
STATUTORY INSTRUMENTS

1995 No. 622

**NATIONAL HEALTH SERVICE,
ENGLAND AND WALES**

The Family Health Services Appeal Authority Regulations 1995

<i>Made</i>	- - - -	<i>8th March 1995</i>
<i>Laid before Parliament</i>		<i>8th March 1995</i>
<i>Coming into force</i>	- -	<i>1st April 1995</i>

The Secretary of State for Health, in exercise of powers conferred on her by sections 13, 16, 17, 18, 42 and 126(4) of, and paragraphs 12 and 16 of Schedule 5 to, the National Health Service Act 1977⁽¹⁾ and of all other powers enabling her in that behalf, hereby makes the following Regulations:

Citation, commencement and interpretation

1.—(1) These Regulations may be cited as the Family Health Services Appeal Authority Regulations 1995 and shall come into force on 1st April 1995.

(2) In these Regulations—

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

“appointing authority” means—

(a) in relation to the chairman and any non-officer member, the Secretary of State; and

(b) in relation to any officer member other than the chief officer, a committee of the Authority comprising the chairman, the non-officer members and the chief officer;

“the Authority” means the Family Health Services Appeal Authority established by the Order;

“chairman” means the chairman of the Authority;

“chief officer” means the chief officer of the Authority;

“health service body” means a Regional Health Authority, a District Health Authority, a Family Health Services Authority, a Special Health Authority, the Dental Practice Board or an NHS trust;

“member” means a member of the Authority other than the chairman;

(1) 1977 c. 49; see section 128(1) for the meaning of “regulations”; section 126(4) was amended by section 65(2) of the National Health Service and Community Care Act 1990 (c. 19) (“the 1990 Act”); paragraph 12 of Schedule 5 was amended by paragraph 9 of Schedule 1 to the 1990 Act.

“non-officer member” and “officer member” mean, respectively, a member who is not, and one who is, an officer of the Authority;

“the Order” means the Family Health Services Appeal Authority (Establishment and Constitution) Order 1995(2).

(3) In these Regulations unless the context otherwise requires, any reference 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.

Appointment of chairman and members

2.—(1) The chairman and non-officer members shall be appointed by the Secretary of State.

(2) The officer members other than the chief officer shall be appointed by a committee of the Authority comprising the chairman, the non-officer members and the chief officer.

Tenure of office

3. Subject to regulations 4 and 7—

(a) the term of office of the chairman and of members other than the chief officer shall be for such period, not exceeding 4 years, as the appointing authority shall specify on making the appointment; and

(b) the chief officer shall hold office as a member for so long as he remains the chief officer.

Termination and suspension of tenure of office of officer members

4.—(1) An officer member of the Authority shall cease to hold office as member where he ceases to hold a post in the Authority or hold the same post in it as when he commenced his term of office.

(2) If the appointing authority is of the opinion that it is not in the interests of the Authority that an officer member of the Authority should continue to hold office as member, the appointing authority shall forthwith terminate his tenure of office.

(3) If an officer member of the Authority is suspended from his post in the Authority he shall be suspended from performing his functions as member for the period of his suspension.

(4) An officer member, apart from the chief officer, may resign as a member at any time during his term of office by giving notice in writing to the appointing authority.

Termination of tenure of office

5.—(1) The chairman or a non-officer member may resign his office at any time during his term of office, by giving notice in writing to the Secretary of State.

(2) Where during his term of office a non-officer member is appointed to be the chairman, his tenure of office as a non-officer member shall terminate when his appointment as chairman takes effect.

(3) Where the Secretary of State is of the opinion that it is not in the interests of the Authority or of the health service that the chairman or a non-officer member should continue to hold that office, she may forthwith terminate his tenure of office.

(4) If the chairman or a non-officer member has not attended a meeting of the Authority for a period of six months, the Secretary of State shall forthwith terminate the tenure of office of the chairman or that member unless she is satisfied that—

- (a) the absence was due to a reasonable cause; and
 - (b) the chairman or non-officer member will be able to attend meetings of the Authority within such period as the Secretary of State considers reasonable.
- (5) Where a person has been appointed to be the chairman or a non-officer member, and—
- (a) he becomes disqualified for appointment under regulation 7, the Secretary of State shall forthwith notify him in writing of such disqualification; or
 - (b) it comes to the notice of the Secretary of State that at the time of his appointment he was so disqualified, she shall forthwith declare that he was not duly appointed and shall so notify him in writing,

and, upon receipt of any such notification, his tenure of office, if any, shall be terminated and he shall cease to act as such chairman or member.

