

1982 No. 37**NATIONAL HEALTH SERVICE, ENGLAND AND WALES**
**The National Health Service (Community Health Councils)
Amendment Regulations 1982**

Made - - - - 14th January 1982

Laid before Parliament 25th January 1982

Coming into Operation
Regulations 1, 2(1),
 3(a) and (b), 4, 6, 10,
 11 and 12 - - - 15th February 1982

Regulations 2(2), 3(c),
 5, 7, 8 and 9 and
the Schedule - - 1st April 1982

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 by sections 13, 14 and 20 of, and paragraphs 2 and 3 of Schedule 7 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.—(1) These regulations may be cited as the National Health Service (Community Health Councils) Amendment Regulations 1982.

(2) Regulations 1, 2(1), 3(a) and (b), 4, 6, 10, 11 and 12 shall come into operation on 15th February 1982.

(3) Regulations 2(2), 3(c), 5, 7, 8 and 9 and the Schedule hereto shall come into operation on 1st April 1982.

Interpretation

2.—(1) In these regulations “the principal regulations” means the National Health Service (Community Health Councils) Regulations 1973(b) and, subject to paragraph 2 of this regulation, expressions used in these regulations shall have the same meaning as in the principal regulations.

(2) References in the principal regulations relating to Area Health Authorities shall be amended in accordance with the Schedule to these regulations.

(a) 1977 c. 49; sections 13 and 14 have been amended by the Health Services Act 1980 (c. 53), section 1 and Schedule 1, paragraphs 33 and 34 respectively.

(b) S.I. 1973/2217.

Amendment of regulation 4 of the principal regulations

3. Regulation 4 of the principal regulations (number, size and composition of Councils) shall be amended as follows—

- (a) in paragraph (1) the words between “that authority” and “Provided that” (exclusive of both expressions) shall be omitted and in the proviso to that paragraph the words “after consultation as aforesaid,” shall also be omitted;
- (b) in paragraph (3) the words between “the Council” and “by the establishing authority” (exclusive of both expressions) shall be omitted and in the proviso to that paragraph the words “and after such consultation as aforesaid,” shall also be omitted;
- (c) in paragraph (6) for the words between “after consultation” and “and with such” (exclusive of both expressions) there shall be substituted the words “with the relevant District Authority”.

Substitution of regulation 5 of the principal regulations

4. For regulation 5 of the principal regulations (term of office of members) there shall be substituted the following regulation:—

“5.—(1) Subject to the following provisions of this regulation, the term of office of members of a Council shall be four years expiring on the relevant date in any year.

(2) Subject to paragraph (3) of this regulation, the members first appointed on the establishment of a Council shall be appointed for the following periods—

- (a) such of its members as the appointing bodies may agree, or in default of such agreement, as the establishing authority may determine, being one half (as near as may be) of the members appointed by the relevant local authorities, one half (as near as may be) of the members appointed by voluntary organisations and one half (as near as may be) of members appointed by the establishing authority, for a period expiring on the relevant date in the next even year exclusive of the year of establishment and
- (b) the remainder for a period expiring on the relevant date in the even year next following that specified in sub-paragraph (a) above.

(3) Where a new Council is to be established for the district or part of the district of an existing Council, the establishing authority may determine that the term of office of any member of the existing Council shall cease immediately before the establishment of the new Council.

(4) For the purposes of this regulation “even year” means 1984 or a year commencing two years, or any multiple of two years, after the commencement of that year and “relevant date” means 31st August in England and 30th June in Wales.”.

Amendment of regulation 6 of the principal regulations

5. Regulation 6 of the principal regulations (appointment of members of local authorities) shall be amended so that in paragraph (2) for the words between “cease to be a member” and “ceases to be a member” (exclusive of both expressions) there shall be substituted the words “two months after ceasing to be a member of the appointing body unless either the appointing body within the said two months gives notice in writing to the officer appointed to act as Secretary of the Council and to the establishing authority that the person appointed as a member is to continue as such or the person so appointed”.

