
STATUTORY INSTRUMENTS

1996 No. 701

**NATIONAL HEALTH SERVICE,
ENGLAND AND WALES**

**The National Health Service (Appointment
of Consultants) Regulations 1996**

<i>Made</i>	- - - -	<i>11th March 1996</i>
<i>Laid before Parliament</i>		<i>11th March 1996</i>
<i>Coming into force</i>	- -	<i>1st April 1996</i>

The Secretary of State for Health in exercise of powers conferred by section 126(4) and (5) of, and paragraphs 10(1) and 12(b) of Schedule 5 to, the National Health Service Act 1977(1) and of all other powers enabling him in that behalf, after consultation in accordance with paragraph 11(1) of that Schedule with bodies recognised by him as representing persons likely to be affected, hereby makes the following Regulations:—

Citation and commencement

1. These Regulations may be cited as the National Health Service (Appointment of Consultants) Regulations 1996 and shall come into force on 1st April 1996.

Interpretation

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

“application” means an application for an appointment to which these Regulations apply, and
“applicant” shall be construed accordingly;

“Authority” means a Health Authority, a Special Health Authority, or two or more such Authorities of the same kind;

“Committee” means an Advisory Appointments Committee constituted pursuant to the provisions of regulation 7;

(1) 1977 c. 49; paragraph 10 of Schedule 5 was amended by paragraph 80(3) of Schedule 1 to the Health Services Act 1980 (c. 53), paragraph 3 of Schedule 6 to the Health and Social Services and Social Security Adjudications Act 1983 (c. 41), paragraph 14 of Schedule 3 to the Health and Social Security Act 1984 (c. 48), paragraph 8 of Schedule 1 to the National Health Service and Community Care Act 1990 (“the 1990 Act”) (c.19) and paragraph 60(c) of the Health Authorities Act 1995 (“the 1995 Act”) (c.17); paragraph 12(b) of Schedule 5 was amended by paragraph 9(c) of Schedule 1 to the 1990 Act (c.19) and paragraph 60(e) of Schedule 1 to the 1995 Act (c.17). See section 128(1) as amended by section 26(1) of the 1990 Act, for the definition of “regulations”.

“consultant” in relation to a relevant specialty, means

- (a) a consultant specialising, or who has recently specialised, in the relevant specialty, or
- (b) where the relevant specialty has not yet been established, a consultant specialising, or who has recently specialised, in a specialty which, in the opinion of the relevant college, is closely related to the relevant specialty;

“core members” means the members of a Committee appointed under paragraph 2 of Schedule 1;

“exempt appointment” means an appointment described in regulation 5;

“hospice” means an institution which provides hospital accommodation wholly or mainly for persons resident there who are terminally ill;

“lay member” means a person who is not—

- (a) an employee of any Authority or any NHS Trust, or
- (b) except when he is also the Chairman of the Authority, a medical practitioner or dental practitioner;

“officer member” means a member of an Authority who is also its officer;

“professional member”, in relation to a proposed appointment, means—

- (a) in the case of an appointment to a medical specialty, a medical practitioner, or
- (b) in the case of an appointment to a dental specialty, a dental practitioner;

“relevant college” in relation to a proposed appointment, means whichever one of the following bodies:

- (a) the Royal College of Anaesthetists,
- (b) the Royal College of Ophthalmologists,
- (c) the Royal College of Physicians of London and its associated Faculties of Public Health Medicine and Occupational Medicine,
- (d) the Royal College of Surgeons of England and its associated Faculty of Dental Surgery and the Inter Collegiate Faculty of Accident and Emergency Medicine,
- (e) the Royal College of Obstetricians and Gynaecologists,
- (f) the Royal College of Pathologists,
- (g) the Royal College of Psychiatrists, or
- (h) the Royal College of Radiologists,

is, in the opinion of the Authority concerned, most substantially concerned with the specialty in which the appointment is to be made;

“relevant specialty”, in relation to a proposed appointment, means the branch of medicine or dentistry in which the appointment is to be made;

“relevant University” means for an appointment to a Health Authority, any University associated with the provision of health services to the Authority;

“Teaching Authority” means a Health Authority specified in Schedule 1 to the Health Authorities (Membership and Procedure) Regulations 1996(2); and

“University” means a University which has a medical or dental school.

