval, military or air force prison;”

(a) 1977 c. 49; section 16 was substituted by the Health Act 1999 (c. 8) (“the 1999 Act”), Schedule 4, paragraph 9 and amended by the National Health Service Reform and Health Care Professions Act 2002 (c. 17) (“the 2002 Act”), Schedule 1, paragraph 3; section 16B was inserted by the 1999 Act, section 2(1) and amended by the 2002 Act, Schedule 1, paragraph 4; section 16D was substituted by the 1999 Act, section 12(1) and amended by the 2002 Act, section 3(2) and Schedule 1, paragraph 6; section 17 was substituted by the 1999 Act, section 12(1) and amended by the 2002 Act, Schedule 1, paragraph 7; section 126(3) and (4) was amended by the National Health Service and Community Care Act 1990 (c. 19) (“the 1990 Act”), section 65(2), the National Health Service (Primary Care) Act 1997 (c. 46), Schedule 2, paragraph 27, the 1999 Act, Schedule 4, paragraph 37 and the Health and Social Care Act 2001 (c. 15) (“the 2001 Act”), Schedule 5, paragraph 5(13)(b); see section 128(1), as amended by section 26(2)(i) and (g) of the 1990 Act, for the definitions of “prescribed” and “regulations”. The functions of the Secretary of State under these provisions are, so far as exercisable in relation to Wales, transferred to the National Assembly for Wales by article 2(a) of, and the entry for the 1977 Act in Schedule 1 to, the National Assembly for Wales (Transfer of Functions) Order 1999, S.I. 1999/672, as amended by section 66(5) of the 1999 Act. See also the 2001 Act, section 68 and the 2002 Act, section 40.

(b) S.I. 2002/2375 to which there are amendments not relevant to these Regulations.

““secure training centre” means a place in which offenders subject to detention and training orders under section 100 of the Powers of Criminal Courts (Sentencing) Act 2000(a) may be detained and given training and education and prepared for their release;”,
““young offender institution” means a place for the detention of offenders sentenced to detention in a young offender institution or to custody for life;”.

Amendment of regulation 3 of the principal Regulations

3.—(1) Regulation 3 of the principal Regulations (functions of the Secretary of State exercisable by Strategic Health Authorities and Primary Care Trusts) shall be amended as follows.

(2) In paragraph (7)(a)—

(a) in head (i), after “practice patients” there shall be inserted “(other than any such patients who are detained in a prison in England)”; and

(b) for head (ii) there shall be substituted—

“(ii) persons usually resident in its area, or resident outside the United Kingdom who are present in its area, and who do not fall under the responsibility of another Primary Care Trust under head (i) above”.

(3) In paragraph (8), after “class of case”, there shall be inserted “and to paragraph (8A)”.

(4) After paragraph (8), there shall be inserted—

“(8A) Subject to paragraph (8B), a person who is detained in a prison in England, shall, for the period of that detention, be treated as usually resident at the address of the prison in which he is detained.

(8B) Paragraph (8A) shall not apply in relation to the commissioning of psychiatric hospital care for the purposes of the removal of a person detained in prison to a hospital under sections 47 or 48 of the Mental Health Act 1983(b).”.

Amendment of regulation 9 of the principal Regulations

4.—(1) Regulation 9 of the principal Regulations (arrangements by Strategic Health Authorities for exercise of functions) shall be amended as follows.

(2) In paragraph (1)—

(a) sub-paragraph (b) shall be omitted; and

(b) in sub-paragraph (d)(iii) for “other Health Authorities” there shall be substituted “Local Health Boards”.

(3) In paragraphs (3), (4) and (5), for “Health Authorities”, in each place where it occurs, other than in the expressions “Strategic Health Authorities” or “Special Health Authorities”, there shall be substituted “Local Health Boards”.

(4) In paragraph (6)—

(a) for “article 18 of” there shall be substituted “articles 42 or 43 of or paragraph 18 of Schedule 2 to”;

(b) in sub-paragraph (a) “or Health Authority” shall be omitted; and

(c) in sub-paragraphs (b) and (c) “or Health Authorities” shall be omitted.

Amendment of regulation 10 of the principal Regulations

5. In regulation 10 of the principal Regulations (arrangements by Primary Care Trusts for exercise of functions) in paragraphs (1)(c)(ii), (4), (5) and (6), for “Health Authorities”, in each place where it occurs, other than in the expressions “Strategic Health Authorities” or “Special Health Authorities”, there shall be substituted “Local Health Boards”.

(a) 2000 c. 6.

(b) 1983 c. 20; section 47 was amended by the Crime (Sentences) Act 1997 (c. 43), sections 49(3), 56(2) and Schedule 6; section 48 was amended by the Nationality, Immigration and Asylum Act 2002 (c. 41), section 62(10)(a).

Amendment of regulation 11 of the principal Regulations

6. In regulation 11 of the principal Regulations (arrangements with health service bodies in Wales)—

- (a) for “Health Authority or Health Authorities”, in each place where it occurs, there shall be substituted “Local Health Board or Local Health Boards” and
- (b) in paragraphs (1)(c), 2(b) or (3) for “Health Authority”, in each place where it occurs, other than in the expression “Strategic Health Authority”, there shall be substituted “Local Health Board”.

Signed by authority of the Secretary of State for Health

9th June 2003

John Hutton
Minister of State,
Department of Health

EXPLANATORY NOTE

(This note is not part of the Regulations)

These Regulations amend the National Health Service (Functions of Strategic Health Authorities and Primary Care Trusts and Administration Arrangements) (England) Regulations 2002 ("the principal Regulations").

Regulation 3 amends regulation 3 of the principal Regulations to provide that, for the purpose of establishing the Primary Care Trust responsible for providing or securing the provision of services to prisoners pursuant to the functions conferred by the principal Regulations, registration with a medical practitioner should be disregarded. It further amends regulation 3 to provide that, in such cases, usual residence should be interpreted as the address of the prison except in the case of commissioning psychiatric care for the purposes of removal from a prison to hospital where the normal rules for determining usual residence shall apply.

Regulations 4 to 6 (apart from regulation 4(4)(a)) amend regulations 9 to 11 of the principal Regulations to take account of the abolition of Health Authorities in Wales on 31st March 2003 and the devolution of most of their functions to newly created Local Health Boards.

Regulation 4(4)(a) corrects an error in the reference to the Nursing and Midwifery Order 2001 in regulation 9(6) of the principal Regulations.

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