
 STATUTORY INSTRUMENTS

1985 No. 996

NATIONAL HEALTH SERVICE, ENGLAND AND WALES
The Welsh Health Common Services Authority Constitution
Order 1985

<i>Made - - - -</i>	<i>28th June 1985</i>
<i>Laid before Parliament</i>	<i>9th July 1985</i>
<i>Coming into Operation</i>	<i>1st August 1985</i>

The Secretary of State for Wales, in exercise of the powers conferred upon him by section 11(1), (2) and (4) of the National Health Service Act 1977 (a) and of all other powers enabling him in that behalf, hereby makes the following Order:—

Citation and commencement

1. This Order may be cited as the Welsh Health Common Services Authority Constitution Order 1985 and shall come into operation on 1st August 1985.

Interpretation

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

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

“the Authority” means the Welsh Health Common Services Authority;

“member” means the chairman or other member of the Authority;

“health authority” means any one of the following authorities—

a Regional Health Authority, a District Health Authority, a special health authority, a Family Practitioner Committee or a local social services authority;

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

“the 1973 Order” means the Welsh Health Technical Services Organisation (Establishment and Constitution) Order 1973 (b).

(2) Unless the context otherwise requires a reference in this Order to a numbered article is to the article bearing that number in this Order and a reference in an article to a numbered paragraph is to the paragraph bearing that number in the article.

Continuation of Welsh Health Technical Services Organisation

3. Notwithstanding the revocation by this Order of the 1973 Order and subject to article 4, there shall continue to be established the special health authority known as the Welsh Health Technical Services Organisation which was established by the 1973 Order.

(a) 1977 c.49; section 11(1) was amended by the Health Services Act 1980 (c.53), section 1(7) and Schedule 1, paragraph 31.

(b) S.I. 1973/1624, amended by S.I. 1982/288, 1985/39.

Alteration of name of Welsh Health Technical Services Organisation

4. As from the commencement of this Order the name of the Welsh Health Technical Services Organisation shall be changed to “the Welsh Health Common Services Authority”.

Functions of the Authority

5. The Authority shall continue to perform—
- (a) such functions relating to capital works, the procurement of supplies and the provision of computer services as the Secretary of State may direct it to perform on his behalf;
 - (b) such functions relating to the checking and pricing of prescriptions for drugs, medicines and appliances supplied as pharmaceutical services as the Secretary of State may direct it to perform on behalf of Family Practitioner Committees, and
 - (c) such other functions as the Secretary of State may direct it to perform on his behalf or on behalf of a District Health Authority or a Family Practitioner Committee.

Constitution of the Authority

6. The Authority shall consist of the following members, that is to say—
- (a) a chairman appointed by the Secretary of State;
 - (b) two members appointed by the Secretary of State;
 - (c) two members appointed by the Secretary of State being persons nominated between them by the District Health Authorities for districts in Wales.

Term of office of members

7. Subject to the following provisions of this Order, the chairman of the Authority and the other members shall hold and vacate office in accordance with the terms of their appointment.

Disqualification for membership

8.—(1) Subject to article 9, a person shall be disqualified for appointment to or being a member of the Authority 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—
 - (i) a health authority,
 - (ii) a Family Practitioner Committee,
 - (iii) the Public Health Laboratory Service Board referred to in section 5(4) of the Act,
 - (iv) the Dental Estimates Board, or

- (v) the National Radiological Protection Board established by section 1 of the Radiological Protection Act 1970 (a) ;
- (d) he has had his name removed, by a direction under section 46 of the Act, from any list prepared under Part II of the Act and has not subsequently had his name included in such a list;
- (e) subject to paragraph (4), he holds any paid appointment or office with a health authority or a Family Practitioner Committee; or
- (f) he holds any paid appointment or office with the Dental Estimates Board other than membership of that Board.
- (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 the non-prosecution of it.
- (3) For the purposes of paragraph 1(c) a person shall not be treated as having been in paid employment by reason only of his chairmanship of a health authority.
- (4) A person shall not be disqualified under paragraph 1(e) by virtue of holding a paid office or appointment where—
- (a) he is registered as described in paragraph 6(4) of Schedule 5 to the Act (nurse with qualification in district nursing, midwife or health visitor) and has the experience there described;
- (b) the paid appointment or office is the chairmanship of a District Health Authority or a Family Practitioner Committee; or
- (c) he is a person providing Part II services and the paid appointment or office is a part-time appointment or office with a health authority.

Cessation of disqualification

9.—(1) Where a person is disqualified under article 8(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 with a certificate that the bankruptcy was caused by misfortune without any misconduct on his part, the disqualification shall cease on the date of his discharge;
- (c) if he is discharged without such a certificate, his disqualification shall cease on the expiry of the period of five years from the date of his discharge;
- (d) if a court makes an order under subsection (1) of section 7 of the Insolvency Act 1976 (b) (automatic discharge of bankrupt) directing that subsection (2) of that section shall have effect in relation to him, or if subsection (4) of that section applies to him, the disqualification shall cease on the date upon which, in accordance with that subsection (2) or that subsection (4), that person is treated as if the court had granted him an absolute order of discharge.

(a) 1970 c.46.

(b) 1976 c.60.

(2) Where a person is disqualified under article 8(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 article 8(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 if the Secretary of State so directs, 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.

