
STATUTORY INSTRUMENTS

1991 No. 553

**The National Health Service (Appellate Functions)
(Directions to Authorities) Regulations 1991**

Citation and commencement

1. These Regulations may be cited as the National Health Service (Appellate Functions) (Directions to Authorities) Regulations 1991 and shall come into force on 1st April 1991.

Interpretation

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

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

“a Family Authority” means a Family Health Services Authority⁽¹⁾;

“a Regional Authority” means a Regional Health Authority;

“relevant appellate functions” means the functions which by virtue of section 13 of the Act and of these Regulations are exercisable by Regional Authorities, including, in the case of the Yorkshire Authority, the functions made exercisable by it under regulation 4;

“the relevant Regional Authority” means, in relation to any Family Authority, the Regional Authority in whose region the whole or the greater part of the locality of that Family Authority lies;

“the Schedule” means the Schedule to these Regulations;

“the Yorkshire Authority” means the Regional Authority established for the Counties of Humberside, North Yorkshire and West Yorkshire⁽²⁾.

(2) Unless the context otherwise requires, any reference in these Regulations to a numbered regulation is a reference to the regulation 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.

Appellate functions made exercisable by Regional Authorities

3. Where by virtue of any provision of the National Health Service (General Medical and Pharmaceutical Services) Regulations 1974⁽³⁾ mentioned in the Schedule to these Regulations an appeal lies to the Secretary of State from any decision of a Family Authority in England, the functions of the Secretary of State in relation to the appeal shall, subject to regulation 4, be exercised on his behalf by the Regional Authority which is the relevant Regional Authority in relation to that Family Authority.

(1) See section 2(1) of the National Health Service and Community Care Act 1990 (c. 19).

(2) See S.I. 1981/1836, article 3 and Schedule.

(3) S.I. 1974/160; the relevant amending instruments are S.I. 1975/719, 1983/313, 1985/39, 1987/401, 1425, 1989/1360, 1897, 1990/1757, 2513, 1991/555.

Exercise of appellate functions by Regional Authorities

4. A Regional Authority (other than the Yorkshire Authority) shall make arrangements for the exercise of the relevant appellate functions on its behalf by the Yorkshire Authority.

Exercise of appellate functions by Yorkshire Regional Authority

5.—(1) The Yorkshire Authority shall, as respects its relevant appellate functions, make arrangements for the exercise of those functions on its behalf—

- (a) as respects any appeal arising under a provision mentioned in Part I of the Schedule, by an officer of that Authority;
- (b) as respects any appeal arising under a provision mentioned in Part II or Part III of the Schedule, by a committee which shall be established by that Authority for the purpose and constituted in accordance with paragraph (2) or, as the case may be, (3).

(2) Any committee established for the purposes of paragraph (1)(b) in relation to an appeal arising under a provision mentioned in Part II of the Schedule—

- (a) shall consist of no more than 5 members, a majority of whom shall be lay persons; but
- (b) shall not include—
 - (i) in the case of an appeal arising under paragraph 4 of Schedule 4C to the National Health Service (General Medical and Pharmaceutical Services) Regulations 1974, any person whose name is included in a list published under section 42(2)(a) of the Act (lists of persons undertaking to provide pharmaceutical services) or any employee of such a person,
 - (ii) in the case of any appeal in relation to which this paragraph applies, any person whose name is included in any list published under section 29(2)(a) or 42(2)(a) of the Act (lists of persons undertaking to provide general medical services or pharmaceutical services) by the Family Authority whose decision is the subject of the appeal, or any employee of such a person.

(3) Subject to paragraph (4), any committee established for the purposes of paragraph (1)(b) in relation to an appeal arising under the provision mentioned in Part III of the Schedule shall comprise a chairman and two other members, of whom—

- (a) the chairman shall be a barrister or a solicitor;
- (b) one of the other members shall be a medical practitioner whose name is included in a list published by a Family Authority under section 29(2)(a) of the Act; and
- (c) the remaining member shall be a medical practitioner.

(4) A medical practitioner shall not be appointed as a member of a committee mentioned in paragraph (3) if his name is included in the list published under section 29(2)(a) of the Act by the Family Authority whose decision is the subject of the appeal in relation to which the committee is established.

(5) In this regulation, “lay person” means a person who is not, and never has been—

- (a) a medical practitioner;
- (b) a dental practitioner;
- (c) a registered pharmacist;
- (d) a registered ophthalmic optician or a registered dispensing optician within the meaning of the Opticians Act 1989(4);

(e) a registered nurse, a registered midwife or a registered health visitor⁽⁵⁾.

Transitional provisions

6.—(1) Where, before 1st April 1991, an appeal has been brought under any provision mentioned in the Schedule as then in force, the provisions of Regulations governing the consideration and determination of such an appeal immediately before that date shall continue to have effect in relation to that appeal as if these Regulations had not come into force.

(2) Where, after 1st April 1991, an appeal is made under regulation 33C(8) of the National Health Service (General Medical and Pharmaceutical Services) Regulations 1974⁽⁶⁾ in respect of the determination by a Local Medical Committee on or after that date of a question arising under regulation 20 of the National Health Service (Service Committees and Tribunal) Regulations 1974⁽⁷⁾, that appeal shall be treated for the purposes of regulations 3 and 5(4) of these Regulations as if it were an appeal against the decision of the Family Authority for the locality in respect of which that Local Medical Committee is recognised⁽⁸⁾.

Signed by authority of the Secretary of State for Health.

8th March 1991

Virginia Bottomley
Minister of State,
Department of Health

⁽⁵⁾ See the Nurses, Midwives and Health Visitors Act 1979 (c. 36), section 10(7).

⁽⁶⁾ S.I. 1974/160; regulation 33C was inserted by S.I. 1991/555.

⁽⁷⁾ S.I. 1974/455; see S.I. 1991/555, regulations 12 and 13(1)(a) and (2).

⁽⁸⁾ See section 44 of the National Health Service Act 1977 (c. 49), as amended by paragraph 56 of Schedule 1 to the Health Services Act 1980 (c. 53), and paragraph 6 of Schedule 3, and Schedule 8, to the Health and Social Security Act 1984 (c. 48).