(6) If it appears to the Secretary of State that the chairman or a non-officer member has failed to comply with regulation 14(1) (disability etc. on account of pecuniary interest) she may forthwith terminate that person's tenure of office.

Eligibility for re-appointment

6. Subject to regulation 7 (disqualification for appointment), the chairman and any member shall, on the termination of his term of office, be eligible for re-appointment.

disqualification for appointment

7.—(1) Subject to regulation 8 (cessation of disqualification), a person shall be disqualified as the chairman or as a non-officer member 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 a health service body;
- (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) he is a person whose tenure of office as the chairman or as a member of a health service body has been terminated on the grounds that—
 - (i) it was not in the interests of the health service body or of the health service that he should continue to hold that office, or
 - (ii) he failed, without reasonable cause, to attend any meeting of that health service body for a period of six months;
- (f) he is the chairman or a member of a Regional Health Authority, a District Health Authority or a Family Health Services Authority;
- (g) he is the chairman or a director of an NHS trust;
- (h) he holds any paid appointment or office with a trade union which represents the interests of members who are employed by a health service body; or
- (i) he is a person who is, or has been—

- (i) a medical practitioner;
- (ii) a dental practitioner;
- (iii) a registered pharmacist;
- (iv) a registered ophthalmic optician or a registered dispensing optician within the meaning of the Opticians Act 1989⁽³⁾; or
- (v) a registered nurse, a registered midwife or a registered health visitor⁽⁴⁾.

(2) For the purposes of paragraph (1)(a) the date of conviction shall be deemed to be 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 its not being prosecuted.

(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 or membership of a health service body.

Cessation of disqualification

8.—(1) Where a person is disqualified under regulation 7(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, the disqualification shall cease on the date of his discharge.

(2) Where a person is disqualified under regulation 7(1)(b) by reason of his having made a composition or arrangement with his creditors—

- (a) if he pays his debts in full, the disqualification shall cease on the date on which such payment is completed; and
- (b) in any other case, it shall cease on the expiry 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 regulation 7(1)(c) (dismissed employees) he may, after the expiry of a period of not less than two years beginning on the date of his dismissal, apply in writing to the Secretary of State to remove the disqualification, and the Secretary of State may direct that the disqualification shall cease.

(4) Where the Secretary of State refuses on application to remove a disqualification no further application may be made by that person until the expiration of two years from the date of the application, and this paragraph shall apply to any subsequent application.

(5) Where a person is disqualified under regulation 7(1)(e) (certain chairmen and members whose appointments have been terminated), the disqualification shall cease on the expiry of a period of two years or such longer period as the person who, or body which, terminates the appointment may specify when terminating the tenure of office, but the Secretary of State may, on application being made to her by the disqualified person or by that other person (not being the Secretary of State herself) or body, reduce the period of disqualification.

(3) 1989 c. 44.

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

Appointment of vice-chairman

9.—(1) Subject to paragraph (2), the chairman and members may appoint one of the non-officer members to be vice-chairman for such period, not exceeding the remainder of his term as a member, as they may specify on appointing him.

(2) Any member so appointed may at any time resign from the office of vice-chairman by giving notice in writing to the chairman.

Powers of vice-chairman

10. Where the chairman has died or has ceased to hold office, or where he is unable to perform his duties as chairman owing to illness, absence from England and Wales or any other cause, references to the chairman in the Schedule to these Regulations shall, so long as there is no chairman able to perform his duties, be taken to include references to the vice-chairman.

Appointment of committees and sub-committees

11.—(1) Subject to such directions as may be given by the Secretary of State, the Authority may, and if so directed by her shall, appoint committees of the Authority, consisting wholly or partly of the chairman and members of the Authority or wholly of persons who are not members of the Authority.

(2) A committee appointed under this regulation may, subject to such directions as may be given by the Secretary of State or the Authority, appoint sub-committees consisting wholly or partly of members of the committee (whether or not they are members of the Authority) or wholly of persons who are not members of the Authority or the committee.

