

2002 No. 557

NATIONAL HEALTH SERVICE, ENGLAND

**The Primary Care Trusts (Membership, Procedure and
Administration Arrangements) Amendment (No. 2)
(England) Regulations 2002**

<i>Made</i> - - - -	<i>8th March 2002</i>
<i>Laid before Parliament</i>	<i>11th March 2002</i>
<i>Coming into force</i>	<i>1st April 2002</i>

The Secretary of State for Health, in exercise of the powers conferred on him by section 126(4) of, and paragraph 5 of Schedule 5A to, the National Health Service Act 1977(a), section 45(7) of the Health and Social Care Act 2001(b) and of all other powers enabling him in that behalf, hereby makes the following Regulations:

Citation, commencement, interpretation and extent

1.—(1) These Regulations may be cited as the Primary Care Trusts (Membership, Procedure and Administration Arrangements) Amendment (No. 2) (England) Regulations 2002 and shall come into force on 1st April 2002.

(2) In these Regulations, “the principal Regulations” means the Primary Care Trusts (Membership, Procedure and Administration Arrangements) Regulations 2000(c).

(3) These Regulations extend to England only.

Amendment of regulation 2 of the principal Regulations

2.—(1) Regulation 2 of the principal Regulations (membership of Primary Care Trusts) shall be amended as follows.

(2) In paragraph (1)—

(a) At the beginning there shall be inserted “Subject to paragraphs (12) to (14),”;

(b) for “8” there shall be substituted “10”.

(3) In paragraph (2), after “7” there shall be inserted “, or, where paragraph (12) applies, 8”.

(4) In paragraph (4)(a) for “and Director of Finance” there shall be substituted “, Director of Finance and Director of Public Health”.

(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”), by paragraph 37(6) of Schedule 4 to the Health Act 1999 (c.8) (“the 1999 Act”) and by paragraph 5(13)(b) of Schedule 5 to the Health and Social Care Act 2001 (c.15) (“the 2001 Act”); see section 128(1), as amended by section 26(2)(i) of the 1990 Act, for the definition of “regulations”; Schedule 5A was inserted by Schedule 1 to the 1999 Act. The functions of the Secretary of State under these provisions are, so far as exercisable in relation to Wales, transferred to the National Assembly for Wales by article 2(a) of, and the entry for the 1977 Act in Schedule 1 to, the National Assembly for Wales (Transfer of Functions) Order 1999, S.I. 1999/672, as amended by section 66(5) of the 1999 Act. See also section 68 of the 2001 Act.

(b) 2001 c.15; see section 66 for the definition of “regulations” and “relevant authority”.

(c) S.I. 2000/89, as amended by S.I. 2001/2631, 2001/3787 and 2002/38.

(5) In paragraph (7) for “and the Director of Finance” there shall be substituted “, the Director of Finance and the Director of Public Health”.

(6) After paragraph (11) the following paragraphs shall be added:

“(12) Subject to paragraph (14), a Primary Care Trust may, for the relevant period, have 16 members if—

- (a) on 31st March 2002 it had 7 officer members who did not include the Director of Public Health; and
- (b) as a result of the appointment of the Director of Public Health as an officer member under paragraph (4)(a)—
 - (i) the number of officer members increased to 8; and
 - (ii) the number of non-officer members also increased to 8 in accordance with paragraph (2).

(13) For the purposes of paragraph (12), “the relevant period” means the period from 1st April 2002 until the earlier of—

- (a) such time as an officer member appointed under paragraph (4)(c) or (7) ceases to be a member; or
- (b) 31st March 2004.

(14) If, before 31st March 2004, an officer member appointed under paragraph (4)(c) or (7) ceases to be a member, the Primary Care Trust may have no more than 7 officer members and the number of non-officer members may only exceed that number until the earlier of—

- (a) such time as a non-officer member, other than one mentioned in paragraph (3A), ceases to be a member; or
- (b) 31st March 2004.”.

Amendment of regulation 3 of the principal Regulations

3. After paragraph (5) of regulation 3 of the principal Regulations (termination of tenure of office and suspension of officer members), the following paragraph shall be inserted—

“(5A) Subject to paragraph (9), if the chairman and non-officer members are of the opinion that it is appropriate to do so in order to ensure compliance with regulation 2 above, they may, following such period of notice as appears to them to be reasonable, terminate the tenure of office of a person who is an officer member appointed under regulation 2(4)(c) or (7).”.

