
STATUTORY INSTRUMENTS

1996 No. 708

**NATIONAL HEALTH SERVICE,
ENGLAND AND WALES**

**The National Health Service (Functions of Health Authorities
and Administration Arrangements) 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 63(5A) of the Health Services and Public Health Act 1968(1), and sections 13, 16(1) and (2), 17, 18, 51(2) and 126(3) and (4) of the National Health Service Act 1977(2), and of all other powers enabling him in that behalf, hereby makes the following Regulations.

Citation and commencement

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

Interpretation

2.—(1) In these Regulations—

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

“the 1990 Act” means the National Health Service and Community Care Act 1990(3); and

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- (1) 1968 c. 46. Section 63 was amended by the National Health Service Reorganisation Act 1973 (c. 32), Schedule 4, paragraphs 124(2) and (3), and Schedule 5, the National Health Service Act 1977, paragraph 45 of Schedule 15, the National Health Service (Scotland) Act 1978 (c. 29), paragraph 46(2) of Schedule 16, and Schedule 17, the Local Government Act 1985 (c. 51), Schedule 17, the Health and Medicines Act 1988 (c. 49), section 20(a) and (b) and Schedule 3, and the Health Authorities Act 1995 (c. 17) (“the 1995 Act”), paragraph 95 of Schedule 1 (which also added subsection (5A)).
- (2) 1977 c. 49. Section 13 was amended by the Health Services Act 1980 (c. 53) (“the 1980 Act”), paragraph 31 of Schedule 1, the National Health Service and Community Care Act 1990 (c. 19) (“the 1990 Act”), Schedule 10, and the 1995 Act, paragraph 4 of Schedule 1. Sections 16 and 17 were substituted by the 1995 Act, paragraphs 7 and 8 respectively of Schedule 1. Section 18 was amended by the 1980 Act, paragraphs 38 and 92 of Schedule 1, S.I. 1985/39, article 7, the 1990 Act, Schedule 10, and the 1995 Act, section 3(8) and paragraph 9 of Schedule 1. Section 51 was amended (and subsection (2) added) by the 1995 Act, paragraph 35 of Schedule 1. Section 126 was amended by the 1990 Act, section 65(2), and the 1995 Act, paragraph 57 of Schedule 1.
- (3) 1990 c. 19.

“specified health service functions” means the Secretary of State’s functions relating to the health service⁽⁴⁾ under the enactments specified in column (1) of Schedule 1 (the subject matter of the relevant functions being indicated in column (2) of that Schedule), including functions under any regulations made under any of those enactments.

(2) In these Regulations, unless the context otherwise requires, any reference to a numbered regulation or Schedule is a reference to the regulation or, as the case may be, the 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.

Functions exercisable by Health Authorities

3.—(1) Subject to paragraph (2) and regulation 4, every Health Authority shall exercise the specified health service functions on behalf of the Secretary of State—

- (a) in so far as those functions consist of providing or securing the provision of services to patients, other than the services referred to in sub-paragraph (b) of this paragraph, for the benefit of—
 - (i) persons usually resident in their area, and
 - (ii) persons resident outside the United Kingdom who are present in their area;
- (b) in so far as those functions consist of providing or securing the provision of—
 - (i) accident and emergency services and ambulance services,
 - (ii) any other services which the Secretary of State may direct,
 for the benefit of all persons present in their area; and
- (c) in so far as those functions consist of any other functions, generally as respects their area.

(2) The functions exercisable by a Health Authority under paragraph (1)(a) do not include providing or securing the provision of any services which are, or are to be, purchased by the members of a recognised fund-holding practice in accordance with the National Health Service (Fund-holding Practices) Regulations 1996⁽⁵⁾.

(3) A Health Authority shall exercise the specified health service functions in accordance with paragraph (1) at or from hospitals, establishments or facilities owned by the Secretary of State for the purposes of the health service and situated in their area, or by means of NHS or other contracts.

