

Status: Point in time view as at 01/10/2019.

Changes to legislation: Human Tissue Act 2004, SCHEDULE 2 is up to date with all changes known to be in force on or before 11 July 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)

SCHEDULES

SCHEDULE 2

Section 13

THE HUMAN TISSUE AUTHORITY

Membership

- ^{F1} (1) The Authority shall consist of—
- (a) a chairman appointed by the Secretary of State,
 - (b) such number of other members appointed by the Secretary of State as the Secretary of State thinks fit,
 - (c) a member appointed by the [^{F2}Welsh Ministers], and
 - (d) a member appointed by the relevant Northern Ireland department.
- (2) The Secretary of State shall exercise his power to appoint members of the Authority to secure that at all times not less than half of the members are persons who do not have, and have not had, a professional interest in any of the kinds of activity within the remit of the Authority.
- [^{F1}(3) The Scottish Ministers may nominate a person who is a member of the Authority to make representations about the carrying out of its functions in Scotland.]

Textual Amendments

- F1** Sch. 2 para. 1(3) inserted (12.7.2012 for specified purposes, otherwise 27.8.2012) by [The Quality and Safety of Organs Intended for Transplantation Regulations 2012 \(S.I. 2012/1501\)](#), reg. 1(2)(3), **25(6)**
- F2** Words in Sch. 2 para. 1(1)(c) substituted (E.W.) (1.12.2015) by [Human Transplantation \(Wales\) Act 2013 \(anaw 5\)](#), **ss. 16(11)(a), 21(1)** (with s. 14); S.I. 2015/1679, art. 3(e)

Commencement Information

- I1** Sch. 2 para. 1 in force at 1.4.2005 by [S.I. 2005/919](#), art. 3, **Sch.** (with art. 2)

Disqualification

- 2 A person is disqualified for being appointed as chairman of the Authority if he has, or has had, a professional interest in any of the kinds of activity within the remit of the Authority.

Commencement Information

- I2** Sch. 2 para. 2 in force at 1.4.2005 by [S.I. 2005/919](#), art. 3, **Sch.** (with art. 2)

- 3 (1) A person is disqualified for being appointed as chairman or other member of the Authority if—

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- (a) he is the subject of a bankruptcy restrictions order [^{F3}or an interim bankruptcy restrictions order, or a debt relief restrictions order or interim debt relief restrictions order under Schedule 4ZB of the Insolvency Act 1986],
 - (b) a bankruptcy order has been made against him by a court in Northern Ireland, his estate has been sequestrated by a court in Scotland or, under the law of Northern Ireland or Scotland, he has made a composition or arrangement with, or granted a trust deed for, his creditors, or
 - (c) in the last five years he has been convicted in the United Kingdom, the Channel Islands or the Isle of Man of an offence and has had a qualifying sentence passed on him.
- (2) Where a person is disqualified under sub-paragraph (1)(b) because a bankruptcy order has been made against him or his estate has been sequestrated, the disqualification shall cease—
- (a) on his obtaining a discharge, or
 - (b) if the bankruptcy order is annulled or the sequestration of his estate is recalled or reduced, on the date of that event.
- (3) Where a person is disqualified under sub-paragraph (1)(b) because of his having made a composition or arrangement with, or granted a trust deed for, his creditors, the disqualification shall cease—
- (a) at the end of the period of five years beginning with the date on which the terms of the deed of composition or arrangement or trust deed are fulfilled, or
 - (b) if, before then, he pays his debts in full, on the date on which the payment is completed.
- (4) For the purposes of sub-paragraph (1)(c), the date of conviction shall be taken to be the ordinary date on which the period allowed for making an appeal or application expires or, if an appeal or application is made, the date on which the appeal or application is finally disposed of or abandoned or fails by reason of its non-prosecution.
- (5) In sub-paragraph (1)(c), the reference to a qualifying sentence is to a sentence of imprisonment for a period of not less than three months (whether suspended or not) without the option of a fine.

