

## SCHEDULE

Regulation 5

### AMENDMENT OF THE HEALTH BOARDS (MEMBERSHIP AND PROCEDURE) (SCOTLAND) REGULATIONS 2001 FOR THE SPECIFIED HEALTH BOARDS

- 1.—(1) In regulation 1(2) (interpretation)—
- (a) omit the definitions of “the 1997 Act” and “the Charity Commissioners”; and
  - (b) insert in the appropriate alphabetical positions—
    - ““appointed member” has the meaning given by paragraph 2(1)(a) of Schedule 1 to the 1978 Act;”;
    - and
    - ““councillor member” has the meaning given by paragraph 2(1)(b) of Schedule 1 to the 1978 Act;”.
- (2) In regulation 2 (appointment and term of office)—
- (a) omit paragraph (1);
  - (b) in paragraph (2) for “the members” substitute “the appointed members and the councillor members”; and
  - (c) in paragraph (3) for “a member” substitute “an appointed member or a councillor member”.
- (3) In regulation 5 (resignation and removal of members)—
- (a) in paragraph (1) after “appointment” insert “or, as the case may be, during the period mentioned in paragraph 10A(1) of Schedule 1 to the Act(1),”;
  - (b) in paragraph (2) for “a member” substitute “an appointed member or a councillor member”; and
  - (c) in paragraph (3) for “a member” substitute “an appointed member or a councillor member”.
- (4) For regulation 6 (disqualification) substitute—

#### **“Disqualification**

- 6.—(1) Subject to paragraph (3), (2)an individual is disqualified from being a member if the individual—
- (a) is an undischarged bankrupt;
  - (b) is an incapable adult (within the meaning of section 1(6) of the Adults with Incapacity (Scotland) Act 2000(2));
  - (c) has, during the 5 years before the day the individual becomes a member, been convicted in the United Kingdom, the Channel Islands, the Isle of Man or the Republic of Ireland of an offence for which the sentence imposed was imprisonment (whether suspended or not) for a period of three months or longer without the option of a fine;
  - (d) is disqualified from being included in any list kept under Part 1 or Part 2 of the Act or any list kept under equivalent legislation in England and Wales or Northern Ireland;

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(1) Paragraph 10A was inserted by section 1(6) of the 2009 Act.

(2) 2000 asp 4.

**Status:** This is the original version (as it was originally made). This item of legislation is currently only available in its original format.

- (f) is subject to a disqualification order or disqualification undertaking under the Company Directors Disqualification Act 1986<sup>(3)</sup> or equivalent legislation in Northern Ireland; or
  - (g) is disqualified from being a charity trustee by virtue of section 69(2)(c) or (d) of the Charities and Trustee Investment (Scotland) Act 2005<sup>(4)</sup>.
- (2) In paragraph (1) “undischarged bankrupt” means an individual—
- (a) whose estate has been sequestrated and who has not been discharged (or against whom a bankruptcy order has been made and is still in force);
  - (b) who has granted a trust deed for, or made a composition or arrangement with, creditors (and has not been discharged in respect of it);
  - (c) who is the subject of—
    - (i) a bankruptcy restrictions order, or an interim bankruptcy restrictions order, made under the Bankruptcy (Scotland) Act 1985<sup>(5)</sup> or the Insolvency Act 1986<sup>(6)</sup>; or
    - (ii) a bankruptcy restrictions undertaking entered into under either of those Acts; or
  - (d) who has been adjudged bankrupt (and has not been discharged), or is subject to any other kind of order, arrangement or undertaking analogous to those described above, in England and Wales, Northern Ireland, the Channel Islands, the Isle of Man or the Republic of Ireland.
- (3) The Scottish Ministers may direct that in relation to any appointed member or councillor member any disqualification so directed shall not apply in relation thereto.”

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(3) 1986 c.46.

(4) 2005 asp 10, section 69(2)(d) was amended by the Charities Act 2006 (c.50), Schedule 8, paragraph 211.

(5) 1985 c.66.

(6) 1986 c.45.