STATUTORY INSTRUMENTS

1980 No. 1241

HEALTH SERVICES

The Health Services (Authorisation) Regulations 1980

Made - - - -	15*th August* 1980
Laid before Parliament	18*th August* 1980
Coming into Operation	7*th September* 1980

The Secretary of State for Social Services, as respects England, the Secretary of State for Wales, as respects Wales, and the Secretary of State for Scotland, as respects Scotland, with the consent of the Treasury as to the fee prescribed by regulation 3, in exercise of powers conferred on them by section 16(1) and (3) of the Health Services Act 1976**(a)**, and of all other powers enabling them in that behalf, after consultation with bodies representative of medical and dental practitioners and other bodies representative of interests likely to be substantially affected by these regulations in accordance with section 22(2) of the Act, hereby make the following regulations:—

Citation and commencement

1. These regulations may be cited as the Health Services (Authorisation) Regulations 1980 and shall come into operation on 7th September 1980.

Interpretation

2. In these regulations, unless the context otherwise requires:—

"the Act" means the Health Services Act 1976;

"application" means an application for an authorisation;

"the appropriate office" means—

(*a*) where the application relates to controlled works to be executed in England, the office of the Department of Health and Social Security, Alexander Fleming House, Elephant and Castle, London SE1 6BY;

(*b*) where the application relates to controlled works to be executed in Scotland, the office of the Scottish Home and Health Department, St. Andrew's House, Edinburgh EH1 3DE;

(*c*) where the application relates to controlled works to be executed in Wales, the Welsh Office, Cathays Park, Cardiff CF1 3NQ;

"appointed person" means the person or persons appointed by the Secretary of State to afford an applicant for an authorisation a hearing;

"authorisation" means an authorisation required by section 12(1) of the Act;

"controlled works", "controlled premises" and "controlled extension" have the meanings given by section 12(2) of the Act**(b)**;

(a) 1976 c. 83; section 16 was amended by the Health Services Act 1980 (c.53), section 9 and Schedule 2, paragraph 4.

(b) Section 12(2) was amended by the Health Services Act 1980, section 12(1).

Application for authorisation

3. Any person applying for an authorisation shall deliver or send to the Secretary of State at the appropriate office:—

(*a*) an application duly completed in the form set out in the Schedule to these regulations or a form to the like effect;

(*b*) a fee of £250.

Procedure on receiving an application

4.—(1) If, on receiving an application, the Secretary of State decides that it is not duly made in accordance with regulation 3 above, the Secretary of State shall return it to the applicant with a statement saying in what respects, in his view, it does not comply with that regulation.

(2) The Secretary of State shall as soon as may be after a duly completed application has been received—

(*a*) take such steps as are reasonably practicable—

(i) to bring it to the notice of any persons whose interests appear to him likely to be substantially affected by the grant or refusal of the authorisation applied for, or to bodies representative of such persons; and

(ii) to notify such persons or bodies that they may within six weeks give or send to the Secretary of State any observations or evidence they wish to submit for the purposes of the determination of the application;

(*b*) make a copy of the application available at the appropriate office for inspection by any person at any reasonable time.

(3) The Secretary of State shall give notice of his decision either—

(*a*) to grant or refuse the application in accordance with the provisions of regulation 7(1) of these regulations; or

(*b*) to appoint a person or persons to afford the applicant a hearing and to report thereon to the Secretary of State.

(4) The Secretary of State may appoint such person or persons as he thinks fit to hold a hearing in relation to an application and to report thereon to him.

(5) Any hearing by an appointed person shall be held at a place reasonably accessible to the applicant and any persons or bodies notified of such a hearing. At least 28 days' notice of the date and time and place of the holding of a hearing, and the names and addresses of other persons so notified, together with a copy of any observations or evidence submitted, shall be given to the applicant and any persons or bodies notified of the application in accordance with paragraph (2) above, and if such notice is given by post the recorded delivery service shall be used.

(6) If any person or body desires to submit representations in writing for consideration by the appointed person at any hearing that person or body shall send such representations to the Secretary of State not less than 14 days before the date of the holding of the hearing and shall at the same time send a copy of them to every person or body to whom notice has been given in accordance with paragraph (5) above.

