STATUTORY INSTRUMENTS

1974 No. 361

NATIONAL HEALTH SERVICE, ENGLAND AND WALES

The National Health Service (Appointment of Consultants) Regulations 1974

Made - - - -	*7th March* 1974
Laid before Parliament	*15th March* 1974
Coming into Operation	*1st April* 1974

The Secretary of State for Social Services, in exercise of the powers conferred on her by section 6(4) of, and Schedule 1 to the National Health Service Reorganisation Act 1973(a) and of all other powers enabling her 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 1974 and shall come into operation on 1st April 1974.

Interpretation

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

"appropriate body" means any of the following bodies, namely, the Royal College of Physicians of London, the Royal College of Surgeons of England or its associated Faculties of Anaesthetists or Dental Surgery, the Royal College of Obstetricians and Gynaecologists, the Royal College of Pathologists, the Royal College of Psychiatrists or the Faculty of Radiologists whichever in the opinion of the Authority concerned is the most appropriate body having regard to the proposed appointment;

"Area Authority (Teaching)" means an Area Health Authority (Teaching);

"Authority" means a Regional Health Authority or Area Health Authority (Teaching) and includes Authorities acting jointly in accordance with regulation 6;

"Committee" means an Advisory Appointments Committee constituted in accordance with these regulations;

"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 person who is not a registered dental or medical practitioner or an officer of an Authority;

(a) 1973 c. 32.

"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 an applicant will, if appointed to a post, be employed and, in relation to a dental appointment, a member of consultant status of a dental staff of such a hospital, or, if there is no dental staff, a member of consultant status of the medical staff of such a hospital;

"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 Authority" means a Regional Health Authority;

"relevant Area Authority" means the Area Health Authority administering any hospital or hospitals in which an applicant will, if appointed to a post, be employed.

(2) Unless the context otherwise requires, any reference in these regulations to a numbered regulation is a reference to the regulation bearing that number in these regulations, and any reference in a regulation to a numbered paragraph is a reference to the paragraph bearing that number in that regulation.

(3) The rules for the construction of Acts of Parliament contained in the Interpretation Act 1889**(a)** shall apply for the purposes of the interpretation of these regulations as they apply for the purposes of 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 in England providing hospital accommodation 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 Authority 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 the hospital appointments;

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

(a) 1889 c. 63. **(b)** S.I. 1961/1441 (1961 II, p. 2824).

(c) The amending Regulations are not relevant to the subject matter of these Regulations.

(*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 Authority;

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

(*f*) redundant officers whose employment, or whose last employment by an Authority (including a Regional Health Authority in Scotland or an Area Health Authority in Wales) is, or was, in a post as consultant;

(*g*) consultants employed in posts by an Authority who are transferred to the employment of another Authority with the approval of the Secretary of State as part of a local reorganisation to fill posts the duties of which are substantially the same as the posts in which they were employed by the Authority which originally employed them;

(*h*) persons employed by Universities or officers of the Medical Research Council or the Public Health Laboratory Board who are engaged in providing services for the National Health Service in posts equivalent to posts of consultant status, who are transferred to the employment of an Authority with the approval of the Secretary of State, to fill posts the duties of which are substantially the same as the posts in which they were employed immediately before the date of such transfer.

(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, the Secretary of State for Scotland or the Secretary of State for Wales been notified to one or more Authorities as officers to whom this regulation applies; and "employment" includes part-time employment, whether or not the officer is also employed by another Authority, but does not include employment in a post where the appointment was expressly limited in duration.

Advertisement of vacancy

5.—(1) Where an Authority proposes to make an appointment to a vacancy in any office to which these regulation apply, the Authority 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 the Authority shall advertise the vacancy in such other publications as it considers appropriate.

(2) Any advertisement shall state the effect of paragraph 8 of Schedule 4 to these regulations.

(3) The Secretary of State may if he thinks fit authorise an Authority to dispense with the requirements of regulation 5(1) in relation to an appointment to any post or class of post.

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 Authority in accordance with Schedule 1 to these regulations;

(*b*) where the appointment is to be made by an Area Authority (Teaching) in accordance with Schedule 2 to these regulations;

(*c*) where a Regional Authority or an Area Authority (Teaching) propose to appoint the same person to fill posts in hospitals in respect of which they respectively exercise functions, and agree not to constitute separate Committees but to act jointly, in accordance with Schedule 3 to these regulations.

(2) Where two or more Regional Authorities or two or more Area Authorities (Teaching) agree jointly to appoint the same person to two or more posts in hospitals in respect of which they respectively exercise functions as aforesaid they shall, instead of constituting separate committees, act jointly in all respects for the constitution of a single committee under Schedules 1, 2 or 3 hereto as the case may be.

(3) The provisions of Schedules 1, 2 and 3 hereto shall have effect subject to the general provisions as to Committees contained in Schedule 4 to these regulations.