Amendment of regulation 7 of the principal regulations

6. Regulation 7 of the principal regulations (appointment of members by voluntary organisations) shall be amended so that for paragraphs (1) and (2) there shall be substituted the following paragraph—

“(1) The establishing authority shall invite such voluntary organisations as it shall determine, being organisations which in its opinion have an interest in the health service in the district of the Council, to take part in appointing members of the Council.”.

Amendment of regulation 8 of the principal regulations

7. Regulation 8 of the principal regulations (eligibility of members for reappointment) shall be amended so that in paragraph (2) for the words “two consecutive terms of office” there shall be substituted “completed terms of office of which eight or more consecutive years have fallen after 31st August 1982 in respect of service on a Council in England, or 30th June 1982 in respect of such service in Wales,”.

Amendment of regulation 9 of the principal regulations

8. Regulation 9 of the principal regulations (disqualification for membership) shall be amended by the addition of the following paragraphs—

“(2) Subject to paragraph (3) of this regulation, a person shall be disqualified for appointment as a member of a Council if he has been dismissed, otherwise than by reason of redundancy, from any paid employment with any of the following bodies—

- (a) a Regional Health Authority, an Area Health Authority or a District Health Authority;
- (b) a special health authority;
- (c) the Public Health Laboratory Service Board;
- (d) a preserved Board within the meaning of section 15 of the National Health Service Reorganisation Act 1973(a);
- (e) the Dental Estimates Board, or
- (f) the National Radiological Protection Board.

(3) Subject to paragraph (4), where a person is disqualified under paragraph (2) of this regulation he may, after the expiry of a period of not less than two years commencing with the dismissal, 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 expiry of two years from the date of the application and this paragraph shall apply to any subsequent application.

(5) Paragraphs (2) to (4) of this regulation shall not disqualify a member in respect of a term of office commencing before 1st April 1982.”.

Amendment of regulation 10 of the principal regulations

9. Regulation 10 of the principal regulations (termination of membership) shall be amended so that in paragraph (2) for the words between “establishing authority” where they first occur and “that person” (exclusive of both expressions) there shall be substituted “and that authority, after consultation with

(a) 1973 c. 32.

the appointing body by which he was appointed (if the establishing authority is not itself that appointing body), shall, unless it is satisfied that the absence was due to reasonable cause, declare that his place on the Council has become vacant and on the making of such a declaration”.

Amendment of regulation 11 of the principal regulations

10. Regulation 11 of the principal regulations (variations of Councils and membership) shall be amended so that—

- (a) in paragraph (1) after the words “four years, expiring” there shall be inserted “in England on 31st August and in Wales”;
- (b) after paragraph (1) there shall be inserted the following paragraph—

“(1A) Paragraph (1) of this regulation shall not apply where an establishing authority has power to determine that the term of office of a member shall cease under regulation 5 of these regulations.”.

Amendment of regulation 17 of the principal regulations

11. The following paragraph shall be added to regulation 17 of the principal regulations (expenses of Councils)—

“(3) It shall be the duty of a Council not to incur expenses in excess of the expenses approved for that Council by the establishing authority.”.

Revocations

12. The National Health Service (Community Health Councils) Amendment Regulations 1976(a) and the National Health Service (Community Health Councils) Amendment Regulations 1978(b) are hereby revoked.

13th January 1982.

Norman Fowler,
Secretary of State for Social Services.

14 January 1982.

Nicholas Edwards,
Secretary of State for Wales.