Procedure at hearings

5.—(1) The applicant and every other person or body to whom notice has been given in accordance with regulation 4(5) of these regulations, and any

other person appearing to the appointed person to be directly interested in the application shall be entitled to attend a hearing held in relation to an application and may be represented at the hearing by any person whom he may appoint.

(2) At any such hearing, except where the appointed person with the consent of the applicant otherwise determines, the applicant shall begin and shall have the right of final reply; the other persons entitled to attend the hearing shall be heard in such order as the appointed person may determine.

(3) The applicant and any other person or body to whom notice of the hearing has been given pursuant to regulation 4(5) of these regulations or his representative shall be entitled to make an opening statement, to give evidence, to call witnesses, to cross-examine any witness called by any other person and to address the appointed person, but any other person appearing at the hearing may do so only to the extent permitted by the appointed person.

(4) The appointed person may direct or allow evidence of any fact to be given in any manner he may think fit and shall not refuse to admit evidence tendered to him on the ground only that such evidence would be inadmissible in a court of law.

(5) If any person or body to whom notice has been duly given fails to attend or to be represented at the time and place fixed for a hearing, the appointed person, after considering any representations submitted by that person in pursuance of regulation 4(6) of these regulations, may proceed with the hearing or may postpone or adjourn it to a later date.

(6) The appointed person may by summons require any person to attend, at a time and place stated in the summons, to give evidence or to produce any documents under his control which relate to any matter in question at the hearing and may take evidence on oath, and for that purpose administer oaths or may, instead of administering an oath, require the person examined to make a solemn affirmation.

(7) No person shall be required in obedience to such summons to attend to give evidence or to produce any documents unless upon service of such summons there is paid or tendered to him a sum sufficient to cover his reasonable expenses of travelling to and from, and his attendance at, the hearing.

(8) No person shall be required to attend at a hearing to give any evidence or produce any document which he could not be required to give or produce on the trial of an action in a court of law.

(9) Subject to the provisions of the Act and these regulations the procedure at a hearing by an appointed person shall be such as he may determine.

(10) The appointed person shall draw up a report and present it to the Secretary of State who shall take it into consideration in making his decision.

Hearings in public or in private

6. Any hearing shall be in public unless the Secretary of State, on the application of any person entitled to attend and be heard, directs that the hearing or any part of it shall take place in private.

Decisions of the Secretary of State

7.—(1) The Secretary of State shall give notice of his decision and the reasons therefor to the applicant and to any person who appeared (in person or not) at any hearing in relation to the application and to any other person appearing to him to be directly interested therein.

(2) Where an appointed person has held a hearing the Secretary of State shall give notice of his decision in accordance with paragraph (1) above and shall send a copy of the report of the appointed person to all the persons entitled to receive notice of his decision.

Miscellaneous powers

8. In relation to any application the Secretary of State or, in relation to any hearing, the appointed person, may if he thinks fit—

(*a*) extend the time appointed by these regulations for doing any act notwithstanding that the time appointed may have expired;

(*b*) postpone or adjourn any hearing;

(*c*) if the applicant at any time gives notice of the withdrawal of his application, dismiss the proceedings.

Service of notices

9. Any notice or other document required or authorised to be given or sent to any person under the provisions of these regulations shall be in writing and may be sent by post to or delivered at—

(*a*) in the case of a document directed to the Secretary of State the appropriate office;

(*b*) in the case of a document directed to an applicant, his address as stated in his application, or his last known address or place of business in the United Kingdom or, if the applicant is a corporation, the corporation's registered or principal office;

(*c*) in the case of a document directed to any person (other than a person specified in the foregoing provisions of this paragraph), the address (if any) given by him for the purpose of the proceedings in question or his last known address or place of business in the United Kingdom or, if such a person is a corporation, the corporation's registered or principal office;

and if sent or given to the authorised representative of any person shall be deemed to have been sent or given to that person.

Penalties

10. Any person who, having been summoned under regulation 5(6) above, without reasonable excuse fails to attend and give evidence or produce documents at a hearing held by an appointed person shall be liable on summary conviction to a fine not exceeding £100.

