

2003 No. 2123

NATIONAL HEALTH SERVICE, ENGLAND

**The Patients' Forums (Membership and Procedure)
Regulations 2003**

Made - - - - - *13th August 2003*

Laid before Parliament *14th August 2003*

Coming into force - - *1st September 2003*

The Secretary of State for Health, in exercise of the powers conferred on him by sections 19(1) to (4) and 38(5) to (7) of the National Health Service Reform and Health Care Professions Act 2002(a) and of all other powers enabling him in that behalf, hereby makes the following Regulations:

Citation, commencement, application and interpretation

1.—(1) These Regulations may be cited as the Patients' Forums (Membership and Procedure) Regulations 2003 and shall come into force on 1st September 2003.

(2) These Regulations apply to England only.

(3) In these Regulations—

“the Act” means the National Health Service Reform and Health Care Professions Act 2002;

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

“chairman” means, unless the context otherwise requires, the chairman of a Patients' Forum;

“Commission” means the Commission for Patient and Public Involvement in Health(c);

“the health service” shall be construed in accordance with section 128(1) of the 1977 Act;

“health service body” means—

(a) a Strategic Health Authority, Special Health Authority, Primary Care Trust or NHS trust;

(b) a Health Board or Special Health Board constituted under section 2 of the National Health Service (Scotland) Act 1978(d); or the Scottish Dental Practice Board, the Common Services Agency for the Scottish Health Service or an NHS trust respectively constituted under sections 4, 10 and 12A of that Act;

(c) the Dental Practice Board constituted under section 37(1) of the 1977 Act;

“member” in relation to a Patients' Forum includes the chairman except where the context otherwise requires;

(a) 2002 c. 17.

(b) 1977 c. 49.

(c) Established under section 20 of the Act.

(d) 1978 c.29. Section 2 was amended by the Health and Social Services and Social Security Adjudication Act 1983 (c. 41), Schedule 7, paragraph 1 and by the National Health Service and Community Care Act 1990 (c. 19) (“the 1990 Act”), section 25; section 4 was amended by the Health and Medicines Act 1988 (c. 49), section 12(3) and Schedule 3; section 10 was amended by the Health Services Act 1980 (c. 53), Schedule 6, paragraph 2 and the 1990 Act, Schedule 10; section 12A was inserted by the 1990 Act, section 31 and amended by section 46(1) of the Health Act 1999 (“the 1999 Act”).

“PCT Patients’ Forum” has the meaning given in section 16 of the Act(a);

“primary care list” means—

- (a) a list of persons undertaking to provide general medical services, general dental services, general ophthalmic services or, as the case may be, pharmaceutical services prepared pursuant to regulations made under sections 29, 36, 39, 42 or 43 of the 1977 Act(b);
- (b) a list of persons approved for the purpose of assisting in the provision of any such services prepared pursuant to regulations made under section 43D of that Act(c);
- (c) a services list referred to in section 28DA of that Act(d) or section 8ZA of the National Health Service (Primary Care) Act 1997(e); or
- (d) a list corresponding to a services list prepared by virtue of regulations made under section 41 of the Health and Social Care Act 2001(f).

Membership of Patients’ Forums

2.—(1) A Patients’ Forum established for an NHS trust shall have at least 7 members and a PCT Patients’ Forum shall have at least 7 members plus members appointed under paragraph (4).

(2) Subject to regulation 6 (termination of tenure of office) a member’s term of office shall be for a period between one year and four years as is agreed between the prospective member and the Commission at the time of the appointment.

(3) In appointing members to a Patients’ Forum, the Commission shall ensure that—

- (a) the majority of members are persons for whom services are being or have been provided by the NHS trust or Primary Care Trust for which the Patients’ Forum is established and, in the case of a PCT Patients’ Forum, are living in the area of the Primary Care Trust; and
- (b) subject to regulation 4(1)(i), the members include persons who are members or representatives of a voluntary organisation whose purpose, or one of whose purposes, is to represent the interests of—
 - (i) persons for whom services are being provided under the 1977 Act, or
 - (ii) persons who provide care for such persons, but who are not employed to do so by any body in the exercise of its functions under any enactment.

