

1989 No. 51

**NATIONAL HEALTH SERVICE,
ENGLAND AND WALES**

**The National Health Service Functions (Directions to
Authorities and Administration Arrangements)
Regulations 1989**

<i>Made</i> - - - -	<i>15th January 1989</i>
<i>Laid before Parliament</i>	<i>24th January 1989</i>
<i>Coming into force</i>	<i>14th February 1989</i>

The Secretary of State for Health, as respects England, and the Secretary of State for Wales, as respects Wales, in exercise of powers conferred by sections 13, 14(2), 15(1)(b), 16(1), 17(1) and 18 of the National Health Service Act 1977(a) and of all other powers enabling them in that behalf, hereby make the following Regulations:—

**PART I
GENERAL**

Citation and commencement

1. These Regulations may be cited as the National Health Service Functions (Directions to Authorities and Administration Arrangements) Regulations 1989 and shall come into force on 14th February 1989.

Interpretation

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

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

“Committee” means a Family Practitioner Committee;

“District Authority” means a District Health Authority;

“Regional Authority” means a Regional Health Authority;

“relevant Regional Authority” in relation to any District Authority means the Regional Authority of which the region includes the district of that District Authority;

“Scheduled functions” means the functions referred to in regulation 3.

(a) 1977 c.49; see section 128(1) for the definition of “prescribed” and “regulations”. Sections 13, 14 and 16 were amended by paragraphs 33, 34 and 36 respectively of Schedule 1 to the Health Services Act 1980 (c.53) (“the 1980 Act”); section 15 was amended by section 5(2) of, and by Part I of Schedule 8 to, the Health and Social Security Act 1984 (c.48) (“the 1984 Act”); section 17 was substituted by paragraph 2 of Schedule 3 to the 1984 Act; section 18 was amended by paragraph 38 of Schedule 1 to the 1980 Act and modified by S.I. 1985/39, article 7(2).

(2) Unless the context otherwise requires, 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, and any reference in a regulation to a numbered paragraph is a reference to the paragraph bearing that number in that regulation.

PART II

DIRECTIONS TO REGIONAL AUTHORITIES

Functions exercisable by Regional Authorities

3. Subject to the provisions of regulation 4, a Regional Authority as respects its region and anywhere outside its region as the Secretary of State may direct shall exercise on behalf of the Secretary of State his functions relating to the health service (a) under the enactments specified in column 1 of Schedule 1 to these Regulations (the subject matter of the relevant function being indicated in column 2 of that Schedule) including functions under any regulations made under any of those enactments.

Restriction on the exercise of functions by Regional Authorities

4.—(1) The exercise by a Regional Authority of Scheduled functions is subject to such limitations as the Secretary of State may direct and shall be in accordance with any directions which are given by the Secretary of State.

(2) Nothing in these Regulations is to be taken as giving directions for the exercise of any function conferred on or vested in the Secretary of State with respect to the making of any Order or Regulations.

(3) Nothing in these Regulations enables a Regional Authority to exercise the functions of the Secretary of State under section 87(1) of the Act with respect to –

(a) the compulsory acquisition of land; or

(b) land or other property in the circumstances referred to in regulation 11(3)(a)

or to give directions to a District Authority which would empower a District Authority to exercise those functions.

(4) The power of the Secretary of State under Section 2 of the Act is exercisable by a Regional Authority only to such extent as is necessary for the proper exercise, in relation to its region or anywhere outside its region as the Secretary of State has directed, of one or more other functions which the Secretary of State has directed that Authority to exercise on his behalf.

(5) Where, in the exercise of Scheduled functions, arrangements are made with medical practitioners for the vaccination or immunisation of persons against disease, every medical practitioner providing general medical services shall, so far as is reasonably practicable, be given an opportunity to participate in the arrangements.

(6) Approval of a medical practitioner for the purposes of section 12(2) of the Mental Health Act 1983(b) as having special experience in the diagnosis and treatment of mental disorder shall be given only –

(a) after the carrying out of such consultations, and obtaining of such advice, as the Secretary of State shall direct;

(b) for such period as the Secretary of State shall direct.

