STATUTORY INSTRUMENTS

1986 No. 944 (S. 81)

NATIONAL HEALTH SERVICE, SCOTLAND

The National Health Service (Appointment of Consultants and Community Medicine Specialists) (Scotland) Regulations 1986

Made - - - -	*2nd June* 1986
Laid before Parliament	*16th June* 1986
Coming into Operation	*7th July* 1986

The Secretary of State, in exercise of the powers conferred on him by paragraphs 5 and 6 of Schedule 1 and paragraphs 7 and 8 of Schedule 5 to 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 (Appointment of Consultants and Community Medicine Specialists) (Scotland) Regulations 1986 and shall come into operation on 7th July 1986.

Interpretation

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

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

"Advisory Appointments Committee" means a committee appointed in accordance with regulation 7;

"the Agency" means the Common Services Agency for the Scottish Health Service constituted in terms of section 10 of the Act(**b**);

"Authority" means a Health Board, or the Agency (acting through the Management Committee);

"community medicine specialist" means a Chief Administrative Medical Officer or a Specialist in Community Medicine;

"the Management Committee" means the management committee of the Agency constituted in terms of Schedule 5 paragraph 3 to the Act;

"member in the specialty" means a consultant who is specialising or who has recently specialised in the branch of medicine or dentistry, or a community medicine specialist who is specialising or who has recently specialised in the branch of medicine with which the proposed appointment is concerned;

(**a**) 1978 c.29; paragraph 5 of Schedule 1 was amended by the Health Services Act 1980 (c.53), ("the 1980 Act"), Schedule 6, paragraph 7(2)*(b)* and paragraph 7 of Schedule 5 was amended by the 1980 Act, Schedule 6, paragraph 8(3)*(b)*.

(**b**) Section 10 was amended by the Health Services Act 1980 (c.53), Schedule 6, paragraph 2.

"Panel" means the National Panel of Specialists constituted in accordance with regulation 6.

(2) Any reference in these regulations to a committee of an Authority shall in relation to the Agency be construed as a reference to a sub-committee of the Management Committee.

(3) 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.

Appointments to which the regulations apply

3.—(1) These regulations shall apply to the appointment as an officer of the Authority of any registered medical or dental practitioner to the post of consultant and of any registered medical practitioner to the post of community medicine specialist, not being the appointment of a person who falls within any of the classes specified in regulation 4.

(2) For the purposes of this regulation "appointment" includes any appointment to a post, whether existing or new, and whether whole-time or part-time.

Exempted appointments

4.—(1) These regulations shall not apply to -

(a) a professor, reader or other member of a medical or dental department of a university who receives no remuneration (other than a distinction award) from an Authority;

(b) a person who is primarily engaged in research which necessitates his appointment to the staff of an Authority and who receives no remuneration (other than a distinction award) for that appointment from the Authority;

(c) any other person appointed to the staff of an Authority who receives no remuneration (other than a distinction award) for that appointment from the Authority;

(d) any person appointed to a post on a locum basis for a period not exceeding 12 months;

(e) any person appointed to a post for a period not exceeding 2 years;

(f) a consultant or community medicine specialist employed by an Authority who is transferred with the approval of the Secretary of State to employment by another Authority, as part of or in consequence of a local reorganisation, to fill a post the duties of which are substantially the same as the post in which he was employed in the first instance;

(g) a redundant officer whose employment, or whose last employment by an Authority (or, in England or Wales, by a Regional, or District, or Special Health Authority) is, or was within 2 years of that termination of employment, in a post the duties of which are or were substantially the same as those of the post to which he is being appointed;

(h) an honorary consultant or honorary community medicine specialist providing a service for the National Health Service, although employed by

a university or the Medical Research Council or other similar body, on transfer, with the approval of the Secretary of State, of his post, wholly or in part, without substantial change of duties to the National Health Service.

(2) In this regulation,

"redundant officer" means a person whose employment has been terminated owing to redundancy or local change of organisation and whose name has at the discretion of the Secretary of State for Scotland, the Secretary of State for Social Services or the Secretary of State for Wales been notified to Authorities as an officer to whom this regulation applies;

"employment" includes part-time employment, whether or not the officer is also employed by any other Authority (or, in England or Wales, by a Regional, District or Special Health Authority), but does not include employment in a post where the appointment was expressly limited in duration;

"remuneration" does not include the defraying of expenses by an Authority.

Advertisement of vacancy

5.—(1) Where an Authority propose making an appointment to a vacancy in a post to which these regulations apply, they shall place an advertisement in no fewer than two publications circulating throughout the United Kingdom which are commonly used for similar advertisements relating to the profession concerned; but where such advertisement is not reasonably practicable the Authority shall advertise the vacancy in such other publications as they think appropriate.

(2) Any advertisement shall specify the exact nature of the appointment and the closing date for receipt of applications, which date shall be not less than one month from the date on which the advertisement appears.

(3) Where such an advertisement is in respect of a whole-time post, the advertisement shall include a statement to the effect that applicants for appointment for less time than is required to carry out the full duties of the post will be considered if they are unable to undertake whole-time work, unless that advertisement appears in a publication which states the effect of this paragraph in such manner that it applies to the advertisement.

