STATUTORY INSTRUMENTS

1981 No. 933

NATIONAL HEALTH SERVICE, ENGLAND AND WALES

The National Health Service (Health Authorities: Membership) Regulations 1981

Made - - - -	1*st July* 1981
Laid before Parliament	10*th July* 1981
Coming into Operation	31*st July* 1981

The Secretary of State for Social Services, as respects England, and the Secretary of State for Wales, as respects Wales, in exercise of powers conferred on them by paragraphs 1(2), 2(1)(*b*) and 12(*a*) of Schedule 5 to the National Health Service Act 1977**(a)** and of all other powers enabling them in that behalf, hereby make the following regulations:—

Citation and commencement

1. These regulations may be cited as the National Health Service (Health Authorities: Membership) Regulations 1981 and shall come into operation on 31st July 1981.

Interpretation

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

"the Act" means the National Health Service Act 1977;

"appointing authority" means the Secretary of State, Regional Authority or local authority as appropriate;

"Area Authority" means an Area Health Authority;

"Authority" means a Regional Authority, an Area Authority or a District Authority;

"District Authority" means a District Health Authority;

"local authority" in relation to any Area Authority or District Authority means the local authority or local authorities specified in the Order constituting the Area or District Authority as entitled to make appointments to that Authority;

"member" in relation to an Authority does not include the chairman and "members" and "membership" shall be construed accordingly;

"Regional Authority" means a Regional Health Authority;

"relevant Regional Authority" has the meaning assigned to it in paragraph 5(1)(*b*) of Schedule 5 to the Act.

(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.

(a) 1977 c. 49; paragraph 2 of Schedule 5 was amended by the Health Services Act 1980 (c. 53), section 1(7) and Schedule 1, paragraph 78(3).

Tenure of office of chairman and members of Authorities

3. Subject to regulation 4—

(*a*) the tenure of office of the chairman of a Regional Authority shall be for such period not exceeding four years, expiring on 31st July in any year, as the Secretary of State shall specify on making the appointment;

(*b*) the tenure of office of the chairman of an Area Authority or a District Authority established for an area or district in England shall be for such period not exceeding four years, expiring on 31st March in any year, as the Secretary of State shall specify on making the appointment;

(*c*) the tenure of office of a member of a Regional Authority shall be for such period not exceeding four years, expiring on 30th September in any year, as the Secretary of State shall specify on making the appointment;

(*d*) the tenure of office of the chairman or a member of an Area Authority or a District Authority established for an area or district in Wales appointed by the Secretary of State shall, subject to regulation 9, be for such period not exceeding four years, expiring on 31st July in any year, as the Secretary of State shall specify on making the appointment;

(*e*) the tenure of office of a member of an Area Authority or a District Authority appointed by the relevant Regional Authority shall, subject to Regulation 9, be for such period not exceeding four years, expiring on 30th September in any year, as the relevant Regional Authority shall specify on making the appointment;

(*f*) the tenure of office of a member of an Area Authority or a District Authority appointed by one or more local authorities shall be for such period as it or they shall specify on making the appointment.

Termination of tenure of office

4.—(1) The chairman or a member of an Authority may resign his office at any time during the period for which he was appointed by giving notice in writing to the appointing authority by which he was appointed.

(2) Where a member of an Authority is appointed, during his period of membership, to be the chairman of that Authority, his tenure of office as a member shall terminate when his appointment as chairman takes effect.

(3) If an appointing authority is of the opinion that it is not in the interest of the health service in the area or district of an Authority that a person whom it has appointed as the chairman or a member of that Authority should continue to hold that office, that appointing authority may, subject, if it is a relevant Regional Authority, to the consent of the Secretary of State, forthwith terminate his tenure of office.

(4) If a person who is the chairman or a member of an Authority has not attended a meeting of that Authority for a period of six months, the Secretary of State, after consultation with any appointing authority other than the Secretary of State by which that person was appointed, shall, unless satisfied that absence was due to a reasonable cause and that the person will be able to attend such meetings within such period as may be considered reasonable, forthwith terminate his tenure of office.