(4) In this regulation, references to accident and emergency services are references to those services provided at the accident and emergency department, or a minor injuries unit, of a health service hospital, and do not include any subsequent treatment connected with the provision of those services.

(5) Subject to any directions which the Secretary of State may give as to any particular case or class of case, if there is doubt as to where a person is usually resident for the purposes of this regulation—

- (a) he shall be treated as usually resident at the address which he gives, to the person or body providing him with services, as being that at which he usually resides;
- (b) where he gives no such address, he shall be treated as usually resident at the address which he gives, to the person or body providing him with services, as being his most recent address;
- (c) where his usual residence cannot be determined under sub-paragraphs (a) and (b) above, he shall be treated as usually resident in the area in which he is present.

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

(5) S.I. 1996/706.

Restriction on the exercise of functions by Health Authorities

4.—(1) The exercise by a Health Authority of specified health service 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 functions conferred on or vested in the Secretary of State with respect to—

- (a) the making of any order or regulations;
- (b) the giving of any directions; or
- (c) the determination of the amount of the remuneration, or of any allowance, which is, by virtue of these Regulations, to be paid by a Health Authority to their chairman and members.

(3) The power of the Secretary of State under section 2 of the Act is exercisable by a Health Authority only to such extent as is necessary for the proper exercise of one or more other functions exercisable by them.

(4) Except where the Secretary of State otherwise directs, a Health Authority shall not exercise the functions of the Secretary of State under section 51(1) of the Act in so far as those functions are concerned with securing the availability of facilities for clinical teaching.

(5) Where, in the exercise of specified health service functions, arrangements are made by a Health Authority with medical practitioners for the vaccination or immunisation of persons against disease, every medical practitioner providing general medical services in that Authority's area 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⁽⁶⁾ (approval of medical specialists) 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 the obtaining of such advice, as the Secretary of State may direct; and
- (b) for such periods as the Secretary of State may direct.

Arrangements by Health Authorities and Special Health Authorities for exercise of functions

5.—(1) Subject to paragraphs (2) and (3) and to any directions which may be given by the Secretary of State with respect to its exercise, any function exercisable by a Health Authority by virtue of any provision of the Act or the 1990 Act may by arrangement with that Authority, and subject to such restrictions and conditions as that Authority may think fit, be exercised jointly with one or more other Health Authorities or on behalf of that Authority by—

- (a) another Health Authority;
- (b) a committee or sub-committee, or an officer, of the Authority or another Health Authority;
- (c) a joint committee, or joint sub-committee, of the Authority and one or more other Health Authorities;
- (d) a Special Health Authority; or
- (e) an officer of a Special Health Authority.

(2) Any function exercisable by a Health Authority under or in relation to arrangements made under section 63(1) of the Health Services and Public Health Act 1968 may by arrangement with that

⁽⁶⁾ 1983 c. 20; section 12 was amended by the National Health Service and Community Care Act 1990 (c. 19), paragraph 24(1) of Schedule 9.

Authority be exercised jointly with one or more other Health Authorities, Special Health Authorities or NHS trusts.

(3) Any function which a Health Authority may be directed to exercise by virtue of section 51(1) of the Act in relation to the provision of facilities which are reasonably required by a university which has a medical or dental school in connection with clinical teaching may by arrangement with that Authority be exercised jointly with one or more other Health Authorities, Special Health Authorities or NHS trusts.

(4) Any function exercisable by a Health Authority under section 15(1) or 16(2) (b) or (c) of the Nurses, Midwives and Health Visitors Act 1979(7) may by arrangement with that Authority be exercised jointly with one or more other Health Authorities or on behalf of that Authority by—

- (a) another Health Authority;
- (b) a committee or sub-committee, or an officer, of the Authority or another Health Authority;
or
- (c) a joint committee, or joint sub-committee, of the Authority and one or more other Health Authorities.