Revocation of Regulations

11. In the Health Services Board (Authorisation and Notification) Regulations 1977**(a)** in regulation 2(1) the definitions of "application", "authorisation" and "controlled works", and regulations 3 to 10 and 12 and Schedule 1 are hereby revoked:

Provided that, without prejudice to the generality of the rules of construction contained in the Interpretation Act 1978**(b)**, such revocation shall not affect any application, authorisation, decision, notice, representations or summons made, given or issued under or by virtue of those regulations and any such

(a) S.I. 1977/644. **(b)** 1978 c. 30.

application, authorisation, decision, notice, representations or summons shall, so far as it could have been made, given or issued under or by virtue of these regulations, have effect as if it has been so made, given or issued.

Patrick Jenkin,
Secretary of State for Social Services.

8th August 1980.

Nicholas Edwards,
Secretary of State for Wales.

8th August 1980.

George Younger,
Secretary of State for Scotland.

8th August 1980.

We consent,

Peter Morrison,
Carol Mather,
Two of the Lords Commissioners of Her Majesty's Treasury.

15th August 1980.

SCHEDULE *Regulation 3*

APPLICATION FOR AUTHORISATION OF CONTROLLED WORKS UNDER PART III OF THE HEALTH SERVICES ACT 1976:

INFORMATION TO BE SUPPLIED BY APPLICANTS SEEKING AUTHORISATION FOR CONTROLLED WORKS

1. Applicants are requested to answer the questions and supply the information requested below. All questions should be answered as fully and as accurately as possible; where applicants can only give estimates, they are asked to make this clear. If desired answers to questions and information supplied may be attached to this form. In every case the declaration at the end of this form must be completed.

2. The information requested is divided into five Parts:—

PART I GENERAL

PART II ACCOMMODATION AND FACILITIES

PART III STAFFING AND STAFF ACCOMMODATION

PART IV REMUNERATION AND STAFF RECRUITMENT AND TRAINING POLICIES

PART V OTHER INFORMATION.

INFORMATION TO BE SUPPLIED AND QUESTIONS TO BE ANSWERED

PART I: GENERAL

1. Name and address of the person or company applying for the authorisation.

2. Postal address of the place at which it is proposed the works will be executed or, if there is no address, an exact description.

3. Are the proposed works:—
either to construct controlled premises*
or to convert existing premises into controlled premises*
or to extend controlled premises*

4. Please given a brief general description of the proposed works.
(Please attach to the application an ordnance-survey-based map on which the proposed works are clearly shown. If the works cannot be shown on the ordnance-survey-based map please attach a building plan which makes it possible to identify the works clearly.)

5. (*a*) Has an application been made for planning permission in respect of the controlled works? (If planning permission is *not* required please answer "No planning permission needed").
If "Yes" please attach to the application a copy of the planning authority's acknowledgement of the application for planning permission.
(*b*) Subject to the issue of any necessary planning permission, when do you hope to start the proposed works?
(*c*) How long do you estimate the works will take to complete?
(*d*) When do you hope to be able to start using the new accommodation or facilities?

* Delete words which do not apply.

PART II: ACCOMMODATION AND FACILITIES

WHERE THE APPLICATION INVOLVES EXTENSION TO CONTROLLED PREMISES OR CONVERSION FROM EXISTING PREMISES PLEASE STATE PRESENT POSITION WHERE INDICATED

6. Please indicate:—

(*a*) How many beds (if any) are provided for the use of patients in the existing premises?

(*b*) Into how many wards or nursing sections are these beds arranged?

(*c*) How many additional or new beds will the proposed works provide for patients?

(*d*) Into how many wards or nursing sections will these beds be arranged?

7. What special accommodation or facilities (if any) are already provided and what new or additional special facilities or accommodation will the proposed works enable to be provided for each of the following services. Please indicate how existing beds (if any) and proposed additional or new beds are or are to be allocated between specialities:—

(*a*) surgery (eg operating theatres, recovery rooms, out-patients' surgery, day surgery etc.)

(*b*) obstetrics (eg labour wards, special care units, etc.)

