7. DISSOLVED AUTHORITIES

The National Health Service (Dissolved Authorities) Regulations, 1948

1948 No. 1292

Made - - - -	16*th June*, 1948
Laid before Parliament	17*th June*, 1948
Coming into Operation	21*st June*, 1948

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The Minister of Health, in exercise of the powers conferred upon him by section 78 of the National Health Service Act, 1946(**a**), and of all other powers enabling him in that behalf, hereby makes the following regulations:—

1. These regulations may be cited as the National Health Service (Dissolved Authorities) Regulations, 1948, and shall come into operation on the twenty-first day of June, 1948.

2.—(1) In these regulations, unless the context otherwise requires the following expressions have the meanings hereby assigned to them:—

" the Act " means the National Health Service Act, 1946(**a**);

" the appointed day " means the fifth day of July, 1948;

" dissolved authority " means a body, other than a committee constituted under section 28 of the Mental Deficiency Act, 1913(**b**), for the care of the mentally defective, which by virtue of section 78 of the Act will be dissolved as from the appointed day;

" successors of the dissolved authority " means, in relation to any property or liability transferred by virtue of these regulations, the person or persons to whom the property or liability is transferred;

and other expressions used in these regulations have the same meaning as in the Act.

(2) The Interpretation Act, 1889(**c**), applies to the interpretation of these regulations as it applies to the interpretation of an Act of Parliament.

3. Every dissolved authority shall before the appointed day liquidate as far as possible all its current debts and liabilities.

4.—(1) The accounts of every dissolved authority and of the committees, sub-committees and officers of every such authority shall be made up to the appointed day and shall be audited in manner following:—

(*a*) in case of a dissolved authority whose accounts before the appointed day are subject to district audit, by the district auditor in accordance with the provisions of the Local Government Act, 1933(**d**), as modified and set out in the Schedule hereto;

(*b*) in case of a dissolved authority which is the governing body of a voluntary hospital, by an auditor or auditors appointed by that body, or, failing any such appointment, by an auditor appointed by the Minister;

(**a**) 9 & 10 Geo. 6. c. 81.
(**b**) 3 & 4 Geo. 5. c. 28.
(**c**) 52 & 53 Vict. c. 63.
(**d**) 23 & 24 Geo. 5. c. 51.

(*c*) in case of any other dissolved authority, in like manner and subject to the like incidents and consequences as if the Act had not been passed.

(2) For the purpose of the audit of accounts under the foregoing paragraph of this regulation every dissolved authority shall before the appointed day nominate a person to be responsible for making up the accounts to the appointed day in manner hereinafter mentioned and submitting them to audit and for the performance of such other duties in relation to the audit as would, if the authority had continued in existence after the appointed day, have been performed by the authority or the appropriate officer or officers of the authority.

(3) The accounts to be made up to the appointed day in accordance with the last preceding paragraph shall include a revenue account on an income and expenditure basis and a balance sheet showing the assets and liabilities of the dissolved authority as at the appointed day.

(4) The name and address of the person nominated by a dissolved authority in pursuance of paragraph (2) of this regulation shall be notified in writing by the authority to the Minister and, in the case of an authority to which paragraph (1) (*a*) of this regulation applies, to the district auditor for the district.

(5) If a dissolved authority fails to nominate a person in accordance with the requirements of paragraph (2) of this regulation or if the person nominated by the authority fails, or for any reason is unable, to carry out the duties required of him in relation to the audit, the Minister may appoint a person to act in his place.

(6) Any expenses properly incurred in connection with the audit by the person nominated by a dissolved authority or appointed by the Minister shall be reimbursed by the Minister.

(7) Regulations and rules made under Part X of the Local Government Act, 1933(a), with respect to district audit and to appeals and applications to the High Court shall apply (with such modifications as may be necessary) to the audit of accounts under paragraph (1) (*a*) of this regulation.

5. Any person who holds any moneys on behalf of a dissolved authority shall so far as is reasonably practicable pay such moneys to the treasurer of the authority in time for him to bank them before the close of business on the third day of July, 1948. The treasurer shall at the same time bank any other moneys held by him on behalf of the authority.

6. Save as otherwise expressly provided by the Act or by regulations made under the Act—

(*a*) all contracts, deeds, bonds, agreements and instruments subsisting in favour of or against a dissolved authority in relation to property or liabilities transferred by these regulations shall be of full force and effect, as the case may require, in favour of or against the successors of the dissolved authority;

(*b*) if immediately before the appointed day any action or proceeding or any cause of action or proceeding is pending or existing by or against a dissolved authority the same shall not be prejudicially affected by reason of the Act but may be continued, prosecuted and enforced by or against, as the case may require, the successors of the dissolved authority;

(*c*) all legal proceedings pending immediately before the appointed day may be amended in such manner as may be necessary or proper for enabling them to be prosecuted and enforced by or against the successors of the dissolved authority or in relation to any interest of the dissolved authority whether vested or contingent in any property.