(7) The exercise of the Secretary of State's function under section 3(1)(c) of the Act with respect to the provision of ambulance services is subject to obtaining his approval to the proposed arrangements for such exercise.

(8) The use of accommodation or facilities for the purpose of providing services to private patients shall be permitted under section 72 of the Act only on such conditions as the Secretary of State may from time to time approve.

(a) These include functions under enactments relating to mental health and nursing homes (see section 13(2) of the National Health Service Act 1977). (b) 1983 c.20.

(9) In the exercise of the Secretary of State's Scheduled functions under section 25 of the Act, such charges shall be made with respect to the supplies of human blood as are determined by the Secretary of State.

PART III

DIRECTIONS TO DISTRICT AUTHORITIES

Functions to be made exercisable by District Authorities in England

5.—(1) Subject to the provisions of regulation 6, every Regional Authority shall secure, by a direction given by an instrument in writing, that each District Authority of which the district is included in its region shall exercise the functions to which this paragraph applies as respects its district, and anywhere outside its district as the Secretary of State or the relevant Regional Authority may direct.

(2) Paragraph (1) applies to Scheduled functions except functions under –

- (a) section 19(1) and (2) of and paragraphs 1, 2 and 3 of Schedule 6 to the Act (recognition of advisory committees);
- (b) section 25 of the Act (supplies of human blood);
- (c) section 12(2) of the Mental Health Act 1983 (approval of medical specialists).

(3) Each Regional Authority shall secure that no directions are given to any District Authority directing it to exercise any function under the enactments specified in paragraph (2)(a), (b) or (c).

Restriction on exercise of functions by District Authorities in England

6.—(1) The exercise by a District Authority in England of functions to which regulation 5(1) applies is subject to such limitations as the Secretary of State may direct and shall be in accordance with any directions which are given by the Secretary of State or, subject to any such directions, by the relevant Regional Authority.

(2) The exercise by a District Authority in England of functions to which regulation 5(1) applies is subject to the provisions of regulation 4(2), (5), (7), and (8).

(3) The power of the Secretary of State under Section 2 of the Act is exercisable by a District Authority in England only to such extent as is necessary for the proper exercise, in relation to its district, and anywhere outside its district as the Secretary of State or the relevant Regional Authority has directed, of one or more other functions which the relevant Regional Authority has directed to be exercisable by that District Authority.

Functions exercisable by District Authorities in Wales

7. Subject to the provisions of regulation 8, a District Authority in Wales, as respects its district and anywhere outside its district as the Secretary of State may direct, shall exercise on behalf of the Secretary of State Scheduled functions except those under sections 19(1) and (2) of and paragraphs 1, 2 and 3 of Schedule 6 to the Act (recognition of advisory committees).

Restrictions on exercise of functions by District Authorities in Wales

8.—(1) The exercise by a District Authority in Wales of Scheduled functions is subject to the provisions of regulation 4(2), (5), (6), (7), (8) and (9) and such limitations as the Secretary of State may direct and shall be in accordance with any directions which are given by the Secretary of State.

(2) Nothing in these Regulations enables a District Authority in Wales to exercise the functions of the Secretary of State under section 87(1) of the Act with respect to –

(a) the compulsory acquisition of land; or

(b) land or other property in the circumstances referred to in regulation 11(3)(a).

(3) The power of the Secretary of State under section 2 of the Act is exercisable by a District Authority in Wales only to such extent as is necessary for the proper exercise, in relation to its district or anywhere outside its district as the Secretary of State has directed, of one or more other functions which the Secretary of State has directed that Authority to exercise on his behalf.

PART IV

ADMINISTRATION ARRANGEMENTS

Arrangements by Regional Authorities for exercise of functions

9. Subject to any directions which may be given by the Secretary of State as to its exercise, any function exercisable by a Regional Authority pursuant to a direction given under section 13 of the Act may by arrangement with that Authority be exercised on its behalf by –

- (a) another Regional Authority;
- (b) a committee or sub-committee of another Regional Authority;
- (c) another body of which the members consist only of that and other Regional Authorities; or
- (d) an officer of another Regional Authority or of such other body.