(4) In the case of a PCT Patients’ Forum, in addition to the 7 members referred to in paragraph (1), the Commission shall appoint members to include—

- (a) at least one member of the Patients’ Forum established for each NHS trust all or most of whose hospitals, establishments and facilities are situated in the area of the Primary Care Trust; and
- (b) subject to regulation 4(1)(i), if it appears to the Commission that there is a body which represents members of the public in the Primary Care Trust’s area in matters relating to their health, at least one person who is a member or representative of that body (or, if there is more than one such body, of any of those bodies).

(a) See also section 15(1)(b) of the Act under which such Patients’ Forums are established.

(b) Section 29 was extended by the Health and Medicines Act 1988 (c. 49) (“the 1988 Act”), section 17 and amended by the following: the Health Services Act 1980 (c. 53) (“the 1980 Act”), sections 1 and 7 and Schedule 1, paragraph 42(b), the Health and Social Services and Social Security Adjudications Act 1983 (c. 41), Schedule 6, paragraph 2, the Medical Act 1983 (c. 54), section 56(1) and Schedule 5, paragraph 16(a), S.I. 1985/39, article 7(3), The Health Authorities Act 1995 (c. 17) (“the 1995 Act”), Schedule 1, paragraph 18, the National Health Service (Primary Care) Act 1997 (c. 46), Schedule 2, paragraph 8, the 2001 Act, section 17 and the Act, Schedule 2, paragraph 3: section 36(1) was so numbered by the Health and Social Security Act 1984 (c. 48) (“the 1984 Act”), Schedule 3, paragraph 5(1) and amended by S.I. 1981/432, article 3(3)(a), S.I. 1985/39, article 7(10), the 1988 Act, Schedule 2, paragraph 4, the 1990 Act, section 24 and the 1995 Act, Schedule 1, paragraph 25(a); section 36(4) to (8) was inserted by the 2001 Act, section 20(1)(4)(c); section 39 was extended by the 1988 Act, section 17 and amended by the 1980 Act, sections 1 and 2 and Schedule 1, paragraph 52, the 1984 Act, section 1(4), Schedule 1, paragraph 1 and Schedule 8, S.I. 1985/39, article 7(12), the 1995 Act, Schedule 1, paragraph 28, the 1999 Act, section 9(4), the 2001 Act, section 20(5) and 23(4) and the Act, Schedule 2 paragraph 12; section 42 was substituted by the National Health Service (Amendment) Act 1986 (c. 66), section 3(1), extended by the 1988 Act, section 17 and amended by S.I. 1987/2202, article 4, the 1990 Act, section 12(3), the 1995 Act, Schedule 1, paragraph 30, by the 2001 Act, section 43(2), (3) and (4) and by the Act, Schedule 2, paragraph 16; section 43 was amended by the 1995 Act, Schedule 1, paragraph 31 and by the Act, Schedule 2, paragraph 17.

(c) Section 43D was inserted by the 2001 Act, section 24 and amended by the Act, Schedule 2, paragraph 20.

(d) Section 28DA was inserted by the 2001 Act, section 26(1).

(e) 1997 c. 46; section 8ZA was inserted by the 2001 Act, section 26(2).

(f) 2001 c. 15.

Appointment of chairman and deputy chairman

3.—(1) The members may appoint

- (a) one of their number to be chairman; and
- (b) one or two of their number, other than the chairman, to be deputy chairman, for such period as they may determine on making the appointment.

(2) A chairman may at any time resign from that office by giving notice to the members and to the Commission.

(3) A deputy chairman may at any time resign from that office by giving notice to the members.

