STATUTORY INSTRUMENTS

1974 No. 24

NATIONAL HEALTH SERVICE, ENGLAND AND WALES

MENTAL HEALTH

The National Health Service Functions (Directions to Authorities) Regulations 1974

Made - - - -	4*th January* 1974
Laid before Parliament	18*th January* 1974
Coming into Operation	
Regulations 1, 2, 3(3)(i), 3(3)(j) and 5 and 7 so far as they relate to 3(3)(j) -	8*th February* 1974
Remainder - -	1*st April* 1974

The Secretary of State for Social Services, as respect England, and the Secretary of State for Wales, as respects Wales, in exercise of powers conferred by section 56 of the Mental Health Act 1959**(a)**, and now vested in them **(b)**, and in exercise of powers conferred upon them by section 7(1), 7(2) and 7(5) of the National Health Service Reorganisation Act 1973**(c)** and of all other powers enabling them in that behalf, hereby make the following regulations:—

PART I

GENERAL

Citation and commencement

1. These regulations may be cited as the National Health Service Functions (Directions to Authorities) Regulations 1974 and shall come into operation: in the case of regulations 1, 2, 3(3)(i), 3(3)(j) and regulations 5 and 7, so far as they relate to regulation 3(3)(j), 8th February 1974; and in the case of the remainder of the regulations, 1st April 1974.

Interpretation

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

"the Act of 1946" means the National Health Service Act 1946**(d)**;

"the Act of 1968" means the Health Services and Public Health Act 1968**(e)**;

"the Act of 1973" means the National Health Service Reorganisation Act 1973;

(a) 1959 c. 72.

(b) Secretary of State for Social Services Order 1968 (S.I. 1968/1699 (1968 III, p. 4585)) and Transfer of Functions (Wales) Order 1969 (S.I. 1969/388 (1969 I, p. 1070)).

(c) 1973 c. 32. **(d)** 1946 c. 81. **(e)** 1968 c. 46.

"Area Authority" means an Area Health Authority;

"health authority" means a Regional Authority, an Area Authority or a special health authority;

"Regional Authority" means a Regional Health Authority;

"regulation" means a regulation of these regulations;

"relevant Regional Authority" means the Regional Health Authority of which the region includes the area of the Area Authority in question.

(2) References in these regulations to any enactment or regulations shall include references to such enactment or regulations as amended by any subsequent enactment, order or regulations.

(3) The rules for the construction of an Act of Parliament contained in the Interpretation Act 1889**(a)** shall apply for the purposes of the interpretation of this instrument as they apply for the purposes of the interpretation of an Act of Parliament and in relation to any revocation effected thereby as if the instrument and the regulations revoked by it and any regulations revoked by the regulations so revoked were Acts of Parliament and as if each revocation were a repeal.

PART II

REGIONAL AUTHORITIES

Functions exercisable by Regional Authorities

3. Subject to the provisions of regulation 4 and to such limitations as the Secretary of State may direct with respect to the exercise of any function and in accordance with any directions he may give, a Regional Authority shall exercise on behalf of the Secretary of State, as respects its region and anywhere outside its region that the Secretary of State may direct, his functions relating to the health service under—

(1) The following provisions of the Act of 1946 and of any regulations made thereunder, namely—

(*a*) section 3(2) with respect to the making and recovering of charges for the supply, replacement or repair of appliances;

(*b*) section 3(3) with respect to the payment of travelling expenses;

(*c*) section 4 with respect to authorising hospital accommodation to be made available on payment of part of the cost thereof;

(*d*) section 4 with respect to the making available of such accommodation on part payment and recovery of charges;

(*e*) section 16(1) with respect to conducting, or assisting any person to conduct, research; and

(*f*) section 58(1) with respect to the acquisition of land; and

(2) The following provisions of the Act of 1968 and of any regulations made thereunder, namely—

(*a*) section 1(1) and 2 with respect to authorising hospital accommodation and services to be made available for private patients as resident patients or otherwise than as resident patients;

(a) 1889 c. 63.