(2) In these Regulations, unless the context otherwise requires, any reference to a numbered regulation or Schedule is a reference to the regulation in, or Schedule to, these Regulations which

bears that number, and any reference in a regulation or in a Schedule to a numbered paragraph is a reference to the paragraph bearing that number in that regulation or in that Schedule.

Regulated appointments

3. These Regulations apply to appointments to consultant posts on the staff of an Authority in England, except appointments which are exempt appointments.

Registration requirements

4. A person may not take up appointment to any consultant post on the staff of an Authority in England unless—

- (a) he is either a medical practitioner or a dental practitioner, and
- (b) in the case of an appointment of a registered medical practitioner made after 31st December 1996, his name is included in the Specialist Register kept by the General Medical Council in accordance with Article 8(1) of the European Specialist Medical Qualifications Order 1995⁽³⁾.

Exempt appointments

5.—(1) An appointment is an exempt appointment if the person appointed is—

- (a) to receive no remuneration from an Authority in respect of his tenure of the post, and is—
 - (i) a member of the academic staff of a University,
 - (ii) a consultant who is over the age of 65,
 - (iii) a mental health officer, as defined in the National Health Service Pension Scheme Regulations 1995⁽⁴⁾, who is over the age of 60,
 - (iv) a person who is wholly or mainly engaged in research which requires his appointment to the staff of an Authority, or
 - (v) a medical practitioner who has been appointed to a post in a hospice which is equivalent to a consultant post in the health service.
- (b) an officer of a Teaching Authority and his appointment is to be made principally to enable him to give clinical instruction to students;
- (c) a person whose employment in a post is to be for an initial period not exceeding six months—
 - (i) pending the appointment of a permanent post holder,
 - (ii) where the permanent holder of that post is unable to carry out his duties by reason of illness or because of other absence, or
 - (iii) where the Authority considers for some other reason that such an appointment is necessary,

and in each case in respect of whom any further period of employment in that post is to be for a period not exceeding 6 months and to be subject to prior consultation with the relevant college and to the satisfactory performance of the duties of the post during the initial period;

- (d) a person whose last employment by an Authority, an NHS trust, a Health Board in Scotland, a District Health Authority or Regional Health Authority was in a post as consultant, the termination of which employment was certified by the Secretary of State

⁽³⁾ S.I. 1995/3208.

⁽⁴⁾ S.I. 1995/300.

- to be by reason of redundancy and who is appointed to a consultant post in England within one year of that termination of employment;
- (e) a person who is transferred from employment as a consultant—
 - (i) by an Authority to another consultant post with that Authority, or
 - (ii) by an NHS trust to a consultant post with an Authority where the employment of the officer would otherwise be terminated by reason of redundancy;
 - (f) a person whose employment is transferred from one Authority to another Authority without any significant alteration in the duties of the post, as part of a local reorganisation of the health service;
 - (g) a person who has been appointed to a post at a university or at the Public Health Laboratory Service Board, and whose appointment to the staff of an Authority will be to a post in which the duties are substantially the same as those performed for that university or that Board.
- (2) In this regulation—
- (a) “employment” includes part-time employment, whether or not the person is also employed by another Authority, and “employed” shall be construed accordingly;
 - (b) “remuneration” does not include any distinction award or any amount paid by the employer towards the defrayment of expenses involved in the carrying out of the duties of the post.

