

S.I. 1983 No. 894

NATIONAL HEALTH SERVICE, ENGLAND AND WALES

The Mental Health Act Commission Regulations 1983

Made - - - - - 17th June 1983

Laid before Parliament 1st July 1983

Coming into Operation 1st September 1983

The Secretary of State for Social Services, in exercise of the powers conferred upon him by paragraph 12 of Schedule 5 to the National Health Service Act 1977, 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 Mental Health Act Commission Regulations 1983 and shall come into operation on 1st September 1983.

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

“the Commission” means the Mental Health Act Commission established by the Order;

“the Order” means the Mental Health Act Commission (Establishment and Constituion) Order 1983.

Appointment of chairman and members

2. The chairman and members of the Commission shall be appointed by the Secretary of State.

Tenure of office of chairman and members

3. Subject to the following provisions of these regulations and to any provisions of regulations applied by these regulations, the term of office of the chairman or a member shall be such period, not exceeding four years, as the Secretary of State may specify on making the appointment.

Termination of tenure of office

4.—(1) The chairman or a member of the Commission may resign his office at any time during the period for which he was appointed by giving notice in writing to the Secretary of State.

(2) Notwithstanding that the appointment of the chairman or any member is for a term of years, the Secretary of State may, at any time, terminate that person's tenure of office.

Eligibility for re-appointment

5. Subject to any provisions of regulations applied by these regulations as to disqualification from membership, the chairman or a member of the Commission shall, on the termination of his tenure of office, be eligible for re-appointment.

Vice-chairman

6.—(1) The Secretary of State may appoint a member of the Commission to be vice-chairman for such period as the Secretary of State may specify on making the appointment.

(2) Where no such appointment is made, the chairman and members of the Commission shall elect one of their number, other than the chairman, to be vice-chairman for a period of one year or, where the period of his membership during which he is elected has less than a year to run, for the remainder of such period.

(3) Any member so appointed or elected may at any time resign from the office of vice-chairman by giving notice in writing—

- (a) if he was appointed by the Secretary of State, to the Secretary of State;
- (b) in any other case, to the chairman of the Commission,

and the Secretary of State may thereupon appoint another member or, failing such an appointment, the chairman and members shall thereupon elect another member as vice-chairman in accordance with paragraph (1) or, as the case may be, paragraph (2) of this regulation.

Committees and sub-committees

7.—(1) The Secretary of State shall appoint a committee of the Commission to be known as the Management Board whose members shall be—

- (a) the chairman of the Commission who shall be the chairman of the Management Board;
- (b) the vice-chairman of the Commission;
- (c) three further members of the Commission appointed by the Secretary of State;
- (d) the chief executive of the Commission;
- (e) the director of finance of the Commission; and
- (f) any person who may be appointed or co-opted under paragraph (1A).¹

(1A) The Management Board may include—

- (a) not more than two persons who are not members of Commission and who are appointed by the Secretary of State; and
- (b) not more than two persons who are members of the Commission and who are co-opted by the Management Board.¹

(2) Subject to paragraph (3) of this regulation and subject to and in accordance with such directions as the Secretary of State may give to [the Management Board], the [Management Board]¹ shall perform on behalf of the Commission the following functions:—

- (a) the function mentioned in Article 3(2)(d) of the Order (proposals for the code of practice);
- (b) the preparation of the report on the Commission's activities required by section 121(10) of the Mental Health Act 1983;
[(bb) the management of the activities of the Commission];¹
- (c) any other function, or activity in connection with any function, which the Commission may require it to perform.

(3) The functions mentioned in paragraph (2)(a) and (b) of this regulation, and any such function under paragraph (2)(c) of this regulation as the Commission may specify, shall be performed in consultation with the Commission.

¹ Paras (1) and (1A) and words in square brackets substituted and sub-para. (bb) inserted by the Mental Health Act Commission (Amendment) Regulations 1995 (S.I. No. 2630).

(4) Subject to such directions as may be given by the Secretary of State, the Commission may, and if so directed shall, appoint committees of the Commission, [consisting of members of the Commission and persons who are not members of the Commission but are members of the Management Board].¹

(5) The Management Board may, subject to such directions as may be given by the Secretary of State or the Commission, appoint sub-committees consisting—

- (a) wholly of members of the Management Board; or
- (b) wholly of members of the Commission; or
- (c) partly of members of the Management Board who are not members of the Commission and partly of members of the Commission.¹

(6) Any power in this regulation to appoint members of the Commission as members of any committee or sub-committee shall include the power to appoint the chairman as a member of such a committee or sub-committee.

Meetings and proceedings

8.—(1) The meetings and proceedings of the Commission shall be conducted in accordance with Standing Orders made under paragraph (2) of this regulation.

(2) Subject to paragraph (3) of this regulation, the Commission shall make, and may vary or revoke, Standing Orders for the regulation of their proceedings and business and provision may be made in those Standing Orders for the suspension of those Orders.

(3) The Standing Orders shall provide that there shall be held at least one full meeting of the Commission in any year.

(4) The meetings and proceedings of the Management Board shall be conducted in accordance with Standing Orders made under paragraph (5) of this regulation.

(5) Subject to such directions as may be given by the Commission, the Management Board shall make, and may vary or revoke, Standing Orders for the regulation of their proceedings and business and provision may be made in those Standing Orders for the suspension of those Orders.²

Application of regulations relating to membership

9. The provisions of regulation 10(a) to (e), (2) and (3) (disqualification for appointment) and regulation (11) (cessation of disqualification) of the Health Authorities (Membership and Procedure) Regulations 1966 shall apply in relation to the Commission as if—

- (a) any reference in them to an Authority included a reference to the Commission;
- (b) any reference in them to the appointing authority were a reference to the Secretary of State.³

Norman Fowler,
Secretary of State for Social Services.

17th June 1983.

¹ Words in square brackets in sub-para. (4), and sub-para. (5) substituted by the Mental Health Act Commission (Amendment) Regulations 1995 (S.I. No. 2630).

² Sub-paras. (4) and (5) added by the Mental Health Act Commission (Amendment) Regulations 1995 (S.I. No. 2630).

³ Regulation 9 substituted by the Health Authorities (Membership and Procedure) Regulations 1996 (S.I. No. 707).