

2001 No. 3788

**NATIONAL HEALTH SERVICE, ENGLAND
LOCAL GOVERNMENT, ENGLAND**

**The Care Trusts (Applications and Consultation)
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 powers conferred by section 45(1), (2), (7) and (8) and section 64(6) and (8) of the Health and Social Care Act 2001^(a) 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 Care Trusts (Applications and Consultation) Regulations 2001 and shall come into force on the 19th December 2001.

(2) In these Regulations—

“the 1977 Act” means the National Health Service Act 1977^(b);

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

“the 2001 Act” means the Health and Social Care Act 2001;

“an application for Care Trust designation” means an application to the Secretary of State pursuant to section 45(1) and (2) of the 2001 Act;

“the NHS Trusts Consultation Regulations” means the National Health Service Trusts (Consultation on Establishment and Dissolution) Regulations 1996^(d);

“the Partnership Regulations” means the NHS Bodies and Local Authorities Partnership Regulations 2000^(e);

“the PCT Consultation Regulations” means the Primary Care Trusts (Consultation on Establishment, Dissolution and Transfer of Staff) Regulations 1999^(f);

“relevant local authority” means a local authority which is, or is to be, a party to LA delegation arrangements^(g) with the relevant NHS body;

^(a) 2001 c. 15.

^(b) 1977 c. 49.

^(c) 1990 c. 19.

^(d) S.I. 1996/653.

^(e) S.I. 2000/617, as amended by S.I. 2001/2237.

^(f) S.I. 1999/2337.

^(g) See Section 45(11) of the Health and Social Care Act 2001 (c. 15) (“the 2001 Act”) for the definition of “LA delegation arrangements”.

“the relevant NHS body” means the Primary Care Trust or NHS trust (as the case may be) which is or is to be the party to LA delegation arrangements with a relevant local authority;

“relevant partners” means the bodies specified in either regulation 3(a) or (b).

(3) These Regulations extend to England only(a).

Prescribed functions for the purposes of section 45(1)

2.—(1) The health-related functions of local authorities specified in regulation 6 of the Partnership Regulations are prescribed for the purposes of section 45(1) of the 2001 Act (designation of a trust as a Care Trust).

(2) The NHS functions specified in regulation 5 of the Partnership Regulations are prescribed for the purposes of section 45(1) of the 2001 Act (designation of a trust as a Care Trust).

Prescribed bodies for the purposes of section 45(2)

3. The bodies prescribed for the purposes of section 45(2) of the 2001 Act (application to be made to the relevant authority jointly by every prescribed body) are—

(a) where on the date of the application the relevant NHS body is established—

(i) that NHS body, and

(ii) each relevant local authority; or

(b) where on the date of the application the relevant NHS body is not established but there is a proposal to establish that body—

(i) the Health Authority within whose area the relevant NHS body is to be established, and

(ii) each relevant local authority.

Consultation

4. Before an application for Care Trust designation may be made the relevant partners shall consult jointly such persons as appear to them to be affected by the proposed application.

Application

5. An application for Care Trust designation shall be made in writing and shall include the following—

(a) the proposed name of the Care Trust;

(b) the proposed date of designation of the trust as a Care Trust;

(c) a report of the results of the consultation referred to in regulation 4;

(d) the number of members of each relevant local authority whom it is proposed by the relevant partners will be members of the Care Trust;

(e) a copy of—

(i) in the case of existing LA delegation arrangements, the agreement in relation to those arrangements made pursuant to regulation 8(1) and (2) of the Partnership Regulations, or

(ii) in the case of proposed LA delegation arrangements, the draft of the proposed agreement to be made pursuant to regulation 8(1) and (2) of the Partnership Regulations in relation to those arrangements.

Combination of consultations

6.—(1) This regulation applies where the designation of a trust as a Care Trust is to be effected by an order which establishes a new trust under section 16A of the 1977 Act or under section 5(1) of the 1990 Act (as the case may be).

(a) See section 66 of the 2001 Act for the definition of “regulations” and “relevant authority” in relation to, and section 70(5) for the extent of, section 45.

