STATUTORY INSTRUMENTS

1969 No. 163

NATIONAL HEALTH SERVICE, ENGLAND AND WALES
HOSPITAL AND SPECIALIST SERVICES

The National Health Service (Appointment of Consultants) Regulations 1969

Made - - -	12*th February* 1969
Laid before Parliament	21*st February* 1969
Coming into Operation	1*st April* 1969

The Secretary of State for Social Services, in exercise of his powers under section 14(2) of the National Health Service Act 1946(**a**) as amended by section 9 of the Health Services and Public Health Act 1968(**b**) and of all other powers enabling him in that behalf, hereby makes the following regulations:—

Citation and commencement

1. These regulations may be cited as the National Health Service (Appointment of Consultants) Regulations 1969 and shall come into operation on 1st April 1969.

Interpretation

2.—(1) In these regulations, unless the context otherwise requires—

"appropriate body" means the Royal College of Physicians of London, the Royal College of Surgeons of England, the Royal College of Obstetricians and Gynaecologists, the College of Pathologists, the Royal Medico-Psychological Association or the Faculty of Radiologists whichever in the opinion of the Board concerned is most appropriate having regard to the proposed appointment;

"area" means regional hospital area;

"Board" means Regional Board or Board of Governors, and includes Boards acting jointly pursuant to regulation 6;

"Board of Governors" means the Board of Governors of a teaching hospital;

"Committee" means Advisory Appointments Committee;

"consultant in the specialty" means a consultant specialising or who has recently specialised in the branch of medicine or dentistry with which the proposed appointment is concerned;

"lay member" means a member who is not a registered medical or dental practitioner nor an officer of a Board or Hospital Management Committee;

"member of the hospital staff" means, in relation to a medical appointment, a member of consultant status of the medical staff of a hospital in which the successful applicant is to serve, and, in relation to a dental appointment, a member of consultant status of the dental staff of such a hospital, or, where there is no such staff, a member of consultant status of the medical staff;

(a) 1946 c. 81. (b) 1968 c. 46.

"professional member" means, where a medical appointment is to be made, a registered medical practitioner, and, where a dental appointment is to be made, a registered dental practitioner;

"Regional Board" means a Regional Hospital Board or Hospital Board;

"relevant Management Committee" means the Hospital Management Committee administering any hospital or hospitals in which the successful applicant is to be employed.

(2) Any reference in these regulations to a numbered regulation or schedule shall be construed as a reference to the regulation or schedule bearing that number in these regulations.

(3) The Interpretation Act 1889(a) shall apply to the interpretation of these regulations as it applies to the interpretation of an Act of Parliament.

Appointments to which the regulations apply

3.—(1) The provisions of these regulations shall apply with respect to the appointment of any medical or dental officer to the post of consultant on the staff of any hospital providing hospital and specialist services other than the appointment of any person in any of the classes specified in regulation 4.

(2) For the purposes of this regulation "appointment" includes any appointment to a post, whether existing or new, and whether whole-time or part-time.

Exempted appointments

4.—(1) The classes referred to in regulation 3 to which these regulations do not apply are—

(*a*) professors, readers or other members of a medical or dental professorial unit of a University who will receive no remuneration (other than any distinction award) from the Board for their hospital appointments;

(*b*) consultants who have reached the age of 65 or, in the case of mental health officers as defined in the National Health Service (Superannuation) Regulations 1961(b) as amended(c), the age of 60, and who will receive no remuneration for their hospital appointments;

(*c*) clinical teachers who are already officers of any Board of Governors and whose appointment is to be made by a Regional Board primarily to enable them to give clinical instruction to students in a non-teaching hospital;

(*d*) persons who are primarily engaged in research which necessitates their appointment to the staff of a hospital and who will receive no remuneration (other than any distinction award) for that appointment from the Board;

(*e*) persons to be appointed to posts which are, with the approval of the Secretary of State for Social Services, expressly limited in duration; and

(*f*) redundant officers whose employment, or whose last employment, by a Board (including a Regional Hospital Board in Scotland) is, or was, in a post as consultant.