(a) 23 & 24 Geo. 5. c. 51.

7.—(1) Subject to the provisions of regulation 10, all property and liabilities held by a dissolved authority or to which such an authority is subject immediately before the appointed day, and for the transfer and vesting of which no other provision is made by the Act or by regulations made under the Act, shall be dealt with in the following manner:—

(*a*) the local authority, other than a joint board or joint committee, which appointed a visiting committee constituted under section 7 of the Mental Treatment Act, 1930(**a**), shall, as from the appointed day, by virtue of these regulations be entitled to the property and subject to the liabilities of that committee;

(*b*) property and liabilities of a joint visiting committee constituted under section 253 of the Lunacy Act, 1890(**b**), shall, on the appointed day, by virtue of these regulations be transferred to and vest in or attach to the transferee authority (as hereinafter defined) and shall thereafter be subject to apportionment and adjustment in accordance with the provisions with respect thereto contained in the agreement to unite or, in the absence of any such provisions, be apportioned among the constituent authorities in such manner as they may agree or, in default of agreement, as may be determined by the Minister;

(*c*) property and liabilities of a joint mental hospital board constituted under any local Act or of a joint board or joint committee constituted under section 29 of the Mental Deficiency Act, 1913(**c**), or of a joint board constituted under the Public Health Act, 1936(**d**), or any enactment repealed by that Act, shall, on the appointed day, by virtue of these regulations be transferred to and vest in or attach to the transferee authority (as hereinafter defined) and shall thereafter be subject to apportionment and adjustment in accordance with the provisions with respect thereto contained in the Act or instrument constituting the joint board or joint committee or, in the absence of any such provisions, be apportioned among the constituent authorities in such manner as they may agree or, in default of agreement, as may be determined by the Minister:

Provided that, nothing in this paragraph shall authorise any apportionment or adjustment in respect of property which, immediately before the appointed day, is held by a dissolved authority as trustee upon any charitable trust, and any such property shall be held by the authority to which by virtue of these regulations it is transferred upon and subject to the trust applicable to the property immediately before the appointed day.

(2) For the purposes of this regulation "transferee authority" in relation to a joint board or joint committee means the constituent authority whose district is shown by the census of 1931 to have had at that time the largest population, or such other constituent authority as the Minister may, on the application of all the constituent authorities, specify for the purpose of this regulation.

8. Where by these regulations or by any apportionment or adjustment made under these regulations the liability for the repayment of the whole or any part of a debt secured by a mortgage of the property of a dissolved authority is transferred to a local authority, the mortgage shall thenceforth, to the extent of the transferred liability, take effect in all respects as a mortgage by the local authority of their revenues to secure the transferred debt and the interest thereon, and the covenants contained in the mortgage so far as they relate to the transferred debt or the interest thereon, shall be enforceable against the local authority.

(**a**) 20 & 21 Geo. 5. c. 23.
(**b**) 53 & 54 Vict. c. 5.
(**c**) 3 & 4 Geo. 5. c. 28.
(**d**) 26 Geo. 5 & 1 Edw. 8. c. 49.

9.—(1) Where any property transferred by virtue of these regulations consists of stock standing, immediately before the appointed day, in the books of a company, in the name of a dissolved authority, it shall be obligatory upon the company, on production to it of a certificate signed by the Minister, or by a person authorised to act on his behalf, to transfer the stock into the name of, and to pay the dividends in respect thereof to, the authority named in the certificate as the authority entitled to that property.

(2) In this regulation the expression:—

" company " includes the Bank of England and any company or person keeping books in which any stock is registered or inscribed;

" stock " includes any share, annuity or other security.

10. Any property or liabilities (whether vested or contingent) of a dissolved authority, other than the governing body of a voluntary hospital, under any enactment, scheme or contract providing for the payment of or contribution towards superannuation benefits in respect of officers employed by that authority (including rights and liabilities arising in respect of officers who have ceased to be so employed before the appointed day) shall as from that day be transferred to the local authorities by which the dissolved authority was appointed or, in the case of a joint committee or joint board, be apportioned as follows:—

(*a*) if the Act or instrument constituting the joint board or joint committee provides for the dissolution thereof and the apportionment of the property or liabilities of the joint board or joint committee among the constituent authorities, the property and liabilities aforesaid shall be apportioned accordingly;

(*b*) if such Act or instrument contains no such provision the said property and liabilities shall be apportioned among the constituent authorities in such manner as they may agree or in default of agreement as may be determined by the Minister.