(2) Where this regulation applies, and if each relevant local authority agrees, a Health Authority may combine the consultation required under regulation 4 of these Regulations with any consultation required—

- (a) under regulation 2(1)(b) of the PCT Consultation Regulations (consultation required before the Secretary of State may make an order establishing a Primary Care Trust), or
- (b) where paragraph (3) applies, under regulation 2(1) of the NHS Trusts Consultation Regulations (consultation required before the Secretary of State may make an order establishing an NHS Trust).

(3) This paragraph applies where the Secretary of State has directed the Health Authority referred to in paragraph (2) to conduct the consultation required by regulation 2(1) of the NHS Trusts Consultation Regulations.

Revocation of Care Trust designation

7.—(1) Before an application may be made under section 45(4)(b) of the 2001 Act (revocation of Care Trust designation) the party or parties proposing to make the application shall consult such persons as appear to them would be affected by the revocation.

(2) Any such application shall be in writing and shall include the following—

- (a) the reason why the application is being made;
- (b) a report of the results of the consultation mentioned in paragraph (1);
- (c) details of any steps the applicants consider need to be taken in relation to the LA delegation arrangements in connection with the revocation.

Amendment of the Primary Care Trusts (Consultation on Establishment, Dissolution and Transfer of Staff) Regulations 1999

8. Regulation 3 of the PCT Consultation Regulations shall be amended as follows—

- (a) at the beginning of paragraph (2), insert “Subject to paragraph (2A),”;
- (b) after paragraph (2), insert the following paragraph—

“(2A) Paragraph (2) shall not apply where the order to be made under section 16A(2) is an order the only purpose of which is to designate an existing Primary Care Trust as a Care Trust (in accordance with section 45(5)(a) of the 2001 Act) (designation of an existing body as a Care Trust).”.

Amendment of the National Health Service Trusts (Consultation on Establishment and Dissolution) Regulations 1996

9. Regulation 2 of the NHS Trusts Consultation Regulations shall be amended as follows—

- (a) at the beginning of paragraph (3), insert “Subject to paragraph (3A),”;
- (b) after paragraph (3), insert the following paragraph—

“(3A) Paragraph (3) shall not apply where the order to be made under section 5(1) of the Act is an order the only purpose of which is to designate an existing NHS trust as a Care Trust (in accordance with section 45(5)(a) of the 2001 Act) (designation of an existing body as a Care Trust).”.

Signed by authority of the Secretary of State for Health
27th November 2001

Jacqui Smith
Minister of State,
Department of Health

EXPLANATORY NOTE

(This note is not part of the Regulations)

These Regulations make provision relating to the designation of Primary Care Trusts and NHS trusts as Care Trusts under section 45(1) of the Health and Social Care Act 2001 (“the 2001 Act”).

Regulation 2 prescribes health-related functions of local authorities and NHS functions for the purposes of section 45(1) of the 2001 Act. The functions prescribed are those set out in regulations 5 and 6 of the NHS Bodies and Local Authorities Partnership Regulations 2000.

Regulation 3 prescribes bodies for the purposes of section 45(2) of the 2001 Act, that is those bodies who are required jointly to make an application for Care Trust status.

Regulation 4 provides for consultation before an application for Care Trust designation may be made.

Regulation 5 provides that an application for Care Trust designation shall be in writing and sets out what information must be included in such an application.

Regulation 6 sets out the circumstances in which consultation required under regulation 4 may be combined with other consultation exercises.

Regulation 7 provides for consultation before an application for revocation of Care Trust status may be made, and sets out that the application shall be in writing and what information shall be included in such an application.

Regulations 8 and 9 amend the Primary Care Trusts (Consultation on Establishment, Dissolution and Transfer of Staff) Regulations 1999 and the National Health Service Trusts (Consultation on Establishment and Dissolution) Regulations 1996 so that the Secretary of State does not need to consult the Primary Care Trust or NHS trust (as the case may be) before making an amendment to the establishment order of the trust if the only purpose of the amendment is to designate the trust as a Care Trust.

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