(2) In this regulation "redundant officers" means persons whose employment has been terminated owing to redundancy or other local change of organisation and whose names have at the direction of the Secretary of State for Social Services or the Secretary of State for Scotland been notified to Boards as officers to whom this regulation applies; and "employment" includes part-time

(a) 1889 c. 63.
(b) S.I. 1961/1441 (1961 II, p. 2824).
(c) S.I. 1966/1523 (1966 III, p. 4309).

employment, whether or not the officer is also employed by any other Board, but does not include employment in a post where the appointment was expressly limited in duration.

Advertisement of vacancy

5.—(1) Where a Board propose to make an appointment to a vacancy in any office to which these regulations apply, they shall place an advertisement, specifying the exact nature of the appointment and the closing date for receipt of applications, in not less than two publications circulating throughout England and Wales which are commonly used for similar advertisements relating to the profession concerned:

Provided that where such advertisement is not reasonably practicable they shall advertise the vacancy in such other publications as they think appropriate.

(2) Any advertisement shall state the effect of paragraph 8 of schedule 4.

Constitution and procedure of Advisory Appointments Committees

6.—(1) For the purpose of filling each vacancy in any office to which these regulations apply, an Advisory Appointments Committee shall be constituted—

(*a*) Where the appointment is to be made by a Regional Board to a post in a non-teaching hospital, in accordance with schedule 1;

(*b*) where the appointment is to be made by a Board of Governors to a post in a teaching hospital, in accordance with schedule 2; or

(*c*) where a Regional Board and a Board of Governors propose to appoint the same person to posts in a non-teaching hospital and a teaching hospital respectively, and agree not to constitute separate Committees but to act jointly, in accordance with schedule 3.

(2) Where two or more Regional Boards or two or more Boards of Governors, as the case may be, agree to appoint the same person to two or more posts in non-teaching hospitals or teaching hospitals respectively, they shall, instead of constituting separate Committees, act jointly in all respects for the constitution of a single Committee under schedule 1, 2 or 3, as the case may be.

(3) The provisions of schedules 1, 2 and 3 shall have effect subject to the general provisions as to Committees contained in schedule 4.

Selection by Committee

7.—(1) The Board shall refer to the Committee all applications received on or before the closing date specified in the advertisement and may also refer an application received after that date if they are satisfied that there is a reasonable explanation for the lateness.

(2) The Committee shall consider all applications so referred to them and they shall select from the applicants the person or persons considered by them to be suitable for the appointment and submit the appropriate name or names to the Board together with any comments they may wish to make.

(3) If the Committee consider that none of the applicants is suitable for the appointment they shall so inform the Board.

Appointment by Board

8. A Board shall not make an appointment to a vacancy to which these regulations apply except from persons selected by a Committee under regulation 7.

Travelling and subsistence expenses

9. Members of a Committee shall be entitled to receive from the Board or, where Boards are acting jointly, from the Board to which nominations are to

be sent under paragraph 3 of schedule 4, such payments in respect of travelling and subsistence expenses as are payable to members of the Board performing an approved duty.

Revocation of regulations

10. The National Health Service (Appointment of Consultants) Regulations 1966(a) are hereby revoked:

Provided that those regulations shall continue to have effect in relation to any appointment which has been advertised before the commencement of these regulations.

Regulation 6(1)

SCHEDULE 1

Appointments by Regional Boards

1. The Board shall constitute a Committee of seven members, and shall designate one of them as chairman.

2. Five members shall be nominated by the Board, and of these five—

(*a*) one shall be a lay member and

(*b*) four shall be professional members, and of these four—

(i) one shall be nominated after consultation with the university associated with the provision of hospital and specialist services in the area and

(ii) one shall be a consultant in the relevant specialty, who shall not be employed by the Regional Board of the area, nominated after consultation with the appropriate body.

3. Two members shall be nominated by the relevant Management Committee, and of these two one shall be a lay member and the other a member of the hospital staff.