Arrangements for the exercise of functions

12.—(1) Subject to paragraph (2) and to such directions as may be given by the Secretary of State, the Authority may make arrangements for the exercise, on behalf of the Authority, of any of its functions by a committee or sub-committee appointed by virtue of regulation 11 or by an officer of the Authority, in each case subject to such restrictions and conditions as the Authority thinks fit.

(2) When exercising on behalf of the Secretary of State the function of determining an appeal from a decision made by virtue of section 42 of the Act (appeals about lists prepared by Family Health Services Authorities in connection with pharmaceutical services), the Authority shall secure that no person who is—

- (a) a person included in a list published under regulations made under section 42(2)(a) of the Act; or
- (b) an employee of such a person,

takes any part in the determination of that appeal.

Meetings and proceedings

13.—(1) The meetings and proceedings of the Authority shall be conducted in accordance with the rules set out in the Schedule to these Regulations and with Standing Orders made under paragraph (2).

(2) Subject to those rules, to regulation 14 (disability on grounds of pecuniary interest) and to such directions as may be given by the Secretary of State, the Authority shall make, and may vary or revoke, Standing Orders for the regulation of its proceedings and business which includes provision for the suspension of any Standing Orders.

(3) Subject to such directions as may be given by the Secretary of State, the Authority may make, vary and revoke Standing Orders relating to the quorum, proceedings and place of meeting of any

committee or sub-committee of the Authority but, subject to any such Standing Orders, the quorum, proceedings and place of meeting shall be such as the committee or sub-committee may determine.

Disability of chairman and members in proceedings on account of pecuniary interest

14.—(1) Subject to the following provisions of this regulation, if the chairman or a member has any pecuniary interest, direct or indirect, in any contract, proposed contract or other matter and is present at a meeting of the Authority at which the contract, proposed contract or other matter is the subject of consideration, he shall at the meeting and as soon as practicable after its commencement disclose his interest and shall not take part in the consideration or discussion of the contract or other matter or vote on any question with respect to it.

(2) The Secretary of State may, subject to such conditions as she may think fit to impose, remove any disability imposed by this regulation in any case in which it appears to her in the interests of the health service that the disability should be removed.

(3) The Authority may, by Standing Orders made under regulation 13(2), provide for the exclusion of the chairman or a member from a meeting of the Authority while any contract, proposed contract or other matter in which he has a pecuniary interest, direct or indirect, is under consideration.

(4) Any remuneration, compensation or allowances payable to the chairman or a member by virtue of paragraph 9 of Schedule 5 to the Act (pay and allowances) shall not be treated as a pecuniary interest for the purpose of this regulation.

(5) Subject to paragraphs (2) and (6), the chairman or a member shall be treated for the purpose of this regulation as having an indirect pecuniary interest in a contract, proposed contract or other matter if—

- (a) he, or a nominee of his, is a director of a company or other body, not being a public body, with which the contract was made or is proposed to be made or which has a direct pecuniary interest in the other matter under consideration; or
- (b) he is a partner of, or is in the employment of, a person with whom the contract was made or is proposed to be made or who has a direct pecuniary interest in the other matter under consideration;

and in the case of married persons living together the interest of one spouse shall, if known to the other, be deemed for the purpose of this regulation to be also an interest of the other.

(6) Neither the chairman nor a member shall be treated as having a pecuniary interest in any contract, proposed contract or other matter by reason only—

- (a) of his membership of a company or other body if he has no beneficial interest in any securities of that company or other body; or
- (b) of an interest in any company, body or person with which he is connected as mentioned in paragraph (5) which is so remote or insignificant that it cannot reasonably be regarded as likely to influence him in the consideration or discussion of, or in voting on, any question with respect to that contract or matter.

(7) Where the chairman or a member—

- (a) has an indirect pecuniary interest in a contract, proposed contract or other matter by reason only of a beneficial interest in securities of a company or other body; and
- (b) the total nominal value of those securities does not exceed £5,000 or one-hundredth of the total nominal value of the issued share capital of the company or body, whichever is the lesser; and
- (c) if the share capital 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,

this regulation shall not prohibit him from taking part in the consideration or discussion of the contract or other matter or from voting on any question with respect to it, without prejudice however to his duty to disclose his interest.

(8) This regulation applies to a committee or sub-committee as it applies to the Authority and applies to a member of any such committee or sub-committee (whether or not he is also a member of the Authority) as it applies to a member of the Authority.

