

1974 No. 477

**NATIONAL HEALTH SERVICE, ENGLAND AND WALES**
**The National Health Service (Appointment of Consultants)  
(Wales) Regulations 1974**

<i>Made</i>	- - - -	<i>11th March 1974</i>
<i>Laid before Parliament</i>		<i>20th March 1974</i>
<i>Coming into Operation</i>		<i>1st April 1974</i>

The Secretary of State for Wales, in exercise of the powers conferred upon him by section 6(4) of, and Schedule 1 to the National Health Service Reorganisation Act 1973(a), and of all other powers enabling him in that behalf, hereby makes the following regulations:—

*Citation and commencement*

1. These regulations may be cited as the National Health Service (Appointment of Consultants) (Wales) Regulations 1974 and shall come into operation on 1st April 1974.

*Interpretation*

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

“appropriate body” means any of the following bodies, namely, the Royal College of Physicians of London, the Royal College of Surgeons of England or its associated Faculties of Anaesthetists or Dental Surgery, the Royal College of Obstetricians and Gynaecologists, the Royal College of Pathologists, the Royal College of Psychiatrists or the Faculty of Radiologists which, in the opinion of the Authority concerned, is the most appropriate body having regard to the proposed appointment;

“Authority” means an Area Health Authority for an area in Wales and includes Authorities acting jointly in accordance with regulation 6;

“Committee” means an Advisory Appointments Committee constituted in accordance with these regulations;

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

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

“professional member” means, where a medical appointment is to be made, a registered medical practitioner, and, where a dental appointment is to be made, a registered dental practitioner;

“Welsh Medical Committee” means the Committee recognised by the Secretary of State under section 8 of the National Health Service Reorganisation Act 1973 as being representative of the medical practitioners of Wales.

(2) Any reference in these regulations to a numbered regulation or schedule is a reference to the regulation or schedule bearing that number in these regulations.

(3) The Interpretation Act 1889<sup>(a)</sup> shall apply to the interpretation of these regulations as it applies to the interpretation of an Act of Parliament.

*Appointments to which the regulations apply*

3.—(1) The provisions of these regulations shall apply with respect to the appointment of any medical or dental officer to the post of consultant on the staff of any hospital in Wales providing hospital accommodation 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) The classes referred to in regulation 3 to which these regulations do not apply are:—

- (a) professors, readers or other members of a medical or dental professorial unit of a University who will receive no remuneration (other than any distinction award) from the Authority for their hospital appointments;
- (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 1961<sup>(b)</sup> as amended <sup>(c)</sup>, the age of 60, and who will receive no remuneration for their hospital appointments;
- (c) persons employed by Universities or who are officers of the Medical Research Council or the Public Health Laboratory Board engaged in providing services for the National Health Service in posts equivalent to posts of consultant status, and who are transferred to the employment of an Authority with the approval of the Secretary of State, to fill posts the duties of which are substantially the same as the posts in which they were employed immediately before the date of such transfer;
- (d) persons who are primarily engaged in research which necessitates their appointment to the staff of a hospital and who will receive no remuneration (other than any distinction award) for that appointment from the Authority;
- (e) persons to be appointed to posts which are, with the approval of the Secretary of State, expressly limited in duration;

(a) 1889 c. 63.

(b) S.I. 1961/1441 (1961 II, p. 2824).

(c) The amending regulations are not relevant to the subject matter of the Regulations.

- (f) redundant officers whose employment, or whose last employment by an Authority (or by a Regional Health Authority or an Area Health Authority outside Wales) is, or was, in a post as consultant; and
- (g) consultants employed in posts by an Authority who are transferred to the employment of another Authority with the approval of the Secretary of State as part of a local reorganisation to fill posts the duties of which are substantially the same as the posts in which they were employed by the Authority which originally employed them.

(2) In this regulation "redundant officers" means persons whose employment has been terminated owing to redundancy or other local change of organisation, and whose names have at the direction of the Secretary of State for Social Services, the Secretary of State for Wales or the Secretary of State for Scotland been notified to one or more Authorities as officers to whom this regulation applies; and "employment" includes part-time employment, whether or not the officer is also employed by another Authority, 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 any office to which these regulations apply, the Authority shall place an advertisement, specifying the exact nature of the appointment and the closing date for receipt of applications, 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 such advertisement is not reasonably practicable the Authority shall advertise the vacancy in such other publications as they consider appropriate.

(2) Any advertisement shall state the effect of paragraph 7 of Schedule 3.

#### *Constitution and procedure of Advisory Appointments Committees*

6.—(1) For the purpose of filling each vacancy in any office to which these regulations apply, an Advisory Appointments Committee shall be constituted:—

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

(2) Where two or more Authorities agree to appoint the same person to fill posts in hospitals in respect of which they respectively exercise functions, they shall, instead of constituting separate Committees, act jointly in all respects for the constitution of a single Committee under Schedule 1 or 2 as the case may be.

(3) The provisions of Schedules 1 and 2 shall have effect subject to the general provisions as to Committees contained in Schedule 3.

