STATUTORY INSTRUMENTS

1990 No 2230 (S.192)

NATIONAL HEALTH SERVICE, SCOTLAND

The National Health Service (Local Health Councils) (Scotland) Regulations 1990

Made - - - -	*7th November 1990*
Laid before Parliament	*9th November 1990*
Coming into force	*1st December 1990*

The Secretary of State, in exercise of the powers conferred on him by sections 7(8) and (9), 105(7) and 108(1) of the National Health Service (Scotland) Act 1978(a), 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 (Local Health Councils) (Scotland) Regulations 1990 and shall come into force on 1st December 1990.

Interpretation

2. In these Regulations, unless the context otherwise requires–

"the Act" means the National Health Service (Scotland) Act 1978;

"annual report" means a report by a council to be made in accordance with regulation 8(1);

"area" means in relation to a Health Board the whole of the area for which the Board was established under section 2(1) of the Act;

"council" means a local health council within the meaning of section 7 of the Act;

"district" means, in relation to a council, the locality for which it is established and where the council is established for the whole area of a Health Board, reference to a district is to such area;

"member" means a member of a council;

"NHS trust" has the meaning indicated by section 12A(1) of the Act(b) and, in relation to a council, means a NHS trust which administers an establishment situated wholly or partly in the district of a council;

"relevant Health Board" means the Health Board in respect of whose area or part thereof a council has been established;

"the 1974 regulations" means the National Health Service (Local Health Councils) (Scotland) Regulations 1974(c);

"the 1990 Act" means the National Health Service and Community Care Act 1990(d).

(a) 1978 c.29; section 7 was amended by the Health Services Act 1980 (c.53) ("the 1980 Act"), Schedule 6, paragraph 1, and by the National Health Service and Community Care Act 1990 (c.19) ("the 1990 Act"), section 29(3); the relevant commencement order is S.I. 1990/1520; section 105(7), which was amended by the 1980 Act, Schedule 6, paragraph 5 and Schedule 7 and by the Health and Social Services and Social Security Adjudications Act 1983 (c.41), Schedule 9, paragraph 24, contains provisions relevant to the exercise of the powers under which these Regulations are made; section 108(1) contains definitions of "prescribed" and "regulations".

(b) Section 12A was inserted by the 1990 Act, section 31.

(c) S.I. 1974/2177.

(d) 1990 c.19.

Submission of schemes

3. Each scheme for the establishment of a council submitted to the Secretary of State by a Health Board in accordance with section 7(1) or (4) of the Act shall specify–

(a) the number of councils to be established in the Health Board's area;

(b) the districts for which councils are to be established;

(c) the number of members to be appointed to councils;

(d) the basis on which persons are selected for membership;

(e) the procedures for appointing members, chairmen, and vice-chairmen of councils, their term of office and the circumstances in which they may cease to hold office; and

(f) such other particulars as may be required by the Secretary of State.

Consideration of matters by councils

4. In furtherance of its general function under section 7(1) of the Act to represent the interests of the public in the health service in the district for which it has been established, each council may keep under review the operation of the health service in its district and make recommendations for the improvement of such service or otherwise advise the relevant Health Board.

Information

5.—(1) Subject to paragraph (3), it shall be the duty of every relevant Health Board to provide each council in its area with such information about the planning and operation of the health service in the area of that Board as the council may reasonably require.

(2) It shall not be a requirement of this regulation that there be provided to a council–

(a) information about the diagnosis and treatment of individual patients; or

(b) confidential information about individual members of staff employed by a Health Board or NHS trust; or

(c) information in respect of which any rule of commercial confidentiality applies.

Consultation with councils by Health Boards

6.—(1) Every relevant Health Board shall so far as is reasonably practicable consult each council in its area–

(a) in the preparation of its strategy plans for meeting its responsibility under the Act for the provision of services to meet the needs for health care of people resident in the district of each council; and

(b) any substantial development or variation in any of the services for the provision of which the relevant Health Board is responsible under the Act.

(2) Without prejudice to paragraph (1), a relevant Health Board may consult councils in its area about any other matter about which it considers consultation to be necessary or desirable.

Reports

7. A council may, and if so requested by the relevant Health Board or the Secretary of State shall, consider any question relating to the operation of the health service in its district and submit a report thereon to that Board.

Annual reports

8.—(1) It shall be the duty of a council, as soon as is practicable after 1st April 1992 and thereafter as soon as is practicable after 1st April in each successive year, to make a report to the relevant Health Board on the performance of its functions during the year preceding that date.

(2) Without prejudice to the generality of paragraph (1), each annual report shall give details of the objectives of the council and the extent to which they have been achieved in the year to which the report relates.

Provisions about reports generally

9.—(1) Following receipt of any report from a council the relevant Health Board shall furnish to the council comments thereon, and shall indicate any steps taken or proposed to be taken by that Board in consequence of advice given or proposals or recommendations made by the council, and that Board or the council may make these comments known to the public in the district.

(2) Each Health Board shall as soon as is practicable send to the Secretary of State a copy of each annual report prepared by each council in its area.

(3) The Secretary of State may require a Health Board to furnish him with its comments on any report prepared by a council in its area and submitted in accordance with paragraph (1) or (2) of this regulation.

Visits to health service establishments by councils

10. Members of a council may visit any establishment administered by the relevant Health Board or by a NHS trust at such reasonable times and subject to such reasonable conditions as may be agreed between the council and that Board or, as the case may be, the NHS trust.

Provision of staff, accommodation and other facilities by Health Boards

11. It shall be the duty of every relevant Health Board to provide each council in its area with the services of officers, and with accommodation and other facilities, to such extent as the council may reasonably require to enable it to perform its functions.