(*b*) section 1(2) with respect to allowing accommodation and services, authorised to be made available under the said section 1(1), to be made available in connection with the treatment, in pursuance of arrangements made by medical or dental practitioners, of their private patients as resident patients;

(*c*) section 1(1), 1(2), 1(5) and 2 with respect to making available hospital accommodation and services for private patients as resident patients or otherwise than as resident patients; to the recovery of charges for such accommodation and services; to determining such charges in the case of a patient, not being a resident patient, where no such determination has been made by the Secretary of State;

(*d*) section 31 with respect to allowing persons to make use of any services provided under the Health Service Acts, deciding on what terms such services may be so used and the provision of such services to an extent greater than otherwise necessary;

(*e*) section 32 with respect to the disposal of goods and the production and manufacture of them otherwise than for national health service purposes;

(*f*) section 63(1), 63(3), 63(5) and 63(6), with respect to provision for the instruction of officers of health authorities and other persons employed or contemplating employment by health authorities or in activities connected with health or welfare; and

(*g*) section 64 with respect to giving financial assistance to voluntary organisations; and

(3) The following provisions of the Act of 1973 and of any regulations made thereunder, namely—

(*a*) section 2(1) with respect to the provisions of services considered appropriate for the purposes of discharging any duty imposed on the Secretary of State by the Health Service Acts and the doing of any other thing calculated to facilitate the discharge of such duty;

(*b*) section 2(2)(*a*) and 2(2)(*b*) with respect to the provision of hospital accommodation and other accommodation for the purposes of any service provided under the Health Service Acts;

(*c*) section 2(2)(*c*) with respect to the provision of medical, dental, nursing and ambulance services;

(*d*) section 2(2)(*d*) with respect to the provision of facilities for the care of nursing and expectant mothers and young children and the making and recovery of charges in respect of facilities designated as being facilities so provided;

(*e*) section 2(2)(*e*) with respect to the provision of facilities for the prevention of illness, the care of persons suffering from illness and the after care of persons who have suffered from illness and the making and recovery of charges for facilities designated as being facilities so provided;

(*f*) section 2(2)(*f*) with respect to the provision of such other services as are required for the diagnosis and treatment of illness;

(*g*) section 3(1) and 3(2) with respect to the provision for the medical and dental inspection and treatment of pupils;

(*h*) section 4 with respect to making arrangements for the giving of advice on contraception, for the medical examination of persons seeking such advice, for the treatment of such persons and for the supply of contraceptive substances and appliances;

(*i*) section 8(1), 8(2), and 8(3) with respect to the recognition of regional advisory committees;

(*j*) section 8(7) with respect to the recognition of area advisory committees;

(*k*) section 11(1) with respect to the supply of goods, services, and other facilities to local authorities and other public bodies, and carrying out maintenance work in connection with any land or buildings held by a local authority;

(*l*) section 11(2) with respect to the supply of prescribed goods, materials or other facilities to persons providing general medical services, general dental services, general ophthalmic services or pharmaceutical services;

(*m*) section 11(3) with respect to making available any services or other facilities and the services of persons to enable local authorities to discharge their functions relating to social services, education and public health;

(*n*) section 11(4) with respect to consultation before the services of any officer of a health authority are made available;

(*o*) section 11(6) with respect to the agreement of terms and the making of charges in respect of services or facilities provided;

(*p*) section 12(3) with respect to the agreement of charges to be made by a local authority for the services of persons employed by the local authority made available to enable health authorities to discharge their functions under the Health Service Acts;

(*q*) section 13(1) with respect to arranging with any person or body (including a voluntary organisation) for such person or body to provide or assist in providing any service under the Health Service Acts;

(*r*) section 13(2) with respect to making available to certain persons and bodies (including voluntary organisations) facilities and services of persons employed in connection with such facilities;

(*s*) section 13(3) with respect to the agreement of terms and the making of payments in respect of facilities or services provided;

(*t*) section 41(1) and 41(2) with respect to the supervision of nursing homes and mental nursing homes;

(*u*) section 43(1) with respect to making available accommodation provided under the Health Service Acts for use in connection with the provision of general medical services, general dental services, general ophthalmic services or pharmaceutical services;

(*v*) section 43(2) with respect to making available facilities at accommodation provided under the Health Service Acts to a medical or dental practitioner, a registered pharmacist, an ophthalmic or dispensing optician or any other person, as may be determined, who provides services under the Health Service Acts, for use for private practice;

(*w*) section 43(4) with respect to making available, in premises provided under the Health Service Acts, such facilities as are required for clinical teaching and for research connected with clinical medicine or clinical dentistry; and

(*x*) section 53(1) and 53(3) with respect to the acquisition of property, other than land, required for the purposes of the Health Service Acts and the use and maintenance of any property belonging to the Secretary of State by virtue of any of those Acts: and

(4) The provisions of section 28(2) of the Mental Health Act 1959**(a)** with respect to the approval of medical practitioners as having special experience in the diagnosis or treatment of mental disorder; and

(5) The provisions of section 17(1) of the Chronically Sick and Disabled Persons Act 1970**(b)** with respect to securing, so far as practicable, that hospital in-patients, who are not themselves elderly but are suffering from a condition of chronic illness or disability, are not cared for in any part of the hospital normally used wholly or partly for the care of elderly persons.