(5) Where a person has been appointed to be the chairman or a member of an Authority—

(*a*) if he becomes disqualified for appointment under regulation 7 the

appointing authority by which he was appointed shall forthwith notify him in writing of such disqualification; or

(*b*) if it comes to the notice of the appointing authority that at the time of his appointment he was so disqualified it shall forthwith declare that he was not duly appointed and so notify him in writing

and, upon receipt of any such notification, his tenure of office, if any, shall be terminated and he shall cease to act as such chairman or member.

(6) If it appears to the Secretary of State that the chairman or a member of an Authority has failed to comply with regulation 14(1) of the National Health Service (Regional and Area Health Authorities: Membership and Procedure) Regulations 1973**(a)** (disclosure etc. on account of pecuniary interest) he may forthwith terminate that person's tenure of office.

Eligibility for reappointment

5. Subject to regulation 7, the chairman or a member of an Authority shall, on the termination of his tenure of office, be eligible for reappointment.

Exception from duty to consult

6. The duty to consult imposed by paragraphs 1(2) and 2(1)(*b*) of Schedule 5 to the Act shall not apply in respect of any appointment by the Secretary of State of a person to be a member of a Regional Authority or an Area or District Authority established for an area or a district in Wales, or any appointment by a Regional Authority of a person to be a member of an Area or a District Authority established for an area or district in England for the purpose of his taking the place of a member whose tenure of office has ceased before the expiry of the period for which he was appointed or where the person appointed has ceased to act pursuant to regulation 4(5) or, where the specified number of members of an Area or a District Authority of any category has been increased, the person first appointed to fill a vacancy created by the increase.

Disqualification for appointment

7.—(1) Subject to regulation 8, a person shall be disqualified for appointment as the chairman or a member of an Authority if—

(*a*) he has within the preceding five years been convicted in the United Kingdom, the Channel Islands or the Isle of Man of any offence and has had passed on him a sentence of imprisonment (whether suspended or not) for a period of not less than three months without the option of a fine; or

(*b*) he has been adjudged bankrupt or has made a composition or arrangement with his creditors; or

(*c*) he has been dismissed, otherwise than by reason of redundancy, from any paid employment with any of the following bodies:—

(i) a Regional, Area or District Authority;

(ii) a special health authority;

(iii) the Public Health Laboratory Service Board;

(iv) a Board of Governors of a teaching hospital which is a preserved Board by virtue of section 15 of the National Health Service Reorganisation Act 1973**(b)**;

(v) the Dental Estimates Board;

(vi) the National Radiological Protection Board; or

(a) S.I. 1973/1286. **(b)** 1973 c. 32.

(*d*) he has had his name removed, by a direction under section 46 of the Act, from any list prepared under Part II of the Act and has not subsequently had his name included in such a list; or

(*e*) he is a person whose tenure of office as the chairman or a member of an Authority has been terminated pursuant to paragraph (3), (4) or (6) of regulation 4.

(2) For the purposes of paragraph (1)(*a*) the ordinary date on which the period allowed for making an appeal or application with respect to the conviction expires or, if such an appeal or application is made, the date on which the appeal or application is finally disposed of or abandoned or fails by reason of the non-prosecution thereof, shall be deemed to be the date of the conviction.

Cessation of disqualification

8.—(1) Where a person is disqualified under regulation 7(1)(*b*) by reason of having been adjudged bankrupt—

(*a*) if the bankruptcy is annulled on the ground that he ought not to have been adjudged bankrupt or on the ground that his debts have been paid in full, the disqualification shall cease on the date of the annulment;

(*b*) if he is discharged with a certificate that the bankruptcy was caused by misfortune without any misconduct on his part, the disqualification shall cease on the date of his discharge;

(*c*) if he is discharged without such a certificate, his disqualification shall cease on the expiry of five years from the date of his discharge;

(*d*) if a court makes an order under subsection (1) of section 7 (automatic discharge of bankrupt) of the Insolvency Act 1976**(a)** directing that subsection (2) of that section shall have effect in relation to him or where subsection (4) of that section applies to him the disqualification shall cease on the date upon which, in accordance with that subsection (2) or that subsection (4), that person is treated as if the court had granted him an absolute order of discharge.