#### *Selection by Advisory Appointments Committees*

7.—(1) The Authority shall refer to the Committee all applications received by the Authority on or before the closing date specified in the said advertisement and may also refer an application received after that date if the Authority are satisfied that there is a reasonable explanation for the failure to make such an application by such date.

(2) The Committee shall consider all applications so referred to them and they shall select from the applications the person or persons considered by them to be suitable for the appointment or appointments and submit the appropriate name or names to the Authority together with any comments they may wish to make.

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

*Appointment by Authority*

8. An Authority shall not make an appointment to a vacancy to which these regulations apply except from persons selected by a Committee under regulation 7.

*Travelling and subsistence expenses*

9. Members of a Committee shall be entitled to receive from the Authority or, where Authorities are acting jointly, from the Authority to which nominations are required to be sent by paragraph 1 of Schedule 3, such payments in respect of travelling and subsistence expenses 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.

Regulation 6(1)

SCHEDULE 1

APPOINTMENTS BY AREA HEALTH AUTHORITIES

1. The Authority shall constitute a Committee of seven members.
2. Three members shall be nominated by the Authority and of those three, one shall be a lay member of the Authority, one shall be a lay member of another Authority, and one shall be a consultant employed within the area of the Authority.
3. One member shall be a consultant in the specialty not being employed in Wales nominated by the appropriate body.
4. One member shall be a professional member nominated by the Welsh National School of Medicine.

5. Two members shall be professional members employed within the area of another Authority in Wales nominated by the Welsh Medical Committee.

6. Where two or more Authorities (not including an Area Health Authority (Teaching)) decide jointly to constitute a single committee, in addition to persons nominated to that committee under paragraphs 3, 4 and 5 of this Schedule, each Authority shall nominate a lay member of the Authority and a consultant employed within the area of the Authority, and the Authorities shall jointly nominate a lay member of an Authority not included among them and the Committee shall be enlarged accordingly.

Regulation 6(1)

## SCHEDULE 2

### APPOINTMENTS BY AREA HEALTH AUTHORITIES (TEACHING)

1. The Authority shall constitute a Committee of nine members.
2. Three members shall be nominated by the Authority and of those three, one shall be a lay member of the Authority and two shall be consultants employed within the area of the Authority.
3. One member shall be a consultant in the specialty not being employed in Wales nominated by the appropriate body.
4. One member shall be a lay member nominated by the Welsh National School of Medicine.
5. Three members shall be professional members nominated by the Welsh National School of Medicine.
6. One member shall be a professional member employed within the area of another Authority nominated by the Welsh Medical Committee.
7. Where an Area Health Authority (Teaching) and one or more other Area Health Authorities decide jointly to constitute a single committee, in addition to persons nominated to that committee under paragraphs 3, 4, 5 and 6 of this Schedule, each Authority shall nominate a lay member of the Authority and a consultant employed within the area of the Authority and the Committee shall be enlarged accordingly.

Regulation 6(3)

## SCHEDULE 3

### GENERAL PROVISIONS APPLYING IN ALL CASES

1. Nominations shall be sent to the Administrator to the Authority or, where Authorities are acting jointly, to the Administrator to such Authority as they may agree; and, where the same person is nominated by more than one body, only the first of the nominations to reach the Administrator shall be valid and he shall forthwith inform the other body concerned accordingly, and that body shall then make a fresh nomination.

2. The Chairman of the Committee shall be one of the lay members of the Committee nominated by the Authority who shall be so designated by the Authority. Where a Committee is constituted by two or more Authorities acting jointly, the Chairman shall be nominated by the Authority by which the person appointed will be employed under regulation 10.

3. The Chairman shall convene any meeting of the Committee and if present at any such meeting shall preside. If the chairman is not present at any meeting of the Committee such member of the Committee as the members present choose shall preside.

4. The said Administrator shall provide the Committee with such clerical and other assistance as the Chairman may require.

5. The Committee shall meet to consider their selection and may adjourn as necessary; subject to the provisions of this Schedule the procedure of the Committee shall be such as they think fit.

6. The Committee may require any applicant to attend before them for the purpose of an interview.

7. The Committee shall disqualify any candidate who has canvassed any member of the Committee or of the Authority or Authorities concerned.

8. In the event of an equality of votes the Chairman shall not have a second or casting vote.

9. The selection made by the Committee shall not be invalidated by any vacancy or failure to nominate or by any defect in the nomination or qualification of any member of the Committee.

10. No selection shall be made, if more than one of the lay members nominated under Schedules 1 or 2 is absent, or if more than two members in all are absent.

11. Where in the opinion of the Authority more than one appropriate body is appropriate in relation to the appointment to be considered, the Authority may, after consultation with the appropriate bodies, nominate to a Committee a further consultant in the specialty: Provided that no more than one additional member shall be nominated in respect of each appropriate body.

11th March 1974.

*John Morris,*  
Secretary of State for Wales.

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#### EXPLANATORY NOTE

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

These Regulations make provision for the constitution by Area Health Authorities in Wales of Advisory Appointments Committees in relation to the appointment by them of consultants in hospitals.



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