

Changes to legislation: National Health Service Act 2006, Cross Heading: Directors is up to date with all changes known to be in force on or before 26 June 2024. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details) View outstanding changes

SCHEDULES

SCHEDULE 7

CONSTITUTION OF PUBLIC BENEFIT CORPORATIONS

Directors

- 15 (1) A public benefit corporation has a board of directors.
- (2) The constitution must provide for all the powers of the corporation to be exercisable by the board of directors on its behalf.
- (3) But the constitution may provide for any of those powers to be delegated to a committee of directors or to an executive director.

Modifications etc. (not altering text)

- C1 Sch. 7 para. 15(3) modified by 1983 c. 20, s. 142B (as inserted (24.7.2007) by [Mental Health Act 2007](#) (c. 12), [ss. 45\(3\)](#), [56\(1\)](#); [S.I. 2007/2156](#), art. 2)

- 16 (1) The board consists of—
- (a) executive directors, one of whom is the chief executive (and accounting officer) and another the finance director,
- (b) non-executive directors, one of whom is the chairman.
- (2) One of the executive directors must be a registered medical practitioner or a registered dentist (within the meaning of the Dentists Act 1984 (c 24)); and another must be a registered nurse or a registered midwife.
- (3) A person may not be appointed as an executive director if he is within paragraph 8(1).
- (4) A person may be appointed as a non-executive director only if—
- (a) he is a member of a public constituency or the patients' constituency, or
- (b) where any of the corporation's hospitals includes a medical or dental school provided by a university, he exercises functions for the purposes of that university,
- and he is not within paragraph 8(1).
- 17 (1) It is for [^{F1}the council] of governors at a general meeting to appoint or remove the chairman and the other non-executive directors.
- (2) Removal of a non-executive director under sub-paragraph (1) requires the approval of three-quarters of the members of [^{F1}the council] .
- (3) It is for the non-executive directors to appoint or remove the chief executive.
- (4) It is for a committee consisting of the chairman, the chief executive and the other non-executive directors to appoint or remove the executive directors.

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- (5) The appointment of a chief executive requires the approval of [^{F1}the council] of governors.

Textual Amendments

- F1** Words in Sch. 7 para. 17 substituted (1.10.2012) by [Health and Social Care Act 2012 \(c. 7\), ss. 151\(9\)\(b\), 306\(4\); S.I. 2012/1831, art. 2\(2\)](#)

- 18 (1) It is for [^{F2}the council] of governors at a general meeting to decide the remuneration and allowances, and the other terms and conditions of office, of the non-executive directors.
- (2) The corporation must establish a committee of non-executive directors to decide the remuneration and allowances, and the other terms and conditions of office, of the executive directors; but the constitution may make provision for those matters to be decided pending the establishment of such a committee.

Textual Amendments

- F2** Words in Sch. 7 para. 18 substituted (1.10.2012) by [Health and Social Care Act 2012 \(c. 7\), ss. 151\(9\)\(b\), 306\(4\); S.I. 2012/1831, art. 2\(2\)](#)

- [^{F3}18A The general duty of the board of directors, and of each director individually, is to act with a view to promoting the success of the corporation so as to maximise the benefits for the members of the corporation as a whole and for the public.]

Textual Amendments

- F3** Sch. 7 para. 18A inserted (1.4.2013) by [Health and Social Care Act 2012 \(c. 7\), ss. 152\(1\), 306\(4\); S.I. 2013/160, art. 2\(2\) \(with arts. 7-9\)](#)

- [^{F4}18B(1) The duties that a director of a public benefit corporation has by virtue of being a director include in particular—
- (a) a duty to avoid a situation in which the director has (or can have) a direct or indirect interest that conflicts (or possibly may conflict) with the interests of the corporation;
- (b) a duty not to accept a benefit from a third party by reason of being a director or doing (or not doing) anything in that capacity.
- (2) The duty referred to in sub-paragraph (1)(a) is not infringed if—
- (a) the situation cannot reasonably be regarded as likely to give rise to a conflict of interest, or
- (b) the matter has been authorised in accordance with the constitution.
- (3) The duty referred to in sub-paragraph (1)(b) is not infringed if acceptance of the benefit cannot reasonably be regarded as likely to give rise to a conflict of interest.
- (4) In sub-paragraph (1)(b), “third party” means a person other than—
- (a) the corporation, or
- (b) a person acting on its behalf.]

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Textual Amendments

F4 Sch. 7 para. 18B inserted (1.4.2013) by [Health and Social Care Act 2012 \(c. 7\)](#), **ss. 152(2)**, 306(4); S.I. 2013/160, art. 2(2) (with arts. 7-9)

[^{F5}18C(1) If a director of a public benefit corporation has in any way a direct or indirect interest in a proposed transaction or arrangement with the corporation, the director must declare the nature and extent of that interest to the other directors.

- (2) If a declaration under this paragraph proves to be, or becomes, inaccurate or incomplete, a further declaration must be made.
- (3) Any declaration required by this paragraph must be made before the corporation enters into the transaction or arrangement.
- (4) This paragraph does not require a declaration of an interest of which the director is not aware or where the director is not aware of the transaction or arrangement in question.
- (5) A director need not declare an interest—
 - (a) if it cannot reasonably be regarded as likely to give rise to a conflict of interest;
 - (b) if, or to the extent that, the directors are already aware of it;
 - (c) if, or to the extent that, it concerns terms of the director's appointment that have been or are to be considered—
 - (i) by a meeting of the board of directors, or
 - (ii) by a committee of the directors appointed for the purpose under the constitution.]