Advertisement of proposed appointment

6.—(1) Subject to paragraphs (2) and (5) where an Authority proposes to make an appointment to which these Regulations apply, it shall arrange for advertisements to be published in not less than two publications circulating throughout the United Kingdom which are commonly used for similar advertisements relating to the profession concerned.

(2) Where, in the opinion of the Authority, compliance with the foregoing provisions of this paragraph is not reasonably practicable, the Authority shall arrange for advertisements to appear in such other publications as it thinks appropriate.

(3) The advertisement shall set out the general duties of the post and the closing date for the receipt of applications.

(4) Where the advertisement is published in respect of a whole-time post, it shall include a statement to the effect that applicants for appointment to a part-time post will be considered.

(5) The Secretary of State may if he thinks fit authorise an Authority to dispense with the requirements of paragraph (1) in relation to an appointment to any class of post.

Constitution of Committees

7. In relation to any appointment to which these Regulations apply, the Authority shall appoint a committee (to be called an Advisory Appointments Committee,) which shall be constituted in accordance with Schedule 1; and Schedule 2 shall have effect with respect to the proceedings of the Committee.

Selection by Committees

- 8.—(1) An appointing Authority shall—
- (a) in respect of an appointment to which regulation 6(5) applies, refer to the Committee, any application received by the Authority for that appointment;
 - (b) in respect of all other appointments, refer to the Committee any application received by the Authority (i) on or before the closing date specified in accordance with regulation 6(3),

and (ii) any application received after that date but before the Committee meets, if the Authority is satisfied that there is a reasonable explanation for its late receipt.

(2) Subject to paragraph (3), the Committee may adopt any procedure which it considers to be appropriate, but shall—

- (a) consider all applications referred to it under paragraph (1);
- (b) select from the applicants any persons whom the Committee considers suitable for the appointment; and
- (c) submit to the Authority the names of any persons selected, together with such comments as it considers appropriate.

(3) The Committee shall not submit the name of any person under paragraph (2) without having interviewed him.

(4) Where the Authority proposes to make an appointment to a whole-time post but, in the opinion of the Committee, one or more of the applicants would be suitable for an appointment on a part-time basis it shall submit to the Authority the names of any such applicants and may add such comments as it considers appropriate.

(5) Where, in the opinion of the Committee, none of the applicants is suitable for appointment the Committee shall so inform the Authority.

Appointment by Authority

9.—(1) An Authority shall not make an appointment to which these Regulations apply unless the name of the person to be appointed has been submitted to it by a Committee under regulation 8.

(2) An Authority shall not make an appointment to which these Regulations apply of any person who has canvassed, in respect of his application for an appointment, any member of the Authority or the Committee.

(3) Where an Authority—

- (a) decides not to make an appointment from persons named by a Committee; or
- (b) is informed pursuant to regulation 8(5) that none of the applicants is suitable,

the Committee shall be discharged, and these Regulations shall apply to any further proposal by the Authority to make an appointment to the relevant post as they applied to the original proposal.

Revocation of Regulations

10. The National Health Service (Appointment of Consultants Regulations 1982⁽⁵⁾), the National Health Service (Appointment of Consultants) Amendment Regulations 1984⁽⁶⁾ and the National Health Service (Appointment of Consultants) Amendment Regulations 1990⁽⁷⁾ are hereby revoked.

Transitional provisions

11. Where, before 1st April 1996 an Advisory Appointments Committee has been constituted under the National Health Service (Appointment of Consultants) Regulations 1982, in relation to an appointment to be made after that date, those Regulations shall have effect in relation to any selection made by that Committee and any appointment to be made by an Authority as if these Regulations had not come into force.

⁽⁵⁾ S.I. 1982/276.

⁽⁶⁾ S.I. 1984/994.

⁽⁷⁾ S.I. 1990/1407.