11. The affairs of a committee constituted under section 28 of the Mental Deficiency Act, 1913(a), for the care of the mentally defective shall be wound up in such manner as the authority by which the committee was constituted may determine.

SCHEDULE

MODIFIED PROVISIONS OF THE LOCAL GOVERNMENT ACT, 1933, APPLIED TO THE AUDIT OF ACCOUNTS OF A DISSOLVED AUTHORITY UNDER REGULATION 4 (1) (*a*) OF THE REGULATIONS

1. In this Schedule, unless the context otherwise requires

(*a*) " dissolved authority " means a body which by virtue of section 78 of the Act will be dissolved as from the appointed day and whose accounts before that date are subject to district audit;

(*b*) " appropriate officer " means the person nominated by a dissolved authority under paragraph (2) of regulation 4, or appointed by the Minister under paragraph (5) of that regulation;

(*c*) other expressions have the meaning assigned to them in the Local Government Act, 1933.

(a) 3 & 4 Geo. 5. c. 28.

2.—(1) The appropriate officer shall prepare and submit to the district auditor a financial statement of the accounts of the dissolved authority, in duplicate, in the prescribed form, and containing the prescribed particulars.

(2) The district auditor, at the conclusion of the audit, shall certify on each copy of the financial statement, in the prescribed form, the amount of the expenditure so audited and allowed, and further, that the regulations with respect to the statement have been duly complied with, and that he has ascertained by the audit the correctness of the statement.

(3) The district auditor shall, immediately after the conclusion of the audit, send one copy of the financial statement to the Minister.

3.—(1) A copy of every account which is subject to audit by a district auditor, duly made up and balanced, and all books, deeds, contracts, accounts, vouchers and receipts relating to the accounts shall be deposited in the office of the appropriate officer or at such other place within the district of the dissolved authority as may be convenient, and shall for seven clear days before the audit be open at all reasonable hours to the inspection of all persons interested, and any such person shall be at liberty to make copies of or extracts from the deposited documents without payment.

(2) Before each audit the appropriate officer, on receiving from the auditor the requisite appointment, shall, by advertisement in one or more local newspapers circulating in the district, give at least fourteen days' notice of the deposit of accounts required by this paragraph, and the production of the newspaper containing such notice shall be sufficient proof of such notice in any legal proceeding.

4. A district auditor may by writing under his hand require the production before him of all books, deeds, contracts, accounts, vouchers, receipts and other documents which he may deem necessary for the purpose of the audit, and may require any person holding or accountable for any such document to appear before him at the audit or any adjournment thereof, and may require any such person to make and sign a declaration as to the correctness of the document.

5.—(1) A local government elector for the area to the accounts of which the audit relates may be present or may be represented at the audit and may make any objection to the accounts before the auditor.

(2) The district auditor shall, on the application of any person who is aggrieved by his decision on any matter with respect to which that person has made an objection, or of any person aggrieved by a disallowance or surcharge made by the auditor, state in writing the reasons for his decision.

6. Within fourteen days after the completion of the audit of the accounts of a dissolved authority the auditor shall report on the accounts audited and examined, and shall send a copy of the report to the Minister and to every authority appearing to the auditor to be interested.

7.—(1) It shall be the duty of the district auditor at every audit held by him—

(*a*) to disallow every item of account which is contrary to law;

(*b*) to surcharge the amount of any expenditure disallowed upon the person responsible for incurring or authorising the expenditure;

(*c*) to surcharge any sum which has not been duly brought into account upon the person by whom that sum ought to have been brought into account;

(*d*) to surcharge the amount of any loss or deficiency upon any person by whose negligence or misconduct the loss or deficiency has been incurred;

(*e*) to certify the amount due from any person upon whom he has made a surcharge;

(*f*) to certify at the conclusion of the audit his allowance of the accounts, subject to any disallowances or surcharges which he may have made:

Provided that no expenses paid by an authority shall be disallowed by the auditor, if they have been sanctioned by the Minister.

(2) Any loss represented by a charge for interest or any loss of interest shall be deemed to be a loss within the meaning of this paragraph, if it arises from failure through wilful neglect or wilful default to issue such precepts as are necessary to cover the expenditure of the authority for any financial year (including any expenditure incurred in any previous year and not covered by precepts previously issued), or to collect other revenues.

8.—(1) Any person who is aggrieved by a decision of a district auditor on any matter with respect to which he made an objection at the audit, and any person aggrieved by a disallowance or surcharge made by a district auditor may, where the disallowance or surcharge or other decision relates to an amount exceeding five hundred pounds, appeal to the High Court, and may in any other case appeal either to the High Court or to the Minister.