Disqualification for appointment

4.—(1) Subject to regulation 5 (cessation of disqualification) a person shall be disqualified for appointment as a member if—

- (a) he has within the preceding five years been dismissed, otherwise than by reason of redundancy, from any paid employment with a health service body;
- (b) he is a person whose tenure of office as the chairman or as a member or director of a health service body has been terminated on the grounds that—
 - (i) it was not in the interests of, or conducive to the good management of, that body that he should continue to hold office,
 - (ii) it was not in the interests of the health service that he should continue to hold office,
 - (iii) he failed, without reasonable cause, to attend any meeting of that body for a period of 3 months or more, or
 - (iv) he failed to declare a pecuniary interest or withdraw from consideration of any matter in respect of which he had a pecuniary interest;
- (c) he—
 - (i) is subject to a national disqualification imposed by the Family Health Services Appeal Authority constituted under section 49S(a) of the 1977 Act,
 - (ii) is subject to a national disqualification under a decision of the National Health Service Tribunal, which is treated as a national disqualification by virtue of regulation 6(4)(b) of the Abolition of the National Health Service Tribunal (Consequential Provisions) Regulations 2001(b),
 - (iii) has been refused nomination or approval to fill a vacancy for a medical practitioner pursuant to regulations made under section 29B(2A) of the 1977 Act(c) or refused admission to a primary care list, on grounds corresponding to the conditions referred to in section 49F(2),(3) or (4) of the 1977 Act(d) (efficiency cases, fraud cases and unsuitability cases) and has not subsequently been approved or, as the case may be, included in a primary care list,
 - (iv) is conditionally included in a primary care list,
 - (v) has been removed from a primary care list on any of the grounds set out in section 49F of the 1977 Act, or by a direction of the National Health Service Tribunal and has not subsequently been included in such a list,
 - (vi) is contingently(e) removed from a primary care list, or
 - (vii) is suspended from a primary care list or is treated as so suspended by virtue of regulation 6(2) of the Abolition of the National Health Service Tribunal (Consequential Provisions) Regulations 2001,

and in this sub-paragraph any reference to a provision in the 1977 Act includes a reference to the provision corresponding to that provision in Scotland and Northern Ireland;

(a) Section 49S was inserted by the 2001 Act, section 27.

(b) S.I. 2001/3744. The National Health Service Tribunal was abolished by the 2001 Act, section 16 with effect from 14th December 2001, subject to article 2(5) and (6) of S.I. 2001/3738 which provided for a later commencement date for section 16 in respect of certain types of case before the National Health Service Tribunal.

(c) Section 29B was inserted by the 1997 Act, section 32(1) and section 29B(2A) was inserted by the 2001 Act, section 20(1) and (3)(a) and amended by the Act, Schedule 2, Part I, paragraph 5 (1) and (2).

(d) Section 49F was inserted by the 2001 Act, section 25.

(e) See section 49G of the 1977 Act and the powers to make corresponding provision in sections 28DA(7) and 43D(6) of that Act.

- (d) he is an employee, officer or member of the NHS trust or Primary Care Trust for which the Patients' Forum is established;
- (e) in the case of a PCT Patients' Forum, he is an individual who, or an employee, officer or member of an organisation which, provides services under arrangements made by the Primary Care Trust;
- (f) he is an employee, officer or member of the Strategic Health Authority which is responsible for performance managing the NHS trust or Primary Care Trust for which the Patients' Forum is established;
- (g) he is a member of an executive of a local authority (within the meaning of Part II of the Local Government Act 2000 (arrangements with respect to executives etc.)(a));
- (h) he is an employee, officer or member of the Commission;
- (i) he is a person who provides staff support to the Patients' Forum under a contract between the Commission and an organisation of which he is an employee, officer member or representative;
- (j) he has previously served as a member of the Patients' Forum for 8 consecutive years and less than four years have passed since he ceased to be such a member;
- (k) he is a member of another Patients' Forum, unless he is a member appointed to a PCT Patients' Forum under paragraph (4)(a) of regulation 2;
- (l) he is a person whose role relates to the provision of independent advocacy services(b) as an employee, officer or member of an organisation (other than a PCT Patients' Forum) which provides such services;
- (m) he is a member of the relevant overview and scrutiny committee (within the meaning of section 15 of the Act).