Arrangements by District Authorities for exercise of functions

10.—(1) Subject to any directions which may be given by the Secretary of State and, in the case of a District Authority in England, to any directions given by the relevant Regional Authority as to the exercise of any function exercisable by virtue of a direction given under section 14 of the Act, functions exercisable by a District Authority by virtue of any provision of the Act may by arrangement with that Authority be exercised on its behalf by –

- (a) another District Authority;
- (b) a committee or sub-committee of another District Authority;
- (c) another body of which the members consists only of that and other District Authorities; or
- (d) an officer of another District Authority or of such other body.

(2) Subject to any directions which may be given by the Secretary of State, functions of a District Authority exercisable by virtue of an Order^(a) under section 103(1) of the Act may by arrangement with that Authority be exercised on its behalf by a Family Practitioner Committee.

Arrangements by Family Practitioner Committees for exercise of functions

11.—(1) Subject to the provisions of paragraphs (2) and (3) and to any directions given by the Secretary of State, any function exercisable by a Committee may by arrangement with that Committee be exercised on its behalf by –

- (a) another Committee;
- (b) another body of which the members consist only of that and other Committees;
- (c) a committee or sub-committee appointed by the Committee or such other Committees;

(a) See S.I.1988/865.

- (d) a special health authority;
- (e) an officer of a special health authority or of a Committee; or
- (f) an officer of a District Authority any part of the district of which is in the locality of the Committee.

(2) The functions of a Committee under section 15(1)(a) of the Act with regard to the examination, checking and pricing of prescriptions for drugs, medicines and appliances supplied under arrangements made by a Committee for the provision of pharmaceutical services shall be exercisable –

- (a) on behalf of a Committee the locality of which is in England by the Prescription Pricing Authority(a);
- (b) on behalf of a Committee the locality of which is in Wales by the Welsh Health Common Services Authority(b),

and arrangements shall be made by Committees in accordance with directions given by the Secretary of State with respect to the exercise of such functions.

(3) The following functions are prescribed for the purpose of section 15(1)(b) of the Act –

- (a)(i) the acquisition (otherwise than in the exercise of powers of compulsory purchase) and the disposal of land and other property,
- (ii) the control, maintenance and management of land and other property,

on behalf of the Secretary of State in circumstances where the land or other property is, as the case may be, required or wholly or mainly occupied for purposes relating to the exercise of a Committee's functions under section 15(1)(a) of the Act or is in the possession or control of a Committee for such purposes;

- (b) the provision on behalf of the Secretary of State by virtue of section 63(1), (3), (5) and (6) of the Health Services and Public Health Act 1968(c) of instruction and the provision of materials and premises necessary for or in connection with the provision of any such instruction.

PART V

Revocations

12. The Regulations specified in column 1 of Schedule 2 are revoked to the extent specified in column 3.

Signed by authority of the Secretary of State for Health.

9th January 1989

D. Mellor
Minister of State
Department of Health

15th January 1989

Peter Walker
Secretary of State for Wales

(a) See S.I. 1974/9. (b) See S.I. 1985/996; to which there are amendments not relevant to these Regulations.
(c) 1968 c. 46; the relevant parts of section 63 were amended by the National Health Service Reorganisation Act 1973 (c. 32), Schedule 4, paragraph 124 and by the Health Services Act 1980 (c. 53), Schedule 1, paragraph 19(3), modified by S.I. 1985/39, article 6 and further amended by the Health and Medicines Act 1988 (c. 49), section 20; see also the National Health Service Act 1977 (c. 49), Schedule 14, paragraph 13(1)(b).