Restriction on exercise of certain functions by Regional Authorities

4.—(1) The exercise of any function by a Regional Authority in accordance with directions given in the last foregoing regulation shall be subject to the following provisions of this regulation in so far as they relate to the exercise of such function.

(2) Nothing in these regulations shall be taken as giving directions for the exercise of any function, conferred upon or vested in the Secretary of State, with respect to the making of any order or regulations.

(3) Accommodation shall only be made available under section 4 of the Act of 1946 to such extent as the Secretary of State may from time to time approve.

(4) Nothing in these regulations shall enable a Regional Authority to exercise the function of the Secretary of State under section 58(1) of the Act of 1946 with respect to the compulsory acquisition of land.

(5) Accommodation and services shall be made available at any hospital under either section 1 or section 2 of the Act of 1968 only to such extent as the Secretary of State may from time to time approve.

(6) The power of the Secretary of State under section 2(1) of the Act of 1973 shall be exercisable by a Regional Authority to such extent only as is necessary for the proper exercise, in relation to the region of that authority or anywhere outside that region in relation to which the Secretary of State has directed, of one or more other functions which the Secretary of State has directed the Regional Authority to exercise on his behalf.

(7) In exercising the duty under section 2(2)(*c*) of the Act of 1973 to provide ambulance services, each Regional Authority, in the region of which is included any of the areas set out in Part I of the Schedule to these regulations, shall make arrangements for the function of providing an ambulance service for all such areas to be exercised on its behalf by such one of the four Regional Authorities, in the regions of which any such areas are included, as may be agreed between those four authorities and the arrangements made for the provision of such service, which shall be known as the London Ambulance Service, shall be such as have been approved by the Secretary of State and have been agreed between those four authorities;

Provided that the arrangements made may be varied at any time subject to such approval and agreement as aforesaid.

(8) Where arrangements are made with medical practitioners for the vaccination or immunisation of persons against disease, every medical practitioner providing general medical services shall so far as reasonably practicable, be given an opportunity to participate in those arrangements.

(a) 1959 c. 72. **(b)** 1970 c. 44.

(9) The use of facilities for the purpose of private practice at accommodation provided by virtue of the Health Service Acts shall be permitted under section 43(2) of the Act of 1973 only to such extent as, and on such terms and conditions as, the Secretary of State may, from time to time, approve.

(10) Approval of a medical practitioner for the purposes of section 28(2) of the Mental Health Act 1959 as having special experience in the diagnosis or treatment of mental disorder shall only be given after having carried out such consultations and after having obtained such advice and for such period as the Secretary of State shall direct.

PART III

AREA AUTHORITIES IN ENGLAND

Functions to be made exercisable by Area Authorities in England

5.—(1) Subject to the provisions of paragraphs (2) and (3) of this regulation and of regulation 6 and to such limitations as the Secretary of State may direct with respect to the exercise of any function and in accordance with any directions he may give, every Regional Authority shall secure, by direction given by an instrument in writing, that each of the Area Authorities of which the area is included in its region shall subject as aforesaid and in accordance with any direction which may be given by the Secretary of State or, subject to any such directions, by the relevant Regional Authority exercise, as respects its area, such other parts of the region of the relevant Regional Authority as the relevant Regional Authority may direct, and anywhere outside its area that the Secretary of State may direct, such of the Secretary of State's functions relating to the health service as are specified in regulation 3.

(2) Each Regional Authority shall secure that no directions are given to any Area Authority, of which the area is included in its region, directing any such Area Authority to exercise any function under any provision specified in regulation 3(1)(*c*), 3(2)(*a*) or 3(3)(*i*).

(3) Each Regional Authority shall secure that no directions to exercise the function of providing ambulance services under the provision specified in regulation 3(3)(*c*) are given to any Area Authority, of which the area is included in its region, unless such Area Authority is one set out in Part II of the Schedule to these regulations.

Restriction on exercise of functions by Area Authorities in England

6.—(1) The exercise of any function by an Area Authority in accordance with directions given by the relevant Regional Authority shall be subject to the provisions of regulation 4(2), 4(3), 4(5), 4(8), 4(9), and 4(10) in so far as they relate to the exercise of such function.

(2) The power of the Secretary of State under section 2(1) of the Act of 1973 shall be exercisable by an Area Authority, to which directions for the exercise of such power have been given by the relevant Regional Authority, to such extent only as is necessary for the proper exercise, in relation to the area of that Area Authority or anywhere outside that area in relation to which the Secretary of State or the relevant Regional Authority has directed, of one or more other functions which the relevant Regional Authority has directed to be exercisable by the Area Authority.