Meetings with Health Boards

12. It shall be the duty of every relevant Health Board to hold, not less than once every year, a meeting between members of the Health Board and the members of each council in its area to discuss such matters relating to the functions of the council as may be raised by the council or the Board.

Meetings and proceedings

13.—(1) The first meeting of a council shall be held on such day and at such place as may be fixed by the relevant Health Board, which shall be responsible for convening the meeting.

(2) A meeting of the council shall take place at least once in every three months.

(3) After the first meeting the chairman may call a meeting of the council at any time and, if he refuses to call a meeting after a requisition for that purpose, signed by at least one-third of the whole number of members, has been presented to him, or if, without so refusing the chairman does not call a meeting within ten days after such requisition has been presented to him, such one-third or more members may forthwith call a meeting.

(4) Before each meeting of a council a notice of the meeting, specifying the business proposed to be transacted thereat, and signed by the officer appointed to act as Secretary of the council or by some other officer of the council authorised to sign on his behalf, shall be delivered to every member, or sent by post to the usual place of residence of such member, so as to be available to such member at least seven clear days before the meeting:

Provided that–

(a) want of service of such notice on any member shall not affect the validity of a meeting; and

(b) in the case of a meeting called by members in default of the chairman, the notice shall be signed by those members and no business shall be transacted at the meeting other than that specified in the notice.

(5) At any meeting of a council–

(a) the chairman, if present, shall preside;

(b) if the chairman is absent from the meeting the vice-chairman, if present, shall preside; and

(c) if the chairman and vice-chairman are absent, such one of their number as the members present shall choose shall preside.

(6) No business shall be transacted at a meeting unless one-third of the whole number of members are present.

(7) Every question at a meeting shall be determined by a majority of votes of members present and voting on the question and, in the case of an equality of votes, the person presiding shall have a second and casting vote.

(8) The names of members present at any meeting shall be recorded and the minutes of the proceedings of each meeting shall be drawn up and entered in a book kept for that purpose and shall be signed at the same or next ensuing meeting by the person presiding thereat.

(9) A meeting of a council or of a committee thereof may be adjourned to any other day, hour and place.

(10) If a member has any pecuniary interest, direct or indirect, in any matter which is discussed at a meeting of the council or of a committee of the council he shall at the meeting, as soon as practicable after the commencement thereof, declare the fact and shall not vote on any question with respect to such matter; but he shall not be precluded from taking part in the consideration or discussion of the matter.

Accounts and expenses

14.—(1) Each council shall submit to the Secretary of State in such form and manner and by such time as the Secretary of State may specify estimates of the expenses for the next financial year which it considers requisite for the carrying out of its functions.

(2) The Secretary of State shall consider the estimates of expenses submitted to him by each council and may approve the estimates with or without modifications and shall make arrangements for payment of the expenses as approved.

(3) Each council shall cause Accounts of its expenses to be prepared and submitted to the relevant Health Board with the annual report.

(4) Each council shall make such arrangements as the relevant Health Board considers appropriate for the audit of the Accounts of its expenses and for submission of the audited Accounts to that Board.

Revocation, transitional and savings

15.—(1) Subject to paragraph (2) the 1974 Regulations are hereby revoked.

(2) The provisions of the 1974 Regulations shall continue to apply, notwithstanding paragraph (1), to any council established pursuant to a scheme having effect under the existing LHC provisions.

(3) The provisions of these Regulations shall not apply to any council referred to in paragraph (2) of this regulation and shall only apply to a council established pursuant to a scheme having effect under the new LHC provisions.

(4) In this regulation the expression "the new LHC provisions" means the provisions of the Act relating to local health councils as amended by section 29(3)(a) of the 1990 Act, and the expression "the existing LHC provisions" means those provisions as in force before such amendment.

Michael B. Forsyth
Minister of State,
Scottish Office

St. Andrew's House, Edinburgh
7th November 1990

EXPLANATORY NOTE

(This note is not part of the Regulations)

These Regulations revoke the National Health Service (Local Health Councils) (Scotland) Regulations 1974 and substitute therefor provisions made in the light of amendments to section 7 of the National Health Service (Scotland) Act 1978 effected by the National Health Service and Community Care Act 1990 ("the 1990 Act"). The Regulations come into force immediately with respect to the submission of schemes for the new health councils to be established under the amended provisions of the section and for the establishment of those new councils under such schemes.

Regulations 1 and 2 provide for the citation and commencement and interpretation of the Regulations. Regulation 3 makes provision with regard to the submission of schemes to the Secretary of State by health boards for the establishment of local health councils and provides for the content of the schemes.

Regulation 4 makes provision for the matters to be considered by local health councils and regulation 5 provides for councils to obtain information from the health board within whose area they are situated. Regulation 6 makes provision for health boards to consult with local health councils and regulations 7, 8 and 9 make provision for councils to provide reports including annual reports.

Regulation 10 makes provision for members of councils to visit establishments in the health service in their district and regulation 11 makes provision for health boards to provide councils with staffing and accommodation. Regulation 12 provides for health boards to hold meetings on a regular basis with members of health councils. Regulation 13 makes provision for the regulation of the meetings and proceedings of local health councils and regulation 14 makes provision for estimates, payment and accounting for expenses of local health councils.

Regulation 15 contains provisions revoking the 1974 Regulations, saving the 1974 Regulations in the case of councils established before the coming into force of the amendments effected by the 1990 Act and providing that the Regulations shall only apply to councils established under the amended provisions.