Textual Amendments

F3 Words in Sch. 2 para. 3(1)(a) substituted (1.10.2012) by [The Tribunals, Courts and Enforcement Act 2007 \(Consequential Amendments\) Order 2012 \(S.I. 2012/2404\)](#), art. 1, [Sch. 2 para. 51](#) (with arts. 5, 6)

Commencement Information

I3 Sch. 2 para. 3 in force at 1.4.2005 by [S.I. 2005/919](#), art. 3, [Sch.](#) (with art. 2)

Tenure of office

- 4 Subject to the following provisions of this Schedule, the chairman and other members of the Authority shall hold and vacate office in accordance with the terms of their respective appointments.

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Commencement Information

I4 Sch. 2 para. 4 in force at 1.4.2005 by [S.I. 2005/919](#), [art. 3](#), [Sch.](#) (with [art. 2](#))

- 5 (1) The terms of appointment of the chairman and other members of the Authority shall be such as the Secretary of State may determine, subject to sub-paragraph (2).
- (2) Appointment as chairman or other member shall be for a term not exceeding three years.

Commencement Information

I5 Sch. 2 para. 5 in force at 1.4.2005 by [S.I. 2005/919](#), [art. 3](#), [Sch.](#) (with [art. 2](#))

- 6 Previous service as chairman or other member of the Authority does not affect a person's eligibility for appointment to either office.

Commencement Information

I6 Sch. 2 para. 6 in force at 1.4.2005 by [S.I. 2005/919](#), [art. 3](#), [Sch.](#) (with [art. 2](#))

- 7 A person holding office as chairman or other member of the Authority may resign that office by giving notice in writing to the person who appointed him.

Commencement Information

I7 Sch. 2 para. 7 in force at 1.4.2005 by [S.I. 2005/919](#), [art. 3](#), [Sch.](#) (with [art. 2](#))

- 8 A person holding office as chairman or other member of the Authority shall cease to hold that office if he ceases to be qualified for appointment to it.

Commencement Information

I8 Sch. 2 para. 8 in force at 1.4.2005 by [S.I. 2005/919](#), [art. 3](#), [Sch.](#) (with [art. 2](#))

- 9 A person may be removed from office as chairman or other member of the Authority by the person who appointed him if that person is satisfied that he—
- (a) has been absent from meetings of the Authority for six consecutive months, or longer, without the permission of the Authority, or
 - (b) is unable or unfit to carry out his functions as chairman or other member.

Commencement Information

I9 Sch. 2 para. 9 in force at 1.4.2005 by [S.I. 2005/919](#), [art. 3](#), [Sch.](#) (with [art. 2](#))

- [^{F4}9A** The appointing authority may suspend a person from office as chairman or other member of the Authority if it appears to the appointing authority that one of the conditions in paragraph 9 is or may be satisfied in relation to the person.

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Textual Amendments

F4 Sch. 2 paras. 9A-9C inserted (19.1.2010) by Health Act 2009 (c. 21), s. 40(1), Sch. 3 para. 7 (with Sch. 3 para. 19); S.I. 2010/30, art. 2(d)

- 9B (1) This paragraph applies where the appointing authority decides to suspend a person under paragraph 9A.
- (2) The appointing authority must give notice to the person of the decision and the suspension takes effect on receipt by the person of the notice.
- (3) A notice under subsection (2) may be—
- (a) delivered in person, in which case the person is treated as receiving it when it is delivered, or
 - (b) sent by first class post to the person's last known address, in which case the person is treated as receiving it on the third day after the day on which it was posted.
- (4) The initial period of suspension must not exceed 6 months.
- (5) The appointing authority may review the person's suspension at any time.
- (6) The appointing authority must review the person's suspension if requested in writing by the person to do so, but need not carry out a review less than 3 months after the beginning of the initial period of suspension.
- (7) Following a review the appointing authority may—
- (a) revoke the suspension, or
 - (b) suspend the person for another period of not more than 6 months from the expiry of the current period.
- (8) The appointing authority must revoke the suspension if at any time—
- (a) it decides that neither of the conditions mentioned in paragraph 9 is satisfied, or
 - (b) it decides that either of those conditions is satisfied but does not remove the person from office as chairman or other member of the Authority.
- (9) A person who is suspended under paragraph 9A is to be disregarded at any time during the suspension for the purposes of paragraph 1(1)(c) or (d).
- (10) In this paragraph “the appointing authority”, in relation to a person appointed as chairman or other member of the Authority, means the person who appointed him.