Amendment of regulation 4 of the principal Regulations

4.—(1) Regulation 4 of the principal Regulations (termination of tenure of office: chairman and non-officer members), shall be amended as follows.

(2) After paragraph (4), the following paragraphs shall be inserted—

“(4A) If the Secretary of State is of the opinion that it is appropriate to do so in connection with the designation of a trust as a Care Trust, he may, following such period of notice as appears to him to be reasonable, terminate the tenure of office of the chairman or a non-officer member of the trust.

(4B) Subject to paragraph (10), if the Secretary of State is of the opinion that it is appropriate to do so in order to ensure compliance with regulation 2 above, he may, following such period of notice as appears to him to be reasonable, terminate the tenure of office of a non-officer member of the trust.”.

(3) In paragraph (10), after “(4),” there shall be inserted “(4B),”.

Amendment of regulation 5 of the principal Regulations

5. Paragraph (1)(g)(iii) of regulation 5 of the principal Regulations (disqualification for appointment: chairman and non-officer members) shall be omitted.

Amendment of regulation 1 of the Primary Care Trusts (Membership, Procedure and Administration Arrangements) Amendment (No. 2) (England) Regulations 2001

6. In regulation 1(2) of the Primary Care Trusts (Membership, Procedure and Administration Arrangements) Amendment (No. 2) (England) Regulations 2001^(a) (citation, commencement, interpretation and extent) for “2001” there shall be substituted “2000”.

Amendment of regulation 1 of the Primary Care Trusts (Membership, Procedure and Administration Arrangements) Amendment (No. 3) (England) Regulations 2002

7. In regulation 1(1) of the Primary Care Trusts (Membership, Procedure and Administration Arrangements) Amendment (No. 3) (England) Regulations 2002^(b) (citation, commencement and extent) “(No. 3)” shall be omitted.

Signed by authority of the Secretary of State for Health

8th March 2002

John Hutton
Minister of State,
Department of Health

^(a) S.I. 2001/3787.

^(b) S.I. 2002/38.

EXPLANATORY NOTE

(This note is not part of the Regulations)

These Regulations amend the Primary Care Trusts (Membership, Procedure and Administration Arrangements) Regulations 2000 (“the principal Regulations”).

Regulation 2 amends regulation 2 of the principal Regulations which is concerned with the membership of Primary Care Trusts. It provides for Directors of Public Health to be included as officer members of PCTs in England and increases the minimum number of members from 8 to 10 to allow for this additional appointment (and the balancing appointment of an additional non-officer member).

Regulation 2(6) sets out transitional arrangements for those trusts where the appointment of a Director of Public Health increases the membership of the trust beyond the maximum numbers allowed by regulations 2(1) and (2) of the principal Regulations. For the period up to 31st March 2004 at the latest, it allows such trusts to have a maximum of 16 members with the maximum being reduced to 15 as soon as an officer member (other than one appointed by virtue of the post he occupies) ceases to be a member.

Regulation 3 amends regulation 3 of the principal Regulations to permit the termination of the tenure of office of certain officer members where the chairman and non-officer members believe that this is appropriate in order to comply with the requirements as to membership of the trust set out in regulation 2.

Regulation 4 amends regulation 4 of the principal Regulations to permit the termination of the tenure of office of:

(a) the chairman and non-officer members where the Secretary of State believes that this is appropriate in connection with the designation of a trust as a Care Trust; and

(b) non-officer members where the Secretary of State believes that this is appropriate in order to comply with the requirements as to membership of the trust set out in regulation 2.

Regulation 5 amends regulation 5 of the principal Regulations. It removes the provision disqualifying for appointment as the chairman or non-officer member of a Primary Care Trust a health professional who has at any time in the 12 months prior to his appointment provided or performed, or assisted in the provision or performance of, services under Part 2 of the National Health Service Act 1977, community health services or a pilot scheme under the National Health Service (Primary Care) Act 1997.

Regulation 6 amends the definition of the principal Regulations in the Primary Care Trusts (Membership, Procedure and Administration Arrangements) Amendment (No. 2) (England) Regulations 2001 which wrongly specified the date of the principal Regulations as 2001 instead of 2000.

Regulation 7 amends the citation of the Primary Care Trusts (Membership, Procedure and Administration Arrangements) Amendment (No. 3) (England) Regulations 2002 to remove the (No. 3) which was wrongly included. Those Regulations were the first amending regulations to be made in 2002.

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