

1975 No. 984

NATIONAL HEALTH SERVICE, ENGLAND AND WALES
The National Health Service (Transferred Staff—Appeals)
Order 1975

<i>Made</i> - - - - -	11th June 1975
<i>Laid before Parliament</i>	19th June 1975
<i>Coming into Operation</i>	10th July 1975

The Secretary of State for Social Services, as respects England, and the Secretary of State for Wales, as respects Wales, after consulting such bodies as they have recognised as representing persons who in their opinion are likely to be transferred or affected by transfers in pursuance of the orders mentioned in article 4 of this order, in exercise of the powers conferred upon them by sections 18(1) and (4), 19(2) and (4), 54(2) and 56(3) of the National Health Service Reorganisation Act 1973(a) and of all other powers enabling them in that behalf, hereby make the following order:—

Citation and Commencement

1. This order may be cited as the National Health Service (Transferred Staff—Appeals) Order 1975 and shall come into operation on 10th July 1975.

Interpretation

2.—(1) In this order, unless the context otherwise requires—

“appropriate Tribunal” means the Tribunal established under article 3 of this order for the region which is the region of, or includes the area of, the respondent authority, or for Wales, as the case may be;

“Commission” means in relation to any person whichever of the two Commissions, namely the National Health Service Staff Commission and the Welsh National Health Service Staff Commission, is appropriate in his case;

“respondent authority” means the Regional Health Authority, Area Health Authority or special health authority which notified the decision giving rise to the question on which determination is sought;

“Tribunal” means a Tribunal established under article 3 of this order.

(2) The rules for the construction of Acts of Parliament contained in the Interpretation Act 1889(b) shall apply for the purposes of the interpretation of this order as they apply for the purposes of the interpretation of an Act of Parliament.

(3) References in this order to any enactment, order or regulations include references to such enactment, order or regulations as amended by any subsequent enactment, order or regulations.

(a) 1973 c. 32.

(b) 1889 c. 63.

Constitution of Tribunals

3.—(1) For the purposes of determining questions arising under the orders mentioned in article 4 below relating to the transfer of staff under the National Health Service Reorganisation Act 1973 there shall be established for each region and for Wales a Tribunal to be known as the Staff Appeals (NHS Reorganisation) Tribunal for that region, or for Wales, as the case may be.

(2) For the purposes of determining any question referred to it in accordance with the provisions of this order the Tribunal shall consist of—

- (a) a Chairman appointed by the Secretary of State;
- (b) two members selected by the Chairman from a panel appointed for that region or for Wales by the Secretary of State; and
- (c) two members selected by the Chairman from a panel appointed for that region or for Wales by the Staff Side of the General Whitley Council for the Health Service.

Jurisdiction of Tribunals

4. Any question mentioned in—

- (a) article 8(3)(ii) of the National Health Service (Transfer of Social Services Staff) Order 1974(a) (Transferred Social Services Staff);
- (b) article 3 of the National Health Service (Staff Transfer Appeals and Schemes Order Amendment) Order 1974(b) (Appeals by Transferred Staff); or
- (c) article 6(1) of the National Health Service (Transferred Staff) Order 1975(c) (Second Transfer of Officers);

shall not be determined as provided in those orders but shall be determined in accordance with the following provisions of this order by the Staff Appeals (NHS Reorganisation) Tribunal for the region which is the region of, or includes the area of, the respondent authority, or for Wales, as the case may be.

Method of obtaining determination

5.—(1) Any person who wishes to seek the determination of any question referred to in article 4 above shall give notice in writing to the Secretary to the Staff Appeals (NHS Reorganisation) Tribunals at such address as the Secretary may notify before the expiration of two months beginning with the date of the notification to such person in writing of the decision which gives rise to the question, or such longer period as the Chairman of the appropriate Tribunal may at any time allow, and such notice shall indicate the question of which the determination is sought and shall contain a concise statement of the facts and contention upon which the person giving the notice intends to rely.

(2) On receiving a notice under paragraph (1) above, the Secretary to whom such notice is addressed shall forthwith transmit that notice to the Chairman of the appropriate Tribunal.

(3) The Tribunal which has received notice of a question for determination under paragraph (2) above shall determine that question and communicate that determination to the parties concerned.

(a) S.I. 1974/318 (1974 I, p. 1078).
(c) S.I. 1975/364 (1975 I, p. 1130).

(b) S.I. 1974/378 (1974 I, p. 1204).

Transitional provisions

6. Where at the commencement of this order a question mentioned in article 4 above has been referred to a Commission but has not been determined, consideration of that question shall be continued by the appropriate Tribunal and that Tribunal shall determine the question as if it had been referred to them under this order.

Amendments to Orders

7.—(1) In the National Health Service (Transfer of Social Services Staff) Order 1974 in article 8(3)(ii) (Determination of Questions) for the words “in accordance with the arrangements made for determining questions arising under section 18(1) or (2) of the Act” there shall be substituted the words “in accordance with the National Health Service (Transferred Staff—Appeals) Order 1975”.

(2) In the National Health Service (Staff Transfer Appeals and Schemes Order Amendment) Order 1974 for articles 4 and 5 there shall be substituted the following article:—

“Method of obtaining determination

4. Any question arising under article 3 above shall be determined in accordance with the National Health Service (Transferred Staff—Appeals) Order 1975”.

(3) In the National Health Service (Transferred Staff) Order 1975 for article 6 there shall be substituted the following article:—

“Determination of questions

6. Any question arising in connection with article 3 or 5 above shall be determined in accordance with the National Health (Transferred Staff—Appeals) Order 1975”.

Barbara Castle,

Secretary of State for Social Services.

9th June 1975.

John Morris,

Secretary of State for Wales.

11th June 1975.

EXPLANATORY NOTE

(This Note is not part of the Order.)

This Order amends the provisions of the Orders mentioned in Articles 4 and 7 which provide for certain questions to be determined by the National Health Service Staff Commissions for England and for Wales. These Commissions are being wound up on 10th July 1975 under section 20(3)(e) of the National Health Service Reorganisation Act 1973 and this Order provides that those questions shall be determined by Appeals Tribunals established under Article 3.

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