(2) The Court or Minister on such an appeal shall have power to confirm, vary or quash the decision of the auditor, and to remit the case to the auditor with such directions as the Court or Minister thinks fit for giving effect to the decision on appeal, and if the decision of the auditor is quashed, or is varied so as to reduce the amount of the surcharge to five hundred pounds or less, the appellant shall not be subject to the disqualification by reason of the surcharge imposed by Part II of the Local Government Act, 1933, or by the corresponding provision of any enactment relating to London.

(3) Where an appeal is made to the Minister under this paragraph, he may at any stage of the proceedings, and shall, if so directed by the High Court, state in the form of a special case for the opinion of the Court any question of law arising in the course of the appeal, but save as aforesaid the decision of the Minister shall be final.

9.—(1) In the case of a surcharge, the person surcharged may, whether or not he appeals under the preceding paragraph, apply to the tribunal (whether the High Court or the Minister) to whom he appeals or, if he does not appeal, to the tribunal (whether the High Court or the Minister) to whom he might have appealed, for a declaration that in relation to the subject matter of the surcharge he acted reasonably or in the belief that his action was authorised by law, and the Court or Minister, if satisfied that there is proper ground for doing so, may make a declaration to that effect.

(2) Where such a declaration is made the person surcharged, if by reason of the surcharge he is subject to the disqualification imposed by Part II of the Local Government Act, 1933, or by the corresponding provision of any enactment relating to London, shall not be subject to that disqualification, and the Court or Minister may, if satisfied that the person surcharged ought fairly to be excused, relieve him either wholly or in part from personal liability in respect of the surcharge, and the decision of the Court or Minister under this paragraph shall be final.

10. Where under this Schedule an appeal or application is made to the Minister, the appellant or applicant shall be entitled, if he so desires, to a personal hearing by a person appointed for the purpose by the Minister.

11.—(1) Every sum certified by a district auditor to be due from any person shall, within the period specified in sub-paragraph (2) of this paragraph, be paid by that person to the Minister or other person to whom the sum would have been transferred by or under the Act if it had been paid immediately before the appointed day.

(2) Every sum certified as aforesaid shall be paid within fourteen days after it has been so certified, or, if an appeal or application with respect to that sum has been made, within fourteen days after the appeal or application is finally disposed of or abandoned or fails by reason of the non-prosecution thereof.

12.—(1) Any sum which is certified by a district auditor to be due and has become payable shall, on complaint made or action taken by or under the direction of the district auditor, be recoverable either summarily or otherwise as a civil debt.

(2) In any proceedings for the recovery of such a sum, a certificate signed by a district auditor shall be conclusive evidence of the facts certified.

Unless the contrary is proved, a certificate purporting to be signed by a district auditor shall be deemed to have been signed by such auditor.

(3) Notwithstanding anything in the Summary Jurisdiction Acts, proceedings before a court of summary jurisdiction to recover sums certified by a district auditor to be due may be commenced at any time before the expiration of nine months from the date of the disallowance or surcharge, or, in the event of an appeal or application being made to the High Court or to the Minister, before the expiration of nine months from the date on which the appeal or application is finally disposed of or abandoned or fails by reason of non-prosecution thereof.

13.—(1) Any expenses incurred by a district auditor in the defence of any allowance, disallowance or surcharge made by him shall, so far as not recovered from any other party and except as may otherwise be ordered by the Court or the Minister, as the case may be, be reimbursed to him out of the fund to which the accounts subject to the audit relate, and the Court or Minister may make such order as may seem fit in regard to the payment out of that fund of the expenses incurred by the appellant or applicant or any other party to the proceedings.

(2) Subject to the approval of the Minister, the expenses incurred by a district auditor in any legal proceedings taken by him or under his direction shall, so far as not recovered from any other source, be paid out of the fund to which the accounts subject to the audit relate, and any expenses so payable shall include reasonable compensation for loss of time incurred by the district auditor in the proceedings.

14. Where an officer of a dissolved authority receives any money or property on behalf of the authority, or receives any money or property for which he ought to account to the authority, the accounts of the officer shall be audited by the auditor of the accounts of the authority, with the same powers, incidents and consequences as in the case of those accounts.

Given under the official seal of the Minister of Health this sixteenth day of June nineteen hundred and forty-eight.

(L.S.) *Aneurin Bevan,*
Minister of Health.

EXPLANATORY NOTE

(This Note is not part of the Regulations, but is intended to indicate their general purport.)

The Regulations provide for the winding up of bodies dissolved by section 78 of the National Health Service Act, 1946, and for the vesting of the property and liabilities of those bodies, subject to the provisions of the Act, in the appropriate authorities.