PART IV

AREA AUTHORITIES IN WALES

Functions exercisable by Area Authorities in Wales

7. Subject to the provisions of regulation 8 and to such limitations as the Secretary of State may direct with respect to the exercise of any function and in accordance with any directions he may give, an Area Authority in Wales shall exercise on behalf of the Secretary of State, as respects its area and anywhere outside its area that the Secretary of State may direct, his functions relating to the health service under any provision specified in regulation 3 except such provisions as are specified in regulations 3(1)(*c*), 3(2)(*a*) and 3(3)(*i*).

Restrictions on exercise of certain functions by Area Authorities in Wales

8.—(1) The exercise of any function by an Area Authority in Wales in accordance with directions given in regulation 7 shall be subject to the provisions of regulation 4(2), 4(3), 4(5), 4(8), 4(9) and 4(10) in so far as they relate to the exercise of such function.

(2) Nothing in these regulations shall enable an Area Authority in Wales to exercise the functions of the Secretary of State under section 58(1) of the Act of 1946 with respect to the compulsory acquisition of land.

(3) The power of the Secretary of State under section 2(1) of the Act of 1973 shall be exercisable by an Area Authority in Wales to such extent only as is necessary for the proper exercise, in relation to the area of that Authority or anywhere outside that area in relation to which the Secretary of State has directed, of one or more other functions which the Secretary of State has directed the Area Authority to exercise on his behalf.

PART V

REVOCATIONS

Revocation of regulations under Mental Health Act 1959

9. Regulations 3 and 5 of the Mental Health (Hospital and Guardianship) Regulations 1960**(a)** are hereby revoked.

Keith Joseph,
Secretary of State for Social Services.

2nd January 1974.

Peter Thomas,
Secretary of State for Wales.

4th January 1974.

(a) S.I. 1960/1241 (1960 II, p. 1903).

SCHEDULE

AMBULANCE SERVICES

Regulation 4(6)

PART I

Areas for which London Ambulance Service to be provided

Areas in North West Thames Region

Barnet Area
Brent and Harrow Area
Ealing, Hammersmith and Hounslow Area
Hillingdon Area
Kensington and Chelsea and Westminster Area

Areas in North East Thames Region

Barking and Havering Area
Camden and Islington Area
Enfield and Haringey Area
City and East London Area
Redbridge and Waltham Forest Area

Areas in South East Thames Region

Bromley Area
Greenwich and Bexley Area
Lambeth, Southwark and Lewisham Area

Areas in South West Thames Region

Croydon Area
Kingston and Richmond Area
Merton, Sutton and Wandsworth Area

PART II Regulation 5(3)

Area Authorities that are to exercise function of providing ambulance services

Avon Area Health Authority (Teaching)
Bedfordshire Area Health Authority
Berkshire Area Health Authority
Buckinghamshire Area Health Authority
Cambridgeshire Area Health Authority (Teaching)
Cheshire Area Health Authority
Cleveland Area Health Authority
Cornwall Area Health Authority
Cumbria Area Health Authority
Derbyshire Area Health Authority
Devon Area Health Authority
Dorset Area Health Authority
Durham Area Health Authority
East Sussex Area Health Authority
Essex Area Health Authority
Gloucestershire Area Health Authority
Hampshire Area Health Authority (Teaching)
Hereford and Worcester Area Health Authority
Hertfordshire Area Health Authority
Humberside Area Health Authority
Isle of Wight Area Health Authority
Kent Area Health Authority
Lancashire Area Health Authority
Leicestershire Area Health Authority (Teaching)
Lincolnshire Area Health Authority
Norfolk Area Health Authority
Northamptonshire Area Health Authority
North Yorkshire Area Health Authority
Nottinghamshire Area Health Authority (Teaching)
Oxfordshire Area Health Authority (Teaching)
Salop Area Health Authority
Somerset Area Health Authority
Staffordshire Area Health Authority
Suffolk Area Health Authority
Surrey Area Health Authority
Warwickshire Area Health Authority
West Sussex Area Health Authority
Wiltshire Area Health Authority

EXPLANATORY NOTE

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

Directions are given in these Regulations by the Secretary of State to Regional Health Authorities and to Area Health Authorities in Wales to exercise, on his behalf, certain of his functions relating to the national health service and directions are given as to which of those functions Regional Health Authorities must, or must not, direct should be exercisable by Area Health Authorities in England.

SI 1974/24
ISBN 0-11-040024-0