(2) For the purposes of paragraph (1)(a), a person shall not be treated as having been in paid employment by reason only of his having been the chairman or a member of, and in the case of an NHS trust, a member of the board of directors of, the health service body in question.

Cessation of disqualification

5.—(1) Subject to paragraph (2), where a person is disqualified under regulation 4(1)(a) he may, after the second anniversary of the day on which he was dismissed, apply in writing to the Secretary of State to remove the disqualification.

(2) Where the Secretary of State refuses an application to remove a disqualification, no further application may be made by that person until the second anniversary of the day of the refusal and this paragraph shall apply to any subsequent application.

(3) Where a person is disqualified under regulation 4(1)(b) the disqualification shall cease on the second anniversary of the termination of his tenure of office, or such longer period as may be specified on the termination, but the Secretary of State may, on application being made to him by that person, reduce the period of disqualification.

Termination of tenure of office

6.—(1) A member may resign his office at any time during its term by giving notice to the Commission.

(2) Where the Commission is of the opinion that it is not in the interests of the Patients' Forum or the health service that a member should continue to hold office, it may terminate his tenure of office by giving him notice in writing to that effect.

(3) Where a person has been appointed to be a member, and—

- (a) it comes to the notice of the Commission that at the time of his appointment he was disqualified under regulation 4, the Commission shall declare that the person in question was not duly appointed and notify him in writing to that effect; or
- (b) he becomes disqualified for appointment under regulation 4 and notifies (as he should) the Commission; or

(a) 2000 c. 22.

(b) See section 19A of the 1977 Act.

(c) he becomes disqualified for appointment under regulation 4 and this comes to the attention of the Commission otherwise than by the member's notification, the Commission shall notify him in writing of such disqualification, and upon receipt of notification from the member or the Commission, as the case may be, his tenure of office, if any, shall be terminated and he shall cease to act as a member.

(4) If it appears to the Commission that a member has failed to comply with regulation 11 (disability of members in proceedings on account of pecuniary interest) it may terminate that person's tenure of office by giving him notice in writing to that effect.

Appointment of committees and joint committees

7.—(1) A Patients' Forum may appoint a committee to discharge, or assist it in discharging, any or all of its functions subject to such conditions as the Patients' Forum may consider appropriate.

(2) Two or more Patients Forums' may appoint a joint committee and arrange for such functions, in relation to any (or all) of those Patients' Forums, as those Forums agree, to be exercisable by the joint committee subject to such conditions as those Patients' Forums may consider appropriate.

(3) A committee or joint committee appointed under paragraph (1) or (2) may consist wholly or partly of members of the appointing Patients' Forum or Forums provided that—

- (a) a committee appointed under paragraph (1) shall have a minimum of two members of the appointing Patients' Forum; and
- (b) a joint committee appointed under paragraph (2) shall have a minimum of one member of each of the appointing Patients' Forums.

(4) Sub-paragraphs (a), (b) and (c) of regulation 4(1) and regulation 5 shall apply to the appointment of members of committees and joint committees appointed under this regulation as they apply to the appointment of members of a Patients' Forum.

Funding, premises, other facilities and staff

8.—(1) The Commission shall provide such funding and secure the provision of such support, including staff and office accommodation, for each Patients' Forum as the Commission considers necessary to enable the Patients' Forum to perform its functions.

(2) Any staff provided under paragraph (1) shall be under the direction of the members.

Allowances

9. The Commission may pay to any member of a Patients' Forum, or of a committee or joint committee set up pursuant to regulation 7, such travelling or other allowances (including attendance allowances or compensation for loss of remunerative time) as it may determine.

Meetings and proceedings

10.—(1) Subject to the following paragraphs of this regulation and to regulation 11 (disability of members in proceedings on account of pecuniary interest), a Patients' Forum may conduct its meetings and proceedings in such a manner as it may determine.

