

2001 No. 3787

NATIONAL HEALTH SERVICE, ENGLAND

LOCAL GOVERNMENT, ENGLAND

**The Primary Care Trusts (Membership, Procedure and
Administration Arrangements) Amendment (No. 2)
(England) Regulations 2001**

Made - - - - - *27th November 2001*

Laid before Parliament *28th November 2001*

Coming into force - - *19th December 2001*

The Secretary of State for Health, in exercise of the powers conferred by section 16B and 126(4) of, and paragraph 5 of Schedule 5A to, the National Health Service Act 1977(a), section 45(7) of the Health and Social Care Act 2001(b), and of all other powers enabling him in that behalf, hereby makes the following Regulations:

Citation, commencement, interpretation and extent

1.—(1) These Regulations may be cited as the Primary Care Trusts (Membership, Procedure and Administration Arrangements) Amendment (No. 2) (England) Regulations 2001 and shall come into force on

(2) In these Regulations—

“the principal Regulations” means the Primary Care Trusts (Membership, Procedure and Administration Arrangements) Regulations 2001(c).

(3) These Regulations extend to England only.

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- (a) 1977 c. 49; section 16B was inserted by the Health Act 1999 (c. 8) (“the 1999 Act”), section 2(1); section 126(4) was amended by the National Health Service and Community Care Act 1990 (c. 19) (“the 1990 Act”), section 65(2), by the 1999 Act, Schedule 4, paragraph 37(6) and by the Health and Social Care Act 2001 (c. 15) (“the 2001 Act”), Schedule 5 paragraph 5(13)(b). Schedule 5A was inserted by the 1999 Act, Schedule 1; *see* section 128(1), as amended by section 26(2)(1) of the 1990 Act, for the definition of “regulations”. The functions of the Secretary of State under the 1977 Act and the 1999 Act are, so far as exercisable in relation to Wales, transferred to the National Assembly for Wales by article 2(a) of and the entry for the 1977 Act and the 1990 Act in Schedule 1 to, the National Assembly for Wales (Transfer of Functions) Order 1999, S.I. 1999/672, as amended by section 66(5) of the 1999 Act; *See also* section 68(1) of the 2001 Act.
- (b) 2001 c. 15; *See* section 66 for the definition of “regulations” and “relevant authority” in relation to, and section 70(5) for the extent of, section 45.
- (c) S.I. 2000/89, as amended by S.I. 2001/2631.

Amendment of regulation 1 of the principal Regulations

2. In regulation 1(2) of the principal Regulations (interpretation), in the appropriate place, insert the following definitions—

““Care Trust” means a Primary Care Trust designated as a Care Trust pursuant to section 45(1) of the Health and Social Care Act 2001;”;

““Primary Care Trust” includes a Care Trust;”;

““relevant local authority” means a local authority which is a party to LA delegation arrangements with the Primary Care Trust.”(a).

Amendment of regulation 2 of the principal Regulations

3.—(1) Regulation 2 of the principal Regulations (membership of Primary Care Trusts) shall be amended as follows.

(2) At the beginning of paragraph (3), insert “Subject to paragraph (3A),”.

(3) After paragraph (3), insert the following paragraph—

“(3A) The non-officer members of a Care Trust shall include at least one member of each relevant local authority, appointed by the Secretary of State following nomination by that authority.”.

(4) In sub-paragraph (c) of paragraph (4), omit “, but not more than 4 persons,”.

(5) After sub-paragraph (c) of paragraph (4), insert the following paragraph—

“(d) in the case of a Care Trust, at least one person, appointed by the chairman and non-officer members, who has experience of the health-related functions of local authorities.”(b).

(6) In paragraph (10), after “Subject to”, insert “paragraph (10A) and”.

(7) After paragraph (10) insert the following paragraph—

“(10A) A non-officer member mentioned in paragraph (3A) shall not be appointed for a period exceeding his remaining term of office as a member of the local authority.”.

Amendment of regulation 3 of the principal Regulations

4.—(1) Regulation 3 of the principal Regulations (termination of tenure of office and suspension of officer members) shall be amended as follows.

(2) At the beginning of paragraphs (3), (4), (6) and (7), insert “Subject to paragraph (9),”.

(3) In paragraphs (3), (4) and (6), after “regulation 2(4)(c)”, insert “or (d)”.

(4) At the end of paragraph (5), insert “and, in the case of a Care Trust, shall also so notify each relevant local authority.”