National Panel of Specialists

6.—(1) For the purpose of providing members of an Advisory Appointments Committee appointed in accordance with regulation 7, the Secretary of State shall constitute the National Panel of Specialists, consisting of not more than 275 members holding consultant or community medicine specialist appointments, made up as follows:-

(a) not more than 60 members nominated by the Universities of Glasgow, Aberdeen, Edinburgh and Dundee;

(b) not more than 170 members nominated by the Royal College of Physicians of Edinburgh, the Royal College of Surgeons of Edinburgh, the Royal College of Physicians and Surgeons of Glasgow, the Royal College of Obstetricians and Gynaecologists, the Royal College of Pathologists, the Royal College of Psychiatrists, the Faculty of Anaesthetists, the

Royal College of Radiologists, the Faculty of Occupational Medicine of the Royal College of Physicians of London, the Faculty of Community Medicine of the Royal Colleges of Physicians; and

(c) not more than 45 members appointed by the Secretary of State.

(2) Members of the Panel shall serve for a period of four years.

(3) Any casual vacancy occurring during the four year period of service for which a member is nominated or appointed shall be filled in the same manner as applied to the member vacating office, but such casual vacancy shall be filled only for the remainder of that four year period.

(4) Other than in exceptional circumstances and with the approval of the Secretary of State, a member retiring from the Panel shall not be eligible for re-appointment until after a lapse of two years from the date of his retiral from the Panel.

(5) After retiral from a consultant or community medicine specialist post in the National Health Service a member of the Panel may complete his term of office unless he first attains the age of 70 years, at which age he shall cease to be a member.

(6) The Secretary of State shall appoint a registered medical practitioner as Secretary of the Panel.

Constitution of Advisory Appointments Committee

7. For the purpose of filling each vacancy in a post to which these regulations apply the Authority making the appointment shall appoint an Advisory Appointments Committee, which shall consist of -

(a) four members nominated by the Authority, one of whom shall be appointed to act as chairman and at least two of whom shall be registered medical or dental practitioners as appropriate;

(b) two members in the specialty from the Panel constituted in accordance with regulation 6, at least one of whom shall not be employed by the Authority making the appointment; and

(c) in the case of an appointment involving undergraduate teaching duties, two members nominated by the university concerned, provided that the university may nominate a maximum of four members where it considers that the appointment carries major teaching responsibilities.

Selection by Committee

8.—(1) The Authority shall refer to the Advisory Appointments Committee all applications received on or before the closing date specified in the advertisement and may also refer an application received after that date if they are satisfied that there is a reasonable explanation for the failure to submit the application in time.

(2) The Advisory Appointments Committee shall consider all applications so referred to them and may interview any of the applicants in order to select the persons whom the Committee consider to be suitable for the appointment.

(3) Thereafter the Advisory Appointments Committee shall submit to the Authority a report stating -

(a) the names of the persons recommended by the Committee as being suitable for the appointment;

(b) the order in which those persons are so recommended; and

(c) the comments of the Committee (including in particular the views of the members from the Panel) on the suitability of those persons for appointment

but such report shall not include the name of any person who has not been interviewed in accordance with paragraph (2) above.

(4) Where an Authority propose to make an appointment to a whole-time post but in the opinion of the Committee one or more applicants would be suitable for appointment for less than whole-time they shall submit to the Authority the names of any such applicants and may add such comments as they consider appropriate.

(5) If the Advisory Appointments Committee consider that none of the applicants is suitable for the appointment they shall so inform the Authority.

(6) No applicant shall be considered suitable for appointment unless a majority of the members of the Advisory Appointments Committee considers him to be suitable and in the event of an equality of votes the Chairman shall not have a casting vote.

Appointment by the Authority

9.—(1) An appointment to a vacancy to which these regulations apply shall be made by the Authority or, if the Authority so delegate, by the appropriate committee of the Authority, but neither the Authority nor a committee of the Authority to which power to make an appointment has been delegated shall make such an appointment except from persons selected by an Advisory Appointments Committee.

(2) The Authority shall not delegate power to make an appointment to any Advisory Appointments Committee.

(3) The Authority shall not appoint under these regulations any person who has in respect of his application for an appointment canvassed any member of the Authority or the Advisory Appointments Committee.

Savings and revocation

10.—(1) Nothing in these regulations shall -

(a) affect the validity of any procedure commenced or thing done prior to the coming into operation of these regulations in connection with the appointment of a community medicine specialist;

(b) apply in respect of or affect the continuance of any such procedure or the appointment as a community medicine specialist of any person resulting therefrom.

(2) The National Health Service (Appointment of Consultants) (Scotland) Regulations 1976(**a**) are hereby revoked.

John J. Mackay,
Parliamentary Under Secretary of State,
Scottish Office.

New St. Andrew's House,
Edinburgh.
2nd June 1986.

EXPLANATORY NOTE

(This Note is not part of the Regulations.)

These regulations, which provide for the method of appointing consultants and community medicine specialists in the National Health Service, supersede the National Health Service (Appointment of Consultants) (Scotland) Regulations 1976. While the said Regulations of 1976 provided for the appointment only of consultants, these regulations extend the appointments procedure to community medicine specialists. The membership of the National Panel of Specialists is increased from 200 to 275 to take account of these changes. Provision is also made (regulations 5(3) and 8(4)) for the filling of whole-time posts by part-time appointments.

(**a**) S.I. 1976/1679.

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