Regulation 6(1)

SCHEDULE 2

Appointments by Boards of Governors

1. The Board shall constitute a Committee of eight members, and shall designate one of them as chairman.

2. Four members shall be nominated by the Board, and of these four—

(*a*) one shall be a lay member and

(*b*) three shall be professional members, and of these three—

(i) one shall be a member of the hospital staff and

(ii) two shall be consultants in the relevant specialty who are not members of the hospital staff, one nominated after consultation with the Regional Board of the area and the other, who shall not be employed by the Regional Board of the area, nominated after consultation with the appropriate body.

3. Four members shall be nominated by the university with which the hospital is associated, and of these four one shall be a lay member and three shall be professional members, and, where the hospital is associated with the University of London, that university shall consult with the governing body of the relevant medical school or post-graduate institute with regard to the nomination of two of the professional members.

(a) S.I. 1966/569 (1966 II, p. 1218).

SCHEDULE 3 Regulation 6(1)

Appointments by Regional Boards and Boards of Governors acting jointly

1. The Boards acting jointly shall constitute a Committee of ten members, and shall designate one of them as chairman.

2. Four members shall be nominated by the Boards acting jointly, and of these four—

(*a*) one shall be a lay member and

(*b*) three shall be professional members, and of these three one shall be a member of the hospital staff of the Board of Governors and another shall be a consultant in the relevant specialty, who shall not be employed by the Regional Board of the area and shall be nominated after consultation with the appropriate body.

3. Two members shall be nominated by the relevant Management Committee, and of these two one shall be a lay member and the other a member of the hospital staff.

4. The provisions of paragraph 3 of schedule 2 shall have effect as if set out in this paragraph.

SCHEDULE 4 Regulation 6(3)

General provisions applying in all cases

1. Where the Board, or Boards acting jointly, are satisfied that one or more authorities outside the hospital and specialist services have an interest in the appointment to be considered they may, after consultation with them, nominate to the Committee not less than one or more than five additional members.

2. Where under paragraph 3 of schedule 1 or paragraph 3 of schedule 3 members of a Committee are required to be nominated by the relevant Management Committee, and more than one Management Committee falls within the definition of that expression in regulation 2(1), the nomination of a lay member shall be made jointly by the Management Committees concerned, but each Management Committee may, if requested to do so by the Board, nominate a member of the hospital staff and the Committee shall be enlarged accordingly.

3. Nominations shall be sent to the Secretary to the Board, or, where Boards are acting jointly, to the Secretary to such Board as they may agree; and, where the same person is nominated by more than one body, only the first of the nominations to reach the Secretary shall be valid and he shall forthwith inform the other body concerned accordingly, and that body shall then make a fresh nomination.

4. The Secretary shall provide the Committee with such clerical and other assistance as the chairman may require.

5. The chairman shall be a lay member; he shall convene any meeting of the Committee and if present at any such meeting shall preside. If the chairman is not present such member of the Committee as the members present choose shall preside.

6. The Committee shall meet to consider their selection and may adjourn as necessary; subject to the provisions of this schedule the procedure of the Committee shall be such as they think fit.

7. The Committee may require any applicant to attend before them for the purpose of an interview.

8. The Committee shall disqualify any candidate who has canvassed any member of the Committee, of the Board, or of any relevant Management Committee.

9. In the case of an equality of votes the chairman shall not have a second or casting vote.

10. The selection made by the Committee shall not be invalidated by any vacancy or failure to nominate or by any defect in the nomination or qualification of any member.

11. No selection shall be made, if more than one of the lay members nominated under schedule 1, 2 or 3 or of the members nominated by any one body under those schedules is absent, or if more than two members in all are absent.

R. H. S. Crossman,
Secretary of State for Social Services.

12th February 1969.

EXPLANATORY NOTE

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

These Regulations re-enact the National Health Service (Appointment of Consultants) Regulations 1966 with amendments:—

(i) including amongst the "appropriate bodies" the Faculty of Radiologists; and

(ii) introducing regulations under section 9 of the Health Services and Public Health Act 1968 to enable consultant appointments to be made in advance of the vacancy arising.