ENACTMENTS CONFERRING FUNCTIONS EXERCISABLE BY REGIONAL AND DISTRICT HEALTH AUTHORITIES

<i>Column 1</i>	<i>Column 2</i>
<i>Enactment</i>	<i>Subject Matter</i>
Health Services and Public Health Act 1968—	
section 63(1), (3), (5) and (6)	Providing for instruction of officers of health authorities and other persons employed or contemplating employment by health authorities or in authorities connected with health or welfare.
section 64(a)	Giving financial assistance to voluntary organisations.
Chronically Sick and Disabled Persons Act 1970(b)—	
section 17	Provisions with respect to persons under 65.
The 1977 Act—	
section 2	Providing services considered appropriate for discharging duties imposed on the Secretary of State and doing other things calculated to facilitate the discharge of any such duty.
section 3(1)(a) and (b)	Providing hospital and other accommodation.
section 3(1)(c)	Providing medical, dental, nursing and ambulance services.
section 3(1)(d)	Providing facilities for the care of expectant and nursing mothers and young children.
section 3(1)(e)	Providing facilities for the prevention of illness, the care of persons suffering from illness and the aftercare of persons who have suffered from illness.
section 3(1)(f)	Providing other services required for the diagnosis and treatment of illness.
section 5(1)(a), (1A) and paragraph 1 of Schedule 1(c)	Providing for the medical inspection and treatment of pupils, their dental inspection and treatment and their education in dental health.
section 5(1)(b)	Arranging for the giving of advice on contraception, for the medical examination of persons seeking such advice, for the treatment of such persons and for the supply of contraceptive substances and appliances.
section 5(2)(d)	Conducting or assisting, by grants or otherwise, persons to conduct research into matters relating to illness or other matters connected with a service provided under the Act.
section 19(1), (2) and (3); and paragraphs 1, 2 and 3 of Schedule 6(d)	Recognising regional and district advisory committees.
section 23(1)	Arranging with any person or body (including a voluntary organisation) for that person or body to provide or assist in providing any service under the Act.

(a) 1968 c.46; the relevant parts of section 64 were amended by the National Health Service Act 1977 (c.49), Schedule 15, paragraph 46 and S.I.1985/39, article 6(2). (b) 1970 c.44, amended by National Health Service Reorganisation Act 1973 (c.32), Schedule 4, paragraph 132; see also the National Health Service Act 1977 (c.49), Schedule 14, paragraph 13(1)(b). (c) Section 5 and Schedule 1 were amended by the Health and Medicines Act 1988 (c.49), section 10 and Schedule 2 respectively. (d) Section 19 was amended by the Health Services Act 1980 (c.53), Schedule 1, paragraph 39 and is amended prospectively by the Health and Social Security Act 1984 (c.48), Schedule 8. Schedule 6 was amended by the Health Services Act 1980, Schedule 1, paragraph 81.

<i>Column 1</i>	<i>Column 2</i>
<i>Enactment</i>	<i>Subject Matter</i>
section 23(2)	Making available to certain persons or bodies (including voluntary organisations) facilities and services of persons employed in connection with such facilities.
section 23(3)	Agreeing terms and making payments in respect of facilities or services provided under section 23 of the Act.
section 25 other than paragraphs (b) and (c)	Making available supplies of human blood.
section 26(1)	Supplying goods, services and other facilities to local authorities and other public bodies and carrying out maintenance work in connection with any land or building the maintenance of which is a local authority responsibility.
section 26(2)	Supplying prescribed goods, materials or other facilities to persons providing general medical services, general dental services, general ophthalmic services or pharmaceutical services.
section 26(3)	Making available to local authorities any services or other facilities and the services of employed persons to enable local authorities to discharge their functions relating to social services, education and public health.
section 26(4)(a)	Making available to local authorities the services of contractors to enable such authorities to discharge their functions relating to social services, education and public health.
section 27(1) and (2)	Providing for consultation before the services of any officer of a health authority are made available to a local authority.
section 27(4)	Agreeing terms and charging for services and facilities provided.
section 51	Making available facilities for university clinical teaching and research.
section 52	Making accommodation available.
section 63(b)	Authorising use of hospital accommodation, determining the extent to which it is to be made available and determining and recovering charges in respect of the use of such accommodation.
section 65(1) and (2)(c)	Allowing use of accommodation and services authorised by the Secretary of State, to be made available, in connection with the treatment, in pursuance of arrangements made by medical or dental practitioners, of their private patients and determining the charges to be paid for that accommodation and services and recovering those charges.
section 72(1), (3), (4) and (5)	Making available health service accommodation or facilities for the purpose of providing medical, dental, pharmaceutical, ophthalmic or chiropody services to non-resident private patients.
section 81(a)	Charging and recovering the charges for more expensive supplies.

