

2003 No. 1616

NATIONAL HEALTH SERVICE, ENGLAND

The Primary Care Trusts (Membership, Procedure and Administration Arrangements) Amendment (England) Regulations 2003

<i>Made</i> - - - - -	<i>23rd June 2003</i>
<i>Laid before Parliament</i>	<i>27th June 2003</i>
<i>Coming into force</i> - -	<i>18th July 2003</i>

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

Citation, commencement and application

1.—(1) These Regulations may be cited as the Primary Care Trusts (Membership, Procedure and Administration Arrangements) Amendment (England) Regulations 2003 and shall come into force on 18th July 2003.

(2) In these Regulations, “the principal Regulations” means the Primary Care Trusts (Membership, Procedure and Administration Arrangements) Regulations 2000(b).

(3) These Regulations apply to England only.

Amendment of regulation 1 of the principal Regulations

2. In regulation 1 of the principal Regulations (citation, commencement and interpretation), in paragraph (2)—

- (a) in the definition of “health service body”, in paragraph (a), before “NHS trust” there shall be inserted “Local Health Board,”;
- (b) in the definition of “nurse”, in paragraph (e), for “Health Authority” there shall be substituted “a Local Health Board”;
- (c) the definition of “Primary Care Group” shall be omitted; and
- (d) before the definition of “Primary Care Trust”, there shall be inserted—
 - ““primary care list” means—
 - (a) a list of persons undertaking to provide general medical services, general dental

(a) 1977 c. 49; section 126(4) was amended by the National Health Service and Community Care Act 1990 (c. 19) (“the 1990 Act”), section 65(2), the Health Act 1999 (c. 8) (“the 1999 Act”), Schedule 4, paragraph 37(6), the Health and Social Care Act 2001 (c. 15) (“the 2001 Act”), Schedule 5, paragraph 5(13)(b) and the National Health Service Reform and Health Care Professions Act 2002 (c. 17) (“the 2002 Act”), section 6(3)(c); see section 128(1), as amended by section 26(2)(i) of the 1990 Act, for the definition of “regulations”; Schedule 5A was inserted by Schedule 1 to the 1999 Act. By virtue of section 16A(1) of the 1977 Act, as substituted by the 2002 Act, section 2(2), Primary Care Trusts may only be established for areas in England.

(b) S.I. 2000/89, as amended by S.I. 2001/3787 and 2002/38,557, 880, 881, 2469 and 2861.

- services, general ophthalmic services or, as the case may be, pharmaceutical services prepared pursuant to regulations made under section 29, 36, 39, 42 or 43 of the Act (a);
- (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(b);
- (c) a services list referred to in section 28DA of that Act(c) or section 8ZA of the 1997 Act(d); 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(e);”.

Amendment of regulation 5 of the principal Regulations

3.—(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 (a)—

- (i) for “, the Channel Islands or the Isle of Man of any offence and” there shall be substituted “of any offence, or convicted elsewhere for an offence which, if committed in any part of the United Kingdom would constitute a criminal offence in that part, and in either case”,
- (ii) at the end there shall be added “, and which has not been quashed on appeal”;

(b) for sub-paragraph (b) there shall be substituted—

“(b) he has—

- (i) been adjudged bankrupt or had a sequestration of his estate awarded unless (in either case) he has been discharged or the bankruptcy order has been annulled or rescinded, or
- (ii) made a composition or arrangement with, or granted a trust deed for, his creditors unless he has been discharged in respect of it;”;

(c) after sub-paragraph (d), there shall be inserted—

“(da) he—

- (i) is subject to a national disqualification imposed by the Family Health Services Appeal Authority constituted under section 49S(f) of the 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(g),
- (iii) has been refused nomination or approval to fill a vacancy for a medical

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- (a) 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 2002 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 2002 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 2002 Act, Schedule 2, paragraph 16; section 43 was amended by the 1995 Act, Schedule 1, paragraph 31 and by the 2002 Act, Schedule 2, paragraph 17.
 - (b) Section 43D was inserted by the 2001 Act, section 24 and amended by the 2002 Act, Schedule 2, paragraph 20.
 - (c) Section 28DA was inserted by the 2001 Act, section 26(1).
 - (d) 1997 c. 46; section 8ZA was inserted by the 2001 Act, section 26(2).
 - (e) 2001 c. 15.
 - (f) Section 49S was inserted by the 2001 Act, section 27 and amended by the 2002 Act, Schedule 1, paragraph 18.
 - (g) S.I. 2001/3744. The National Health Service Tribunal was abolished by section 16 of the 2001 Act 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.