(2) The proceedings of a Patients' Forum shall not be invalidated by any vacancy in its membership or by any defect in a member's appointment.

(3) Any member who wishes to have the assistance of a carer, advocate, interpreter or other helper may be accompanied by such person at any meeting of the Patients' Forum.

(4) No decisions shall be made in any proceedings or at any meetings of a Patients' Forum in relation to—

- (a) agreeing annual and other reports;
- (b) reviews to be carried out under section 15(3)(a) of the Act;
- (c) agreeing the annual accounts;
- (d) agreeing how expenditure of its annual budget is to be allocated; or
- (e) making a referral to another body or person,

unless a majority of the members agree.

(5) Proceedings or meetings at which any of the matters referred to in paragraph (4) are to be discussed, shall be open to the public and, at least seven clear days before any such proceedings or meetings, a notice specifying the business to be transacted shall be published, and issued to individual members, in whichever way the Forum considers most appropriate.

(6) This regulation applies to a committee or joint committee set up under regulation 7 as it applies to the Patients' Forum and applies to a member of any such committee or joint committee (whether or not he is also a member of the Patients' Forum) as it applies to a member of the Patients' Forum.

Disability of members in proceedings on account of pecuniary interest

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

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

(3) The Patients' Forum may exclude a member from a meeting of the Patients' Forum while any matter in which he has a pecuniary interest, direct or indirect, is under consideration.

(4) Any allowances paid or payable to a member by virtue of regulation 9 shall not be treated as a pecuniary interest for the purpose of this regulation.

(5) Subject to paragraphs (2) and (6), circumstances in which a member shall be treated for the purpose of this regulation as having an indirect pecuniary interest in a matter include—

- (a) one where he, or a nominee of his, is a director of a company or other body, not being a public body, which has a direct pecuniary interest in the matter under consideration; or
- (b) one where he is a partner of, or is in the employment of, a person who has a direct pecuniary interest in the matter under consideration,

and in the case of persons living together as a couple (whether married or not) the interest of one shall, if known to the other, be deemed for the purpose of this regulation to be also an interest of that other.

(6) A member shall not be treated as having a pecuniary interest in any 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 matter.

(7) Where a member—

- (a) has an indirect pecuniary interest in a matter by reason only of a beneficial interest in securities of a company or other body;
- (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;
- (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; and
- (d) he has declared his interest,

this regulation shall not prohibit him from taking part in the consideration or discussion of the matter, or from voting on any question with respect to it.

(8) This regulation applies to a committee or joint committee appointed under regulation 7 as it applies to the Patients' Forum and applies to a member of any such committee or joint committee (whether or not he is also a member of the Patients' Forum) as it applies to a member of the Patients' Forum.

(9) In this regulation—

“public body” includes any body established for the purpose of carrying on, under national ownership, any industry or part of any industry or undertaking, the governing body of any university, university college or college, school or hall of a university and the National Trust for Places of Historic Interest or Natural Beauty incorporated by the National Trust Act 1907^(a);

“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 share 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.

Signed by authority of the Secretary of State for Health

13th August 2003

Rosie Winterton
Minister of State,
Department of Health

^(a) 1907 c. 36.

EXPLANATORY NOTE

(This note is not part of the Regulations)

These Regulations make provision concerning the membership and procedure of Patients' Forums established by section 15 of the National Health Service Reform and Health Care Professions Act 2002. In particular, they make provision for the numbers, appointment, qualification for membership and tenure (regulation 2), the appointment of a chairman and deputy-chairman (regulation 3), disqualification for appointment (regulations 4 and 5), termination of tenure of office (regulation 6), the appointment of committees and joint committees (regulation 7), funding, premises, other facilities and staff (regulation 8), allowances (regulation 9), meetings and proceedings (regulation 10) and disability of members in proceedings on account of pecuniary interest (regulation 11).

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