(2) Where a person is disqualified under regulation 7(1)(*b*) by reason of his having made a composition or arrangement with his creditors, if he pays his debts in full the disqualification shall cease on the date on which the payment is completed and in any other case it shall cease on the expiry of five years from the date on which the terms of the deed of composition or arrangement are fulfilled.

(3) Subject to paragraph (4), where a person is disqualified under regulation 7(1)(*c*) he may, after the expiry of a period of not less than two years, apply in writing to the Secretary of State to remove the disqualification, and the Secretary of State may direct that the disqualification shall cease.

(4) Where the Secretary of State refuses an application to remove a disqualification no further application may be made by that person until the expiration of two years from the date of the application and this paragraph shall apply to any subsequent application.

(5) Where a person is disqualified under regulation 7(1)(*e*), the disqualification shall cease on the expiry of a period of two years or such longer period as the appointing authority specifies when terminating his period of office but the Secretary of State may, on application being made to him by that person or by that appointing authority, reduce the period of disqualification.

(a) 1976 c. 60.

Transitional provisions

9.—(1) The tenure of office of a member of an Area Authority established for an area in England appointed by the relevant Regional Authority for a period expiring on 31st July 1981 (which by virtue of paragraph 2(*b*) of the Schedule to the National Health Service (Health Authorities: Membership) Regulations 1979**(a)** was extended for a further period expiring on 30th September 1981) shall be extended for a further period expiring on 31st March 1982.

(2) Where an Area Authority or a District Authority is established for an area or a district in Wales during the period commencing with 1st April 1982 and ending with 31st July 1982 the tenure of office of the chairman or a member of the authority shall be for such period not exceeding four years and four months, expiring on 31st July in any year, as the Secretary of State shall specify on making the appointment.

(3) Where an existing Area Authority is constituted and renamed as a District Health Authority by an order made under section 8(1) of the Act which comes into operation on 1st April 1982 the tenure of office of any member of such an Authority which would but for this paragraph have continued after that date shall cease on 31st March 1982.

Revocation of regulations

10. The National Health Service (Health Authorities: Membership) Regulations 1979 and regulation 2 of the National Health Service (Health Authorities and Family Practitioner Committees: Membership) Regulations 1979**(b)** are hereby revoked.

Patrick Jenkin,
Secretary of State for Social Services.

30th June 1981.

Signed by the authority of the Secretary of State for Wales.

Wyn Roberts,
Parliamentary Under Secretary of State for Wales.

1st July 1981.

(a) S.I. 1979/738, amended by S.I. 1979/897. **(b)** S.I. 1979/897.

EXPLANATORY NOTE

(This Note is not part of the Regulations.)

These regulations provide for the appointment and tenure of office of chairmen and members of Regional, Area and District Health Authorities established under the National Health Service Act 1977. They consolidate with amendments the regulations which provided for the appointment and tenure of office of the chairmen and members of Regional and Area Health Authorities. The principal amendments are:—

(*a*) the tenure of office of chairmen of Area and District Health Authorities in England will expire on 31st March in any year and provisions relating to the periods of office of members have been simplified (regulation 3);

(*b*) the disqualification of a person by reason of his bankruptcy will cease in cases in which he is treated as having been discharged by virtue of section 7 of the Insolvency Act 1976 (regulation 8(1)(*a*));

(*c*) power is given to the Secretary of State to remove the disqualification of a person who was disqualified by reason of dismissal from employment with certain bodies (regulation 8(3) and (4)).

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