Status: *This is the original version (as it was originally made). UK
Statutory Instruments are not carried in their revised form on this site.*

Signed by authority of the Secretary of State for Health

11th March 1996

Gerald Malone
Minister of State,
Department of Health

SCHEDULE 1

Regulation 7

CONSTITUTION OF AN ADVISORY APPOINTMENTS COMMITTEE

1. A Committee shall be constituted in accordance with the following provisions of this Schedule.
2. The Authority shall appoint to the Committee the following members:—
 - (a) a lay member;
 - (b) a professional member who practises in the relevant specialty, not being—
 - (i) in the case of a Health Authority a practitioner employed within the area of the Authority making the appointment, or
 - (ii) in the case of a Special Health Authority a practitioner not employed by the Special Health Authority,who shall be appointed after consultation with the relevant college;
 - (c) the chief officer of the Authority,
 - (d) the person who is—
 - (i) when the appointment is to a consultant post in a hospital the medical director or dental director of that hospital or a person who acts in a similar capacity at that hospital,
 - (ii) where the appointment is to a consultant post in public health medicine, the Director of Public Health in the Authority in which the duties of the post will mainly be carried out; and
 - (e) a professional member who shall be—
 - (i) a person employed by the Authority as a consultant in the relevant specialty, or
 - (ii) where no such person is available for the purpose, a person employed by the Authority as a consultant in some other speciality.
3. Where the appointment is to a post which involves substantial teaching or research commitments, a further professional member shall be appointed after consultation with the relevant university.
4. In addition to the core members the Authority may appoint such additional members to the Committee as it considers appropriate.
5. A Committee shall have a majority of professional members and a majority of members, who are persons employed by the Authority.
6. Two or more Authorities may in the appointment of a Committee act together as if they were a single Authority.

SCHEDULE 2

Regulation 7

PROCEEDINGS OF THE ADVISORY APPOINTMENTS COMMITTEE

1. The Committee shall not transact any business in the absence of any core member unless there is present a person who has been nominated by the core member to act as his deputy.
- 2.—(1) Subject to sub-paragraph (2) below, where a member is unwilling or unable to perform his functions another person may be appointed in the same manner to be a member in his place.
(2) Where the person who is unwilling or unable to perform his functions is—

- (a) the chief officer of the Authority, another officer member of the Authority shall be appointed to act in his place;
 - (b) a professional member appointed in accordance with paragraph 2(d) or (e) of Schedule 1, another professional member shall be appointed to act in his place.
3. The Chairman of the Committee shall be the lay member appointed under paragraph 2(a) of Schedule 1.
4. The Authority shall appoint a person to act as clerk to the Committee and he shall provide the Committee with such clerical or other assistance as the Committee may require.
5. In the event of an equality of votes the Chairman shall not have any second or casting vote, and no applicant shall be considered suitable for appointment unless a majority of the Committee considers him to be so suitable.
6. Subject to the provisions of paragraphs 1 and 2 above, the proceedings of the Committee shall not be invalidated by any vacancy in, or failure to appoint to, or defect in the appointment or qualification of any member of, the Committee.
7. In this Schedule—
“clerk to the Committee” in the case of Authorities acting together, means the officer appointed by such one of those Authorities as they may agree or, in default of such agreement as the Secretary of State may direct.

EXPLANATORY NOTE

(This note is not part of the Regulations)

These Regulations provide for the procedure to be followed by Health Authorities and Special Health Authorities when appointing medical and dental practitioners to consultant posts in their employment.

As respects those appointments to which the Regulations apply (regulations 3 and 5), provision is made for the advertisement of vacant posts (regulation 6), for the constitution and procedure of Advisory Appointments Committees to select candidates for appointment (regulations 7 and 8, and Schedules 1 and 2), and for the candidates' subsequent appointment by Authorities to consultant posts (regulation 9).

These Regulations revoke the National Health Service (Appointment of Consultants) Regulations 1982, and two amending instruments, which are superseded by these Regulations (regulation 10), and make transitional provision in relation to appointments processes begun, but not completed, before 1st April 1996 (regulation 11).