(5) After paragraph (8), insert the following paragraph—

“(9) In the case of a Care Trust a member’s tenure of office shall not be terminated under this regulation unless each relevant local authority has been consulted.”.

Amendment of regulation 4 of the principal Regulations

5.—(1) Regulation 4 of the principal Regulations (termination of tenure of office: chairman and non-officer members) shall be amended as follows.

(2) At the beginning of paragraphs (4), (5) and (7), insert “Subject to paragraph (10),”.

(3) After paragraph (7), add the following paragraphs—

“(8) Where a relevant local authority notifies the Secretary of State in writing that it no longer wishes a relevant member to continue as a member of the trust the Secretary of State shall forthwith terminate the tenure of office of that member.

(9) In paragraph (8) a relevant member means a non-officer member nominated by the authority in accordance with regulation 2(3A).

(a) See section 45(11) of the 2001 Act for the definition of “LA delegation arrangements”.

(b) See section 45(11) of the 2001 Act for the definition of “health-related functions”.

(10) In the case of a Care Trust, a non-officer member's tenure of office shall not be terminated under paragraph (4), (5) or (7) unless each relevant local authority has been consulted.

(11) If the chairman or a non-officer member of a Care Trust who is a member of a local authority is suspended from being a member of that authority by virtue of a decision of a case tribunal made under section 79 of the Local Government Act 2000(a) he shall be suspended from performing his functions as a member of the Care Trust for the period of the suspension.”.

Amendment of regulation 5 of the principal Regulations

6.—(1) Regulation 5 of the principal Regulations (disqualification for appointment: chairman and non-officer members) shall be amended as follows.

(2) In paragraph (1)—

- (a) in sub-paragraph (c), after “health service body”, insert “, or if the trust is a Care Trust, with a local authority”; and
- (b) after sub-paragraph (i), add the following sub-paragraph—
“ (j) in the case of a Care Trust, he is employed by a local authority.”.

Amendment of Schedule 2 to the principal Regulations

7. In Schedule 2 to the principal Regulations (rules as to meetings and proceedings of Primary Care Trusts), paragraph 6 shall be amended as follows—

- (a) at the end of sub-paragraph (a), insert the word “and”; and
- (b) for sub-paragraph (b), substitute the following—
“(b) those present include—
 - (i) in the case of a trust which is not a Care Trust, at least one non-officer member and one officer member, or
 - (ii) in the case of a Care Trust, at least two non-officer members, one of whom is a member mentioned in regulation 2(3A), and at least one officer member.”.

Signed by authority of the Secretary of State for Health

27th November 2001

Jacqui Smith
Minister of State,
Department of Health

(a) 2000 c. 22.

EXPLANATORY NOTE

(This note is not part of the Regulations)

These Regulations made amendments to the Primary Care Trusts (Membership, Procedure and Administration Arrangements) Regulations 2001 (“the principal Regulations”) in connection with the designation of a Primary Care Trust as a Care Trust (“Care Trust”).

Regulation 3 amends the principal Regulations to make provision for the membership of Care Trusts so as to include, as non-officer members, at least one local authority member for each local authority partner in the Care Trust. The officer members of Care Trusts shall also include a person who has experience of the health-related functions of local authorities. Regulation 3 also makes provision so that the period of appointment of a local authority member of a Care Trust may not exceed his remaining period as a local authority member.

Regulation 4 amends the principal Regulations to provide that in the case of a Care Trust an officer member’s tenure of office shall not be terminated unless each relevant local authority has been consulted.

Regulation 5 amends the principal Regulations to make provision in relation to the termination and suspension of non-officer members of Care Trusts. Where a local authority no longer wishes a member nominated by it to be a member of the trust the Secretary of State must terminate that member’s tenure of office. It also requires consultation with each relevant local authority before any member’s tenure of office may be terminated under certain provisions. It also provides that where a member who is member of a local authority is suspended from being a member of the local authority he is suspended as a member of the Care Trust for the duration of the suspension.

Regulation 6 amends the principal Regulations to make provision in relation to the disqualification from appointment of chairman and non-officer members and for the cessation of such disqualification.

Regulation 7 amends Schedule 2 to the principal Regulations to make provision for the rules as to meetings and proceedings of Care Trusts.

£1.75

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Printed and published in the UK by The Stationery Office Limited
under the authority and superintendence of Carol Tullo, Controller of
Her Majesty’s Stationery Office and Queen’s Printer of Acts of Parliament.
E2025 2/2002 012025 19585

ISBN 0-11-039366-X



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