(a) Section 26(4) was added by the Health Services Act 1980 (c.53), section 3(1). (b) Section 63(1) was amended by section 7(9) of the Health and Medicines Act 1988 (c.49), Schedule 3 to which repealed section 63(2). (c) Section 65 was substituted by the Health and Medicines Act 1988 (c.49), section 7(10).

<i>Column 1</i>	<i>Column 2</i>
<i>Enactment</i>	<i>Subject Matter</i>
section 82(a)	Charging for replacement or repair of appliances and vehicles in certain circumstances.
section 83A(1)(b)(a)	Paying travelling expenses.
section 87(1) and (2)	Acquiring land or other property required for the purposes of the Act and the use or maintenance of any property belonging to the Secretary of State by virtue of the Act.
section 121(b)	Determining charges for prescribed services provided in respect of prescribed non residents.
Mental Health Act 1983(c) –	
section 12(2)	Approving medical practitioners as having special experience in the diagnosis and treatment of mental disorder.
Registered Homes Act 1984(d) –	
section 23(3), (4) and (5)	Registration of nursing homes and mental nursing homes.
section 25	Refusal of registration.
section 26	Conduct of homes.
section 27	Supplementary.
section 28	Cancellation of registration.
section 29(1), (2) and (3)	Additional registration conditions.
section 30	Urgent procedure for cancellation of registration.
section 31	Ordinary procedure for registration, cancellation, variation of conditions and additional conditions.
section 32	Representations.
section 33(1) and (2)	Decisions.
section 34(2) and (7)	Appeals.
section 35(1), (3) and (4)	Authorisation of persons to inspect mental nursing homes.
section 37	Exemption of Christian Science homes.
section 53(1)	Criminal proceedings.

(a) Section 83A(1)(b) was inserted by section 14(1) of the Social Security Act 1988 (c. 7), Schedule 5 to which repealed the earlier provision for travelling expenses made by section 5(3) of the National Health Service Act 1977 (c. 49). (b) Section 121 was amended by the Health and Medicines Act 1988 (c. 49), section 7(12). (c) 1983 c. 20. (d) 1984 c. 23.

SCHEDULE 2

Regulation 12

REGULATIONS REVOKED

<i>Column 1 Regulations revoked</i>	<i>Column 2 References</i>	<i>Column 3 Extent of revocation</i>
The National Health Service Functions (Directions to Authorities and Administration Arrangements) Regulations 1982	S.I.1982/287	The whole Regulations
The National Health Service Functions (Directions to Authorities and Administration Arrangements) Amendment Regulations 1984	S.I.1984/1577	The whole Regulations
The National Health Service Functions (Amendment of Directions to Authorities) Regulations 1987	S.I.1987/245	Regulation 2(1)
The National Health Service Functions (Directions to Authorities and Administration Arrangements) Amendment Regulations 1988	S.I.1988/864	The whole Regulations

EXPLANATORY NOTE*(This note is not part of the Regulations)*

These Regulations consolidate the National Health Service Functions (Directions to Authorities and Administration Arrangements) Regulations 1982, as amended and

EXPLANATORY NOTE

(This note is not part of the Regulations)

These Regulations consolidate the National Health Service Functions (Directions to Authorities and Administration Arrangements) Regulations 1982, as amended and give effect to changes made by the Health and Medicines Act 1988 to the National Health Service Act 1977 which relate to dental services for school children and charges for private patients and overseas visitors. Regulations 3 to 8 direct Regional Health Authorities and District Health Authorities in Wales to exercise specified functions on the Secretary of State's behalf and provide for the functions which Regional Health Authorities must direct District Health Authorities in England to exercise. Regulations 9 to 11 allow other bodies and persons to exercise functions under National Health Service legislation by arrangement with a Regional or District Health Authority or Family Practitioner Committee.

The instruments which these Regulations replace are revoked by regulation 12.

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