practitioner pursuant to regulations made under section 29B(2A) of the Act(a) or refused admission to a primary care list, on grounds corresponding to the conditions referred to in section 49F(2), (3) or (4) of that Act(b) (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 Act, or by a direction of the National Health Service Tribunal and has not subsequently been included in such a list,
- (vi) is contingently removed from a primary care list(c), 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 Act includes a reference to the provision corresponding to that provision in Scotland and Northern Ireland;

- (d) in sub-paragraph (e)—
 - (i) at the end of head (i), there shall be added “or”,
 - (ii) head (ii) shall be omitted, and
 - (iii) in head (iii), for “Health Authority” there shall be substituted “Local Health Board”;
- (e) in sub-paragraph (i), for “Health Authority” there shall be substituted “Strategic Health Authority, a Local Health Board”.

(3) In paragraph (4)—

- (a) in sub-paragraph (a), for “Health Authority” there shall be substituted “Strategic Health Authority or Local Health Board”; and
- (b) sub-paragraph (b) shall be omitted.

Amendment of regulation 6 of the principal Regulations

4.—(1) Regulation 6 of the principal Regulations (cessation of disqualification) shall be amended as follows.

(2) In paragraph (1), after “bankrupt”, in the first place where it occurs, there shall be inserted “or having had a sequestration of his estate awarded”.

(3) In paragraph (2)—

- (a) after “arrangement with” there shall be inserted “, or having granted a trust deed for,”; and
- (b) after “or arrangement”, in the second place where it occurs, there shall be inserted “, or, as the case may be, the terms of the trust deed.”.

Amendment of regulation 9 of the principal Regulations

5. In regulation 9 of the principal Regulations (appointment of committees and sub-committees), in paragraph (4)(b), for “Health Authorities” there shall be substituted “Strategic Health Authorities, Local Health Boards”.

Amendment of regulation 10 of the principal Regulations

6. In regulation 10 of the principal Regulations (meetings and proceedings), in paragraph (3), for “or Health Authorities” there shall be substituted “, Strategic Health Authorities or Local Health Boards”.

(a) Section 29B was inserted by the 1997 Act, section 32(1) and section 29B(2A) was inserted by the 2001 Act, section 20(3) (a) and amended by the 2002 Act, Schedule 2, paragraph 5 (2).

(b) Section 49F was inserted by the 2001 Act, section 25 and amended by the 2002 Act, Schedule 2, paragraph 21(a).

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

Amendment of regulation 11 of the principal Regulations

7. In regulation 11 of the principal Regulations (disability of chairman and members in proceedings on account of pecuniary interest), in paragraph (5)—

- (a) for “married persons living together” there shall be substituted “two persons living together as a couple (whether married or not)”; and
- (b) “spouse” shall be omitted.

Signed by authority of the Secretary of State for Health

23rd June 2003

John Hutton
Minister of State,
Department of Health

EXPLANATORY NOTE

(This note is not part of the Regulations)

These Regulations amend the Primary Care Trusts (Membership, Procedure and Administration Arrangements) Regulations 2000 (“the principal Regulations”).

Regulations 2(a) to (c), 3(2)(d) and (e) and (3), 5 and 6 make amendments to the principal Regulations consequential on changes to the organisation of the health service in England and Wales. In particular, they remove references to Primary Care Groups which no longer exist; insert references to Strategic Health Authorities consequential on the renaming of Health Authorities in England as Strategic Health Authorities by section 1 of the National Health Service Reform and Health Care Professions Act 2002; and insert or substitute references to Local Health Boards which replaced Health Authorities in Wales from 1st April 2003.

Regulation 3(2)(a) and (b) amends the grounds for disqualification for appointment as a chairman or non-officer member in regulation 5 of the principal Regulations. Regulation 3(2)(a) extends disqualification to convictions in all parts of the world rather than just the United Kingdom, Channel Islands or Isle of Man. Regulation 3(2)(b) extends the grounds relating to bankruptcy and arrangements with creditors to cover the Scottish equivalents of sequestration of estates and the granting of trust deeds. Regulation 3(2)(c) provides for disqualification of those who have been removed or disqualified from a primary care list on grounds of efficiency, suitability or fraud. A definition of primary care list is inserted in the principal Regulations by regulation 2(d). Regulation 4 makes amendments to regulation 6 of the principal Regulations consequential on the changes made by regulation 3.

Regulation 7 amends the rules relating to indirect pecuniary interests in regulation 11(5) of the principal Regulations to apply them to all people living together as a couple rather than just to those who are married.

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