(9) In this regulation—
“public body” includes—

- (a) any body established for the purpose of carrying on, under national ownership, any industry or part of any 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⁽⁵⁾;

“securities” means—

- (a) shares or debentures, whether or not constituting a charge on the assets of a company or other body, or rights or interests in any shares or such debentures; or
- (b) rights (whether actual or contingent) in respect of money lent to, or deposited with, any industrial or provident society or building society;

“shares” means shares in the share capital of a company or other body or the stock of a company or other body.

Revocations

15. There are hereby revoked—

- (a) the National Health Service (Appellate and Other Functions) Regulations 1992⁽⁶⁾;
- (b) regulation 2 of the National Health Service (Regional and District Health Authorities) (Miscellaneous Amendments) Regulations 1994⁽⁷⁾ and in regulation 1(2) of those regulations the definition of “the 1992 Regulations”.

8th March 1995

Gerald Malone
Minister of State
Department of Health

⁽⁵⁾ 1907 c. 36.

⁽⁶⁾ S.I. 1992/660 as amended by S.I. 1994/682.

⁽⁷⁾ S.I. 1994/682.

Status: This is the original version (as it was originally made). This item of legislation is currently only available in its original format.

SCHEDULE

Regulation 13(1)

RULES AS TO MEETINGS AND PROCEEDINGS OF THE AUTHORITY

1. The first meeting of the Authority shall be held on such day and at such place as may be fixed by the chairman and he shall be responsible for convening the meeting.

2.—(1) The chairman or, in his absence, the vice-chairman may call a meeting of the Authority at any time.

(2) If a requisition for a meeting, signed by at least one third of the total number of members, is presented to the chairman and the chairman either—

(a) refuses to call a meeting; or

(b) without so refusing, does not within seven days after the requisition has been presented to him call a meeting,

those members may forthwith call a meeting.

(3) Before each meeting of the Authority, a notice of the meeting which—

(a) specifies the business proposed to be transacted at it; and

(b) is signed by the chairman or by an officer of the Authority authorised by the chairman to sign on his behalf,

shall be delivered to each member, or sent by post to his last known address, at least seven clear days before the day of the meeting.

(4) Want of service of the notice on any member shall not affect the validity of a meeting.

(5) In the case of a meeting called under sub-paragraph (2) above by members, the notice shall be signed by those members and no business other than that specified in the notice shall be transacted at the meeting.

3.—(1) At any meeting of the Authority the chairman or, in his absence, the vice-chairman (if there is one and he is present) shall preside.

(2) If the chairman and any vice-chairman are absent, such other non-officer member present as the other members present shall choose for the purpose shall preside.

4. Every question at a meeting shall be determined by a majority of the votes of the members present and competent to vote on the question and, in the case of an equality of votes, the chairman or, in his absence, the person presiding at the meeting shall have a second or casting vote.

5. The names of the members present at a meeting shall be recorded.

6.—(1) Subject to sub-paragraph (2) below, no business shall be transacted at any meeting unless at least two non-officer members and at least one officer member are present.

(2) The chairman and at least two non-officer members shall be present at the meeting of the Authority which is convened for the purpose of appointing a person to act as the first chief officer.

7. The minutes of the proceedings of a meeting shall be drawn up and shall be signed at the next ensuing meeting by the person presiding at that next meeting.

EXPLANATORY NOTE

(This note is not part of the Regulations)

These Regulations provide for the appointment and tenure of office of members of the Family Health Services Appeal Authority which is a special health authority established under the National Health Service Act 1977 by the Family Health Services Appeal Authority (Establishment and Constitution) Order 1995.

In particular, these Regulations provide for the appointment and tenure of office of the chairman and members of the Authority (regulations 2 and 3), for the termination of office and the eligibility of members for re-appointment (regulations 4, 5 and 6), for disqualification for appointment and the cessation of such disqualification (regulations 7 and 8). Also included are provisions relating to the vice-chairman of the Authority (regulations 9 and 10), the appointment of, and exercise of functions by, its committees and sub-committees (regulations 11 and 12) and its meetings and proceedings, including provision for disability for participation in proceedings on account of pecuniary interest (regulations 13 and 14). The National Health Service (Appellate and Other Functions) Regulations 1992 and regulation 2 of the National Health Service (Regional and District Health Authorities) (Miscellaneous Amendments) Regulations 1994 are revoked (regulation 15).