(*c*) radiotherapy

(*d*) haemodialysis or peritoneal dialysis

(*e*) diagnostic radiology

(*f*) pathology

8. What arrangements (if any) are currently made and what new or additional arrangements will have to be made as a result of the works for the supply of blood or blood products to the hospital?

9. (*a*) What arrangements are currently made and what new or additional arrangements will have to be made as a result of the proposed works for pathology, radiology and other services if not provided at the premises?

(*b*) If the hospital looks or will look to local health service hospitals to provide any of the services in paragraph (*a*) on a contractual basis, please specify which services and state whether the local health authority has been approached about arrangements on any additional arrangements. If yes, with what result?

PART III: STAFFING AND STAFF ACCOMMODATION

THE FOLLOWING QUESTIONS SEEK TO ESTABLISH HOW MANY NEW OR ADDITIONAL STAFF WILL BE NEEDED AS A RESULT OF THE WORKS. FOR EXTENSIONS TO CONTROLLED PREMISES OR CONVERSION OF EXISTING PREMISES INTO CONTROLLED PREMISES PLEASE ALSO STATE PRESENT POSITION WHERE INDICATED

10. MEDICAL STAFF

(*a*) Do you employ or intend to employ new or additional resident medical or dental staff (including pathologists, radiologists, radiotherapists)? If so, please give as accurate an estimate as possible of the number, grades and specialties of existing staff and new or additional staff.

(*b*) Do you employ or intend to employ new or additional non-resident medical or dental practitioners on a sessional basis? If yes, please give as accurate an estimate as possible of the numbers, grades specialties and number of sessions for existing staff (if applicable and new or additional staff).

11. NURSING AND OTHER STAFF

Please give as accurate an estimate as possible of how many staff of the following disciplines will be required at the controlled premises.

(*a*) Nursing and midwifery staff and nursing auxiliary staff

Qualification	Numbers		Whole time equivalents
	Part-time*	Full-time*	
(1)	(2)	(3)	(4)
Totals:			

(*b*) Please specify how many of these new or additional nursing and midwifery staff will be required to have had special training or possess special skills, eg theatre nursing, intensive care, children's nursing, dialysis.

* If numbers of proposed new or additional part-time and whole-time staff not known please give whole-time equivalent only.

(*c*) Other qualified health care staff (eg radiographers, physiotherapists, laboratory technicians—please specify which kind)

	Numbers		
		part-time	whole time equivalents
Radiographers	.....	.....	.....
Medical Laboratory Scientists	.....	.....	.....
Medical Laboratory Scientific Officers	.....	.....	.....
Physiotherapists	.....	.....	.....
Occupational Therapists	.....	.....	.....
Other(s) please specify	.....	.....	.....

(*d*) domestic and other ancillary staff

	Numbers
Domestic	.....
Portering	.....
Kitchen	.....
Other(s) please specify	.....

(*e*) administrative and clerical and the staff

Administrative	.....
Clerical	.....
Other	.....

PART IV: INTENTIONS ON RECRUITMENT, REMUNERATION AND TRAINING

13. Is it proposed to remunerate nursing (including nursing auxiliary) and professional and technical staff according to the Whitley Council pay and conditions of service (including holidays, lodgings and food charges, etc.)? If not, please state expected differences.

14. Please give details of your policy for recruiting nursing and professional and technical staff.

PART V: OTHER INFORMATION

17. Please add additional information you consider relevant to the application.

DECLARATION

I certify that to the best of my knowledge the information given in this application is correct.

Signed by or on behalf of the applicant

.....

Status of signature.....

Date .....

The application must be signed by the applicant personally or, if the applicant is a company or other corporate body, by a director or the secretary of the company or other body or by a person holding a similar office.

Name, address and telephone number of a person who can deal with enquiries about this application:—

Name .....

Address ..... Tel: .....

EXPLANATORY NOTE

(*This Note is not part of the Regulations.*)

These regulations prescribe the form to be used and the fee payable in connection with applications for authorisations for controlled works in respect of hospital premises under Part III of the Health Services Act 1976, as amended by the Health Services Act 1980, and make provision for the procedure in connection with applications, the procedure at hearings held by persons appointed by the Secretary of State and the making of decisions by the Secretary of State.

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