

1996 No. 653

NATIONAL HEALTH SERVICE,
ENGLAND AND WALES

The National Health Service Trusts
(Consultation on Establishment and Dissolution)
Regulations 1996

<i>Made - - - -</i>	<i>7th March 1996</i>
<i>Laid before Parliament</i>	<i>8th March 1996</i>
<i>Coming into force</i>	<i>1st April 1996</i>

The Secretary of State for Health, in exercise of the powers conferred by sections 126(4) and 128(1) of the National Health Service Act 1977(a) and section 5(2) of, and paragraphs 29(3) and 30(3) of Schedule 2 to, the National Health Service and Community Care Act 1990(b), and of all other powers enabling him in that behalf, hereby makes the following Regulations:

Citation, commencement and interpretation

1.—(1) These Regulations may be cited as the National Health Service Trusts (Consultation on Establishment and Dissolution) Regulations 1996 and shall come into force on 1st April 1996.

(2) In these Regulations, unless the context otherwise requires—

“the Act” means the National Health Service and Community Care Act 1990;

“dissolution order” means an order under paragraph 29 of Schedule 2 to the Act dissolving an NHS trust;

“establishment order” means an order under section 5(1) of the Act establishing an NHS trust;

“relevant Community Health Council” means, in relation to an NHS trust, the Community Health Council in whose district is situated—

- (a) in a case where the Secretary of State is considering making an establishment order, any hospital or other establishment or facility in respect of which the NHS trust is to be established;
- (b) in a case to which regulation 2(2) of these Regulations applies, any premises the address of which is specified in article 3(2) of the NHS trust’s establishment order;
- (c) in a case where the Secretary of State is considering making a dissolution order or a transfer order, any hospital or other establishment or facility which is referred to in article 3(2) of the trust’s establishment order;

(a) 1977 c.49; section 126(4) was amended by section 65(2) of the National Health Service and Community Care Act 1990 (c.19) (“the 1990 Act”); section 128(1), which is cited for the definition of “prescribed” and “regulations”, was amended by section 26(2) of the 1990 Act.

(b) 1990 c.19; section 5(2) was substituted by paragraph 69(b) of Schedule 1 to the Health Authorities Act 1995 (c.17).

“staff interests” means such persons or bodies as the NHS trust which is to be dissolved may recognise as representing persons who are employed by or for the purposes of that NHS trust, and who are, in its opinion, likely to be affected by a transfer order;

“the Schedule” means Schedule 2 to the Act;

“transfer order” means an order under paragraph 30 of the Schedule transferring or providing for the transfer of property, rights, liabilities and staff of an NHS trust.

Consultation

2.—(1) Subject to paragraph (8) of this regulation, for the purposes of section 5(2) of the Act, the prescribed consultation which must be completed before the Secretary of State may make an establishment order is consultation by the Secretary of State with the relevant Community Health Council.

(2) For the purposes of section 5(2) of the Act, the prescribed consultation which must be completed before the Secretary of State may make an order having the effect that an NHS trust established for the purpose specified in section 5(1)(a) of the Act is established for the purpose specified in section 5(1)(b) of that Act, is consultation by the Secretary of State with the relevant Community Health Council.

(3) For the purposes of section 5(2) of the Act, the prescribed consultation which must be completed before the Secretary of State may make an order under section 5(1) of the Act in relation to an NHS trust in circumstances to which neither paragraph (1) nor paragraph (2) of this regulation applies, is consultation by the Secretary of State with that NHS trust.

(4) Subject to paragraph (8) of this regulation, for the purposes of paragraph 29(3) of the Schedule, the prescribed consultation which, except in cases of urgency, must be completed before the Secretary of State may make a dissolution order is—

(a) where the dissolution order is to be made pursuant to paragraph 29(2)(a) of the Schedule (dissolution on the application of the NHS trust concerned), consultation by that NHS trust with the relevant Community Health Council, the results of which shall, within such period, if any, as the Secretary of State may determine, be reported by the NHS trust to the Secretary of State;

(b) where the dissolution order is to be made pursuant to paragraph 29(2)(b) of the Schedule (where the Secretary of State considers dissolution to be appropriate in the interests of the health service), consultation by the Secretary of State with the relevant Community Health Council.

(5) Where a dissolution order is to be made in respect of two or more NHS trusts, the consultation prescribed by paragraph (4)(a) above may be undertaken jointly by the NHS trusts concerned.

(6) Subject to paragraph (8) of this regulation, for the purposes of paragraph 30(3) of the Schedule, the prescribed consultation which must be completed before the Secretary of State may make a transfer order shall be—

(a) where the dissolution order in respect of that NHS trust is to be made pursuant to paragraph 29(2)(a) of the Schedule, consultation by that NHS trust with the relevant Community Health Council and staff interests, the results of which shall, within such period, if any, as the Secretary of State may determine, be reported by that NHS trust to the Secretary of State;

(b) where the dissolution order in respect of that NHS trust is to be made pursuant to paragraph 29(2)(b) of the Schedule, consultation by the Secretary of State with the relevant Community Health Council and staff interests.

(7) Consultation required by paragraph (6) of this regulation may be combined with the consultation required by paragraph (4) of this regulation; and where orders under paragraph 30 of the Schedule are to be made in respect of two or more NHS trusts, any consultation required by paragraph (6)(a) of this regulation may be undertaken jointly by the NHS trusts concerned.

(8) Where the Secretary of State proposes to make—

- (a) a dissolution order;
- (b) an establishment order; and
- (c) an order under paragraph 30 of the Schedule transferring the property, rights and liabilities of the NHS trust to be dissolved by that dissolution order to the NHS trust to be established by that establishment order,

the prescribed consultation for the purposes of paragraphs 29(3) and 30(3) of the Schedule is consultation by the Secretary of State with, respectively, the relevant Community Health Council and the relevant Community Health Council and staff interests, which may be combined with each other and with the consultation prescribed by paragraph (1) of this regulation.

Revocations

3. The National Health Service Trusts (Consultation on Dissolution) Regulations 1991(a) and the National Health Service Trusts (Consultation on Dissolution) Amendment Regulations 1992(b) are hereby revoked.

Signed by authority of the Secretary of State for Health

7th March 1996

John Horam
Parliamentary Under Secretary of State
Department of Health

(a) S.I. 1991/1347, amended by S.I. 1992/2905.

(b) S.I. 1992/2905.