(5) Subject to paragraph (6) and to any directions which may be given by the Secretary of State with respect to its exercise, any function exercisable by a Special Health Authority by virtue of section 11 or 13 of the Act may, by arrangement with that Authority and subject to such restrictions and conditions as that Authority may think fit, be exercised on behalf of that Authority by—

- (a) a committee or sub-committee, or an officer, of that Authority; or
- (b) a joint committee, or joint sub-committee, of that Authority and one or more other Special Health Authorities.

(6) Paragraph (5) shall not apply in the case of the Mental Health Act Commission(8), the Prescription Pricing Authority, the Dental Vocational Training Authority(9), the Ashworth Hospital Authority(10), the Broadmoor Hospital Authority(10) or the Rampton Hospital Authority(10).

Revocations

6. The Regulations specified in column (1) of Schedule 2 are revoked to the extent specified in column (3) of that Schedule.

(7) 1979 c. 36; section 15 was amended by the Nurses, Midwives and Health Visitors Act 1992 (c. 16) (“the 1992 Act”), section 11; section 16 was amended by the Health Services Act 1980 (c. 53), paragraph 86 of Schedule 1, the 1992 Act, section 12 and paragraph 5 of Schedule 2, and the Health Authorities Act 1995 (c. 17), paragraph 104 of Schedule 1. See Rule 45 in the Schedule to S.I. 1983/873, inserted by rules approved by S.I. 1993/2106.

(8) See 1983/894, regulation 7.

(9) See S.I. 1993/2210, regulation 6.

(10) See S.I. 1996/489, regulation 13.

(10) See S.I. 1996/489, regulation 13.

(10) See S.I. 1996/489, regulation 13.

Signed by authority of the Secretary of State for Health

11th March 1996

Gerald Malone
Minister of State,
Department of Health

SCHEDULE 1

Regulation 2(1)

ENACTMENTS CONFERRING FUNCTIONS EXERCISABLE BY HEALTH AUTHORITIES

(1) Enactment	(2) Subject matter
Ministry of Health Act 1919(11) section 2	Securing preparation, carrying out and co-ordination of measures conducive to public health.
Health Services and Public Health Act 1968(12) section 63(1), (5) and (6)	Providing for instruction of officers of Health Authorities and other persons employed or contemplating employment in activities connected with health or welfare.
section 64(1)	Giving financial assistance to voluntary organisations.
Chronically Sick and Disabled Persons Act 1970(13) section 17	Provisions with respect to separation of younger from older patients in hospital.
The 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 such duties.
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 after-care 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(14)	Providing for the medical inspection and treatment of pupils, their dental inspection and treatment and their education in dental health.

(11) 1919 c. 21; section 2 was amended by S.I. 1968/1699, article 5(3) and Schedule.

(12) 1968 c. 46.

(13) 1970 c. 44; section 17 was amended by the National Health Service Reorganisation Act 1973 (c. 32), paragraph 132 of Schedule 4.

(14) Subsection (1A) was inserted in section 5 by the Health and Medicines Act 1988 (c. 49), section 10(1).

(1) Enactment	(2) Subject matter
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)(b)	Providing accommodation and treatment outside Great Britain for persons suffering from respiratory tuberculosis.
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 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.
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 payments in connection with arrangements made under section 23 of the Act.
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)	Making available to local authorities the services of practitioners 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.

(1) Enactment	(2) Subject matter
section 27(4)	Agreeing terms and charging for services and facilities provided under section 26 of the Act.
section 51(1)	Securing the availability of facilities for research connected with clinical medicine or dentistry.
section 52	Making accommodation available in connection with the provision of services under Part II of the Act.
section 63	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 72(1), (3) and (4)	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	Charging and recovering the charges for more expensive supplies.
section 82	Charging for replacement or repair of appliances and vehicles in certain circumstances.
section 83A(1)(b)(15)	Paying travelling expenses in prescribed circumstances.
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	Determining charges for prescribed services provided in respect of prescribed non-residents.
Schedule 5, paragraph 9(1) and (4)	Payment of remuneration and allowances to chairman and members of the Health Authority
Mental Health Act 1983(16)—	
section 12(2)	Approving medical practitioners as having special experience in the diagnosis or treatment of mental disorder.
Registered Homes Act 1984(17)—	

(15) Section 83A was inserted by the Social Security Act 1988 (c. 7), section 14(1), and amended by the Health and Medicines Act 1988 (c. 49), paragraph 6 of Schedule 2, the National Health Service and Community Care Act 1990 (c. 19) (“the 1990 Act”), paragraph 18(5) of Schedule 9, and the Health Authorities Act 1995 (c. 17), paragraph 40 of Schedule 1.