Selection by Advisory Appointments Committees

7.—(1) The Authority shall refer to the Committee all applications received by the Authority on or before the closing date specified in the said advertisement and may also refer an application received after that date if the Authority is satisfied that there is a reasonable explanation for the failure to make such an application by such date.

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

(3) If in the opinion of the Committee none of the applicants is suitable for the appointment they shall so inform the Authority.

Appointment by Authority

8. An Authority 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 the Committee shall be entitled to receive from the Authority or, where Authorities are acting jointly, from the Authority to which nominations are required to be sent by paragraph 3 of Schedule 4 hereto, such payments

in respect of travelling and subsistence expenses as are payable to members of the Authority performing an approved duty.

Revocation of regulations

10. The National Health Service (Appointment of Consultants) Regulations 1969**(a)** are hereby revoked.

Barbara Castle,
Secretary of State for Social Services.

7th March 1974.

Regulation 6(1)

SCHEDULE 1

APPOINTMENTS BY REGIONAL HEALTH AUTHORITIES

1. The Authority shall constitute a Committee of seven members.

2. Five members shall be nominated by the Authority and of those five—

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

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

(i) one shall be nominated after consultation with the University or Universities associated with the provision of hospital services in the region of the Regional Authority, and

(ii) one shall be a consultant in the relevant speciality, not being employed within the region of the Regional Authority, nominated after consultation with the appropriate body.

3. Two members shall be nominated by the relevant Area Authority, and of those two one shall be a lay member and the other a member of the hospital staff.

Regulation 6(1)

(a) S.I. 1969/163 (1969 I, p. 419)

SCHEDULE 2

APPOINTMENTS BY AREA AUTHORITIES (TEACHING)

1. The Authority shall constitute a Committee of seven members.

2. All the members shall be nominated by the Authority and of those members—

(*a*) two shall be lay members, one of whom shall be nominated after consultation with the University associated with the provision of hospital services in the area of the Authority, and

(*b*) two shall be consultants in the relevant speciality who are not members of the hospital staff and of those two—

(i) one shall be nominated after consultation with the Regional Authority of the region, and

(ii) one, not being employed within the region of the Regional Authority, shall be nominated after consultation with the appropriate body;

(*c*) one shall be a professional member of the hospital staff;

(*d*) two shall be professional members nominated after consultation with the University associated with the provision of hospital services in the area of the Authority.

Regulation 6(1)

SCHEDULE 3

APPOINTMENTS BY REGIONAL AUTHORITIES OR AREA AUTHORITIES (TEACHING) ACTING JOINTLY

1. The Authorities acting jointly shall constitute a Committee.

2. Five members shall be nominated by the Authorities acting jointly and of those five—

(*a*) two shall be lay members, one of whom shall be nominated after consultation with the University associated with the provision of hospital services in the area of the Authority, and

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

(i) one shall be a consultant in the relevant specialty, not being employed within the region of the Regional Authority, nominated after consultation with the appropriate body, and

(ii) two shall be nominated after consultation with the University associated with the provision of hospital services in the area of the Authority.

3. Two professional members shall be nominated by each Authority at least one of whom shall be a member of the hospital staff.

Regulation 6(3)

SCHEDULE 4

GENERAL PROVISIONS APPLYING IN ALL CASES

1. Where the Authority or Authorities acting jointly are satisfied that one or more local Authorities have an interest in the appointment to be considered they may, after consultation with them, nominate to the Committee an additional member or members up to a maximum of five.

2. Where under paragraph 3 of Schedule 1 or paragraph 3(*b*) of Schedule 3 members of a Committee are required to be nominated by the relevant Area Authority and more than one Area Authority is a relevant Authority each such Area Authority shall nominate a member of the hospital staff and the Committee shall be enlarged accordingly.

3. Nominations shall be sent to the Administrator of the Regional Authority or Area Authority (Teaching) or, where Authorities are acting jointly, to the Administrator or such Authority as they may agree. If the same person is nominated by more than one body, only the first of the nominations to reach the Administrator shall be valid and he shall forthwith inform the other body concerned accordingly, and that body shall then make a fresh nomination.

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

5. The chairman shall be one of the lay members of the Committee appointed by the Authority who shall be so designated by the Authority. The Chairman shall convene any meeting of the Committee and if present at any such meeting shall preside. If the chairman is not present at any meeting of the Committee 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 candidates who have canvassed any member of the Committee, the Regional Authority, Area Authority (Teaching) or any relevant Area Authority.

9. In the event 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 of the Committee.

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

12. When in the opinion of an Authority or Authorities acting jointly more than one appropriate body is appropriate in relation to the appointment to be considered, the Authority or Authorities acting jointly may after consultation with the appropriate bodies nominate to a Committee a further consultant in a relevant specialty:

Provided that no more than one additional member shall be nominated in respect of each appropriate body.

EXPLANATORY NOTE

(This Note is not part of the Regulations.)

These Regulations make provision for the constitution by Regional Health Authorities and Area Health Authorities (Teaching) of Advisory Appointments Committees in relation to the appointment by them of consultants in hospitals.

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