

*Draft Order laid before the Scottish Parliament under section 18(4) and (5) of the Public Appointments and Public Bodies etc. (Scotland) Act 2003, for approval by resolution of the Scottish Parliament.*

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DRAFT SCOTTISH STATUTORY INSTRUMENTS

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**2010 No.**

**PUBLIC BODIES**

**The Public Appointments and Public Bodies etc. (Scotland)  
Act 2003 (Amendment of Specified Authorities) Order 2010**

*Made* - - - - *2010*

*Coming into force in accordance with article 1*

The Scottish Ministers make the following Order in exercise of the powers conferred by sections 3(2)(a) and 19 of the Public Appointments and Public Bodies etc. (Scotland) Act 2003<sup>(a)</sup> and all other powers enabling them to do so.

In accordance with section 18(4) and (5) of that Act, a draft of this instrument has been laid before and approved by resolution of the Scottish Parliament.

**Citation and commencement**

1. This Order may be cited as the Public Appointments and Public Bodies etc. (Scotland) Act 2003 (Amendment of Specified Authorities) Order 2010 and comes into force on the day after the day on which it is made.

**Amendment of the list of specified authorities**

2.—(1) Schedule 2 to the Public Appointments and Public Bodies etc. (Scotland) Act 2003 (the specified authorities)<sup>(b)</sup> is amended in accordance with the following paragraphs.

(2) In the list headed “National Health Service bodies”, after “Common Services Agency for the Scottish Health Service” insert—

“, but Part 1 does not apply in relation to the appointment of a member by the Scottish Ministers made under Schedule 5 to the National Health Service (Scotland) Act 1978<sup>(c)</sup> by virtue of the member being—

- (a) employed as an officer of the Common Services Agency for the Scottish Health Service,
- (b) a member of a body set up by the Common Services Agency for the Scottish Health Service which represents health care professionals, or

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(a) 2003 asp 4.

(b) Schedule 2 is relevantly amended by S.S.I. 2005/540 and 2008/348.

(c) 1978 c.29. Schedule 5 was amended by Schedule 5 of the National Health Service and Community Care Act 1990 (c.19), Schedule 5 of the Requirements of Writing (Scotland) Act 1995 (c.7) and Schedule 1, paragraph 1 of the National Health Service Reform (Scotland) Act 2004 (asp 7).

- (c) a member of a body set up by the Common Services Agency for the Scottish Health Service which represents Common Services Agency for the Scottish Health Service employees.”.

(3) In the list headed “National Health Service Bodies”, after “any Health Board” insert—

“, but Part 1 does not apply in relation to appointments made under Schedule 1 to the National Health Service (Scotland) Act 1978(a) of the following persons to a Health Board—

- (a) councillors appointed by the Scottish Ministers following nomination by local authorities in the area of the Health Board;
- (b) a member appointed by the Scottish Ministers by virtue of the member—
  - (i) holding a post in a university with a medical or dental school,
  - (ii) being employed as an officer of the Health Board,
  - (iii) being a member of a body set up by a Health Board which represents health care professionals working in the Health Board area,
  - (iv) being a member of a body set up by a Health Board which represents Health Board employees, or
  - (v) being a member of a community health partnership established by virtue of section 4A of the National Health Service (Scotland) Act 1978(b).”.

(4) In the list headed “National Health Service bodies”, after “any Special Health Board” insert—

“, but Part 1 does not apply in relation to the appointment of a member by the Scottish Ministers made under Schedule 1 to the National Health Service (Scotland) Act 1978, as applied to each Special Health Board(c) by virtue of the member being—

- (i) employed as an officer of the Special Health Board,
- (ii) a member of a body set up by a Special Health Board which represents health care professionals, or
- (iii) a member of a body set up by a Special Health Board which represents Special Health Board employees.”.

### **Amendment to the Health Boards (Membership and Elections) (Scotland) Act 2009**

3. Paragraph 2 (the Public Bodies and Public Appointments etc. (Scotland) Act 2003) of the schedule to the Health Boards (Membership and Elections) (Scotland) Act 2009(d) is repealed.

A member of the Scottish Executive

St Andrew’s House,  
Edinburgh  
Date

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(a) Schedule 1 has been modified by section 1 of the Health Boards (Membership and Elections) (Scotland) Act 2009 (asp 5) and section 2 of that Act inserts a new Schedule 1A to provide for pilot Health Board elections. Those amendments currently only have effect as regards Dumfries and Galloway Health Board and Fife Health Board by virtue of S.S.I. 2009/242. There are other amendments to Schedule 1 which are not relevant to this Order.

(b) Section 4A was inserted by section 2 of the National Health Service Reform (Scotland) Act 2004 (asp 7).

(c) Paragraph 2 of Schedule 1 to that Act is applied to each Special Health Board by S.I. 1990/2639, 1995/574 and 1999/686 and by S.S.I. 2001/137 and 2002/103, 305 and 534 respectively.

(d) 2009 asp 5.

## **EXPLANATORY NOTE**

*(This note is not part of the Order)*

This Order amends schedule 2 to the Public Appointments and Public Bodies etc. (Scotland) Act 2003 (“the Act”), which lists the specified authorities to which the code of practice published by the Commissioner for Public Appointments in Scotland applies.

Article 2(2) provides that appointments made by Scottish Ministers to the Common Services Agency for the Scottish Health Service by virtue of the member holding a certain office or being a member of certain bodies are not subject to the code of practice.

Article 2(3) provides that appointments made by Scottish Ministers to Health Boards by virtue of nomination by a local authority or by virtue of the member holding a certain office or being a member of certain bodies are not subject to the code of practice.

Article 2(4) provides that appointments made by Scottish Ministers to Special Health Boards by virtue of the member holding a certain office or being a member of certain bodies are not subject to the code of practice.

Article 3 makes a consequential repeal of paragraph 2 of the schedule to the Health Boards (Membership and Elections) (Scotland) Act 2009 which is superseded by these Regulations.

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