Textual Amendments

F5 Sch. 7 para. 18C inserted (1.4.2013) by [Health and Social Care Act 2012 \(c. 7\)](#), **ss. 152(3)**, 306(4); S.I. 2013/160, art. 2(2) (with arts. 7-9)

[^{F6}18D(1) Before holding a meeting, the board of directors must send a copy of the agenda of the meeting to the council of governors.

- (2) As soon as practicable after holding a meeting, the board of directors must send a copy of the minutes of the meeting to the council of governors.]

Textual Amendments

F6 Sch. 7 para. 18D inserted (1.4.2013) by [Health and Social Care Act 2012 \(c. 7\)](#), **ss. 152(4)**, 306(4); S.I. 2013/160, art. 2(2) (with arts. 7-9)

[^{F7}18E(1) The constitution must provide for meetings of the board of directors to be open to members of the public.

- (2) But the constitution may provide for members of the public to be excluded from a meeting for special reasons.]

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Textual Amendments

- F7** Sch. 7 para. 18E inserted (1.4.2013) by [Health and Social Care Act 2012 \(c. 7\)](#), [ss. 152\(5\)](#), 306(4); [S.I. 2013/160](#), [art. 2\(2\)](#) (with [arts. 7-9](#))

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Changes and effects yet to be applied to the whole Act associated Parts and Chapters:

Whole provisions yet to be inserted into this Act (including any effects on those provisions):

- s. 3B(1)(aa) inserted by [2022 c. 31 Sch. 3 para. 2\(b\)](#)
- s. 3B(1)(za) inserted by [2022 c. 31 Sch. 3 para. 2\(a\)](#)
- s. 13G(4) words omitted by virtue of 2012 c. 7, Sch. 14 para. 4A (as inserted) by [2014 c. 23 s. 120\(18\)\(a\)](#)
- s. 35(3A)(3B) inserted by [2012 c. 7 s. 159\(4\)](#)
- s. 35(3A) words substituted by [2022 c. 31 Sch. 5 para. 12\(4\)](#) (This amendment not applied to legislation.gov.uk. The insertion of s. 35(3A) by 2012 c. 7 s.159(4) not yet in force.)
- s. 40(4)-(4B) substituted for s. 40(4) by [2012 c. 7 Sch. 14 para. 5](#)
- s. 42(1A) inserted by [2012 c. 7 Sch. 14 para. 6](#)
- s. 65F(2A)-(2F) inserted by [2012 c. 7 Sch. 14 para. 15\(4\)](#) (This amendment is itself amended before it comes into force by 2014 c. 23, ss. 85(15), 120(18)(b)(c), 127(1); S.I. 2014/1714, art. 3(2)(b)(c))
- s. 65H(10A) inserted by [2012 c. 7 Sch. 14 para. 17\(4\)](#)
- s. 65H(10A) omitted by [2022 c. 31 Sch. 8 para. 7\(7\)](#) (This amendment not applied to legislation.gov.uk. 2012 c. 7 Sch. 14 revoked at 1.7.2022 by 2022 c. 31, s. 186(6), Sch. 7 para. 13 before the insertion of s. 65H(10A) could come into effect.)
- s. 82A-83A and cross-heading substituted for s. 83 and cross-heading by [2022 c. 31 Sch. 3 para. 3](#)
- s. 84(4)-(4B) substituted for s. 84(4) by [2022 c. 31 Sch. 3 para. 4\(4\)](#)
- s. 92(5A) inserted by [2022 c. 31 Sch. 3 para. 9\(4\)](#)
- s. 94(3)(ca)(cb) substituted for s. 94(3)(ca) by [2022 c. 31 Sch. 3 para. 11\(3\)](#)
- s. 98A98B substituted for s. 98A by [2022 c. 31 Sch. 3 para. 14](#)
- s. 98BC-99B and cross-heading substituted for s. 99 and cross-heading by [2022 c. 31 Sch. 3 para. 15](#)
- s. 100(3A)(3B) inserted by [2022 c. 31 Sch. 3 para. 16\(4\)](#)
- s. 109(3)(ca)(cb) substituted for s. 109(3)(ca) by [2022 c. 31 Sch. 3 para. 23\(3\)](#)
- s. 112(1)(za) inserted by [2022 c. 31 Sch. 3 para. 24\(2\)\(b\)](#)
- s. 114A114B substituted for s. 114A by [2022 c. 31 Sch. 3 para. 26](#)
- s. 114C and cross-heading inserted by [2022 c. 31 Sch. 3 para. 27](#)
- s. 116A116B and cross-heading inserted by [2022 c. 31 Sch. 3 para. 30](#)
- s. 117(4)(4A) substituted for s. 117(4) by [2022 c. 31 Sch. 3 para. 31\(4\)](#)
- s. 125A125B substituted for s. 125A by [2022 c. 31 Sch. 3 para. 39](#)
- s. 223C(1)(c)(d) inserted by [2022 c. 31 s. 28](#)
- s. 223LA inserted by [2022 c. 31 s. 30\(3\)](#)
- Sch. 15 para. 4(1)(b) and word omitted by [2012 c. 7 Sch. 14 para. 39\(3\)](#)