Regulation 2(2)

THE SCHEDULE

AMENDMENT OF REFERENCES TO AREA HEALTH AUTHORITIES

1. In regulation 2(1) of the principal regulations the definitions of “Area Authority” and “relevant Area Authority” shall be omitted and there shall be inserted the following definitions in the correct alphabetical order—

“‘District Authority’ means a District Health Authority”; and

“‘relevant District Authority’ means any District Authority determined by the establishing authority by which a Council is established to be a relevant District Authority in relation to such Council;”

2. For “Area Authority”, “an Area Authority”, “Area Authorities”, “area”, “an area” and “areas” in the provisions of the principal regulations specified in the following table there shall be substituted a reference to “District Authority” “a District Authority”, “District Authorities”, “district”, “a district” and “districts” respectively.

TABLE

<i>Provision</i>	<i>Subject matter</i>
regulation 2(1), definitions of “district” and “health authority”	interpretation
regulation 3(2), (3) and (4)	exercise of functions
regulation 4(2)	number, size and composition of Councils
regulation 9	disqualification for membership
regulation 18	reports by Councils
regulation 19	advising on operation of health service
regulation 20	consultation of Councils by relevant Area Authority
regulation 21	information to be furnished by relevant Area Authority
regulation 22	inspection of premises by Councils
regulation 23	meeting between Council and relevant Area Authority.

EXPLANATORY NOTE

(This Note is not part of the Regulations.)

These regulations amend the National Health Service (Community Health Councils) Regulations 1973 (the principal regulations). References in the principal regulations relating to Area Health Authorities are substituted by references relating to District Health Authorities (regulation 2 and the Schedule) and provisions in the principal regulations relating to membership of Community Health Councils (Councils) and the expenses of Councils are changed in the manner indicated below. The amendment of some provisions is deferred until the establishment of District Health Authorities on 1st April 1982 (see regulation 1(2) and (3)).

By regulation 3 of these regulations the duty to consult local authorities in regard to membership of Councils contained in paragraphs (1), (3) and (6) of regulation 4 of the principal regulations is removed. A new duty to consult District Health Authorities is substituted in the case of paragraph (6).

Regulation 4 of these regulations substitutes a new regulation 5 in the principal regulations but this retains the existing period of membership for persons appointed as members (that is 4 years, expiring in England on 31st August and in Wales on 30th June (the relevant date)). However, it also provides that where a new Council is established (either on the establishment of District Health Authorities or otherwise) half of the members of the new Council will be appointed for a period expiring on the relevant date in the next even year (as defined in the substituted regulation 5 of the principal regulations) and the remainder for a period two years longer.

Regulation 5 of these regulations amends regulation 6 of the principal regulations so as to enable local authorities to retain as members of Councils persons who were appointed whilst members of the local authority but who have ceased to be a member of that authority.

Regulation 6 of these regulations amends regulation 7 of the principal regulations by removing the duty on the establishing authority (that is the relevant Regional Health Authority or the Secretary of State) to advertise and compile lists in connection with the appointment of members of voluntary organisations as members of Councils.

Regulation 7 of these regulations amends regulation 8 of the principal regulations so that a member or a former member who has completed terms of office which amount to 8 years or more and fall after 31st August 1982 in England or 30th June 1982 in Wales will not be eligible for reappointment as a member unless he has not been a member for 4 years immediately preceding the date of re-appointment.

Regulation 8 of these regulations amends regulation 9 of the principal regulations so that certain persons who have been dismissed from National Health Service employment are disqualified for membership of Councils except where two or more years have elapsed since the dismissal and the Secretary of State directs that the disqualification should cease.

Regulation 9 of these regulations amends regulation 10 of the principal regulations so that where a member does not attend a meeting for 6 months, the establishing authority shall consult the body by which the member was appointed and, unless satisfied that the absence was due to reasonable cause, shall declare that member's place vacant.

Regulation 10 of these regulations makes consequential amendments to regulation 11 of the principal regulations (see regulation 4).

Regulation 11 of these regulations amends regulation 17 of the principal regulations by imposing a new duty on Councils not to incur expenses in excess of those approved by the establishing authority.

Regulation 12 of these regulations revokes obsolete regulations which amended regulation 5 of the principal regulations (see regulation 4).

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