Termination of membership

10.—(1) A member may resign his office at any time following his appointment by giving notice in writing to that effect to the Secretary of State.

(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 Secretary of State.

(3) Where a member becomes disqualified from membership under article 8 or, having been so disqualified at the time of his appointment the fact comes to the knowledge of the Secretary of State, he shall forthwith cease to be a member.

(4) If the Secretary of State is of the opinion that any member has failed to comply with article 14(1) he may terminate the appointment of that member who shall, on such termination, forthwith cease to be a member.

(5) If the Secretary of State is of the opinion that it is not in the interest of the national health service that a person whom he has appointed as a member should continue to be a member, he may terminate the appointment of that member who shall, on such termination, forthwith cease to be a member.

Appointment of committees and sub-committees

11.—(1) Subject to article 15 and subject to any directions by the Secretary of State, the Authority may, and if directed as aforesaid shall, appoint committees of the Authority, or together with one or more other health authorities appoint joint committees, which may, in either case, consist partly of persons who are not members of the Authority or authorities.

(2) A committee or joint committee appointed under this article may, subject to such directions as may be given by the Secretary of State or the appointing authority, appoint sub-committees which may consist partly of persons who are not members of the committee or joint committee.

Arrangements for the exercise of functions

12. Subject to article 15 and subject to any directions by the Secretary of State, the Authority may make arrangements for the exercise, on behalf of the Authority, of any of their functions by a committee, sub-committee or joint committee appointed by virtue of article 11 or by an officer of the Authority, in each case subject to such restrictions and conditions as the Authority thinks fit or as the Secretary of State may direct.

Minutes of proceedings

13. Minutes shall be kept of the proceedings of the Authority and of any committee, sub-committee or joint committee appointed by virtue of article 11, and any such minutes shall, if signed by a person purporting to have acted as chairman of the meeting to which the minutes relate, or at a meeting at which they were approved as a correct record, be evidence of those proceedings, and a meeting to which any such minutes relate shall, unless the contrary is proved, be deemed to have been regularly convened and constituted.

Disability of members in proceedings on account of pecuniary interests

14.—(1) Subject to the following provisions of this article, if a member has any pecuniary interest, direct or indirect, in any matter and is present at a meeting of the Authority at which that 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) The Secretary of State may, subject to such conditions as he may think fit to impose, remove any disability imposed by this article in any case in which it appears to him in the interest of the national health service that the disability should be removed.

(3) Subject to paragraphs (4) and (5), a member shall be treated for the purposes of this article 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, he or a nominee of his is a member 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 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;

(b) the total nominal value of those securities does not exceed—

(i) £1,000, 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 article 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 article 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 article applies to a committee, sub-committee or joint committee appointed by virtue of article 11 as it applies to the Authority and applies to a member of a committee, sub-committee or joint committee (whether or not he is also a member of the Authority) as it applies to a member of the Authority.

(8) In this regulation “company” includes any other 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, part of an 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).

Appointment of the Welsh Pricing Committee

15.—(1) The Authority shall continue to appoint the committee known as the Welsh Pricing Committee (hereinafter referred to as “the Committee”) and shall, subject to any directions by the Secretary of State, continue to arrange for the exercise by the Committee on behalf of the Authority of such functions relating to the checking and pricing of prescriptions for drugs, medicines and appliances supplied as pharmaceutical services as are or which become exercisable by the Authority on behalf of Family Practitioner Committees.

(2) The Committee shall continue to consist of—

(a) one member who shall be a member of the Authority;

(a) 1907 c.cxxxvi.

- (b) two members nominated by such body as the Secretary of State may recognise as being representative of registered pharmacists;
 - (c) one member nominated by such body as the Secretary of State may recognise as being representative of medical practitioners;
 - (d) two members nominated between them by Family Practitioner Committees established for localities in Wales.
- (3) The Committee shall continue to appoint a member of the Committee to be chairman and may appoint another to be vice-chairman.
- (4) The members of the Committee shall hold and vacate office in accordance with the terms of their appointment which shall be in accordance with directions given by the Secretary of State.
- (5) The provisions of articles 8, 9, 10 and 14 shall apply to the Committee as if for any reference to the Authority there were substituted a reference to the Committee and as if for any reference to the Secretary of State there were substituted a reference to the Authority:
- Provided that the termination of appointment of a member under article 10(5) as so applied shall be subject to the consent of the Secretary of State.

Expenses of the Authority

16. Such expenses of the Authority as the Secretary of State may direct shall be defrayed by a District Health Authority or by two or more such Authorities in such portions as he may determine.

Revocation of the 1973 Order

17. The 1973 Order is hereby revoked.

Nicholas Edwards,
Secretary of State for Wales.

28th June 1985.

EXPLANATORY NOTE

(This Note is not part of the Order.)

This Order re-enacts the Welsh Health Technical Services Organisation (Establishment and Constitution) Order 1973 with modifications. It changes the name of the Welsh Health Technical Services Organisation to the Welsh Health Common Services Authority (article 4). The other changes of substance are a reduction by four in the number of members of the Authority (article 6), the keeping of minutes as evidence of proceedings at meetings of the Authority (article 13) and the omission of the provisions for the election of a vice-chairman and for meetings and proceedings respectively contained in articles 8 and 11 of the 1973 Order.

SI 1985/996
ISBN 0-11-056996-2



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