(16) 1983 c. 20; section 12 was amended by the 1990 Act, paragraph 24(1) of Schedule 9.

(17) 1984 c. 36.

(1) Enactment	(2) Subject matter
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(2) and (3)	Additional registration conditions.
section 30(1), (2) and (4)	Urgent procedure for cancellation of registration.
section 31	Ordinary procedure for registration, cancellation, variation of conditions and additional conditions.
section 32(1), (2), (3) and (5)	Representations.
section 33(1) and (3)	Decisions.
section 34(2) and (7)	Appeals.
section 35(1) and (3)	Authorisation of persons to inspect mental nursing homes.
section 37(1) and (3)	Exemption of Christian Science homes.
section 53(1)	Criminal proceedings.

SCHEDULE 2

Regulation 6

REGULATIONS REVOKED BY THESE REGULATIONS

(1) Title of Regulations	(2) Serial Number	(3) Extent of revocation
The National Health Service Functions (Directions to Authorities and Administration Arrangements) Regulations 1991	S.I.1991/554	The whole Regulations

(11) 1919 c. 21; section 2 was amended by S.I. 1968/1699, article 5(3) and Schedule.

(12) 1968 c. 46.

(13) 1970 c. 44; section 17 was amended by the National Health Service Reorganisation Act 1973 (c. 32), paragraph 132 of Schedule 4.

(14) Subsection (1A) was inserted in section 5 by the Health and Medicines Act 1988 (c. 49), section 10(1).

(15) Section 83A was inserted by the Social Security Act 1988 (c. 7), section 14(1), and amended by the Health and Medicines Act 1988 (c. 49), paragraph 6 of Schedule 2, the National Health Service and Community Care Act 1990 (c. 19) ("the 1990 Act"), paragraph 18(5) of Schedule 9, and the Health Authorities Act 1995 (c. 17), paragraph 40 of Schedule 1.

(16) 1983 c. 20; section 12 was amended by the 1990 Act, paragraph 24(1) of Schedule 9.

(17) 1984 c. 36.

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(1) Title of Regulations	(2) Serial Number	(3) Extent of revocation
The National Health Service Functions (Administration Arrangements and Amendment of Directions) Regulations 1992	S.I. 1992/659	The whole Regulations
The National Health Service Functions (Directions to Authorities and Administration Arrangements) Amendment Regulations 1994	S.I. 1994/590	The whole Regulations
The Family Health Services Appeal Authority Regulations 1995	S.I. 1995/622	Regulation 12(1)
The National Health Service Litigation Authority Regulations 1995	S.I. 1995/2801	Regulation 12

EXPLANATORY NOTE

(This note is not part of the Regulations)

These Regulations make provision for the Secretary of State's functions relating to the health service to be exercised by Health Authorities (regulation 3 and Schedule 1) and for certain restrictions on the Health Authorities' exercise of those functions (regulation 4). The Regulations also provide for the arrangements which may be made by Health Authorities and Special Health Authorities for their functions to be exercised jointly with other bodies, or on their behalf by their committees, sub-committees or officers, or by the committees, sub-committees or officers of other bodies (regulation 5).

These Regulations also revoke three earlier instruments which were concerned with the exercise of functions by Regional Health Authorities, District Health Authorities and Family Health Services Authorities (bodies which have been abolished as a result of amendments made to the National Health Service Act 1977 by the Health Authorities Act 1995) and provisions in two other instruments concerned with the exercise of functions by particular Special Health Authorities (regulation 6 and Schedule 2).