Textual Amendments

F4 Sch. 2 paras. 9A-9C inserted (19.1.2010) by Health Act 2009 (c. 21), s. 40(1), Sch. 3 para. 7 (with Sch. 3 para. 19); S.I. 2010/30, art. 2(d)

- 9C (1) This paragraph applies where a person is suspended from office as chairman under paragraph 9A.
- (2) The Secretary of State may appoint a member of the Authority as the interim chairman to exercise the chairman's functions.

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- (3) The Secretary of State may only appoint a member as the interim chairman if the member is not disqualified for being appointed as chairman by virtue of paragraph 2.
- (4) Subject to the following provisions of this paragraph, the interim chairman shall hold and vacate office in accordance with the terms of his appointment.
- (5) Appointment as interim chairman shall be for a term not exceeding the shorter of—
 - (a) the period ending with either—
 - (i) the appointment of a new chairman, or
 - (ii) the revocation or expiry of the existing chairman's suspension; and
 - (b) the remainder of the interim chairman's term as a member of the Authority.
- (6) Previous service as chairman or interim chairman of the Authority does not affect a person's eligibility for appointment as interim chairman.
- (7) A person holding office as interim chairman of the Authority may resign that office by giving notice in writing to the Secretary of State.
- (8) The Secretary of State may remove a person from office as interim chairman if he is satisfied that it would be in the best interests of the Authority for another member to be the interim chairman.]

Textual Amendments

- F4** Sch. 2 paras. 9A-9C inserted (19.1.2010) by Health Act 2009 (c. 21), s. 40(1), Sch. 3 para. 7 (with Sch. 3 para. 19); S.I. 2010/30, art. 2(d)

Remuneration and pensions of members

- 10 (1) The Authority may pay to the chairman or any of the other members of the Authority such remuneration as the Secretary of State may determine.
- (2) The Authority may pay, or make provision for paying, to or in respect of the chairman or any of the other members of the Authority such pensions, allowances, fees, expenses or gratuities as the Secretary of State may determine.
- (3) The Authority may make a payment to a person who ceases to hold office as chairman or other member of the Authority otherwise than on the expiry of his term of office if it appears to the Secretary of State that there are special circumstances which make it right for that person to receive compensation.
- (4) A payment under sub-paragraph (3) shall be of such amount as the Secretary of State may determine.

Commencement Information

- I10** Sch. 2 para. 10 in force at 1.4.2005 by S.I. 2005/919, art. 3, Sch. (with art. 2)

Staff

- 11 The Authority may appoint such staff as it considers appropriate, on such terms and conditions as it may determine.

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Commencement Information

I11 Sch. 2 para. 11 in force at 1.4.2005 by [S.I. 2005/919](#), [art. 3](#), [Sch.](#) (with [art. 2](#))

Proceedings

- 12 Subject to any provision of this Act, the Authority may regulate its own procedure (including quorum).

Commencement Information

I12 Sch. 2 para. 12 in force at 1.4.2005 by [S.I. 2005/919](#), [art. 3](#), [Sch.](#) (with [art. 2](#))

- 13 The validity of any proceedings of the Authority shall not be affected by—
- (a) any vacancy in the office of—
 - (i) chairman,
 - (ii) member appointed by the [^{F5}Welsh Ministers], or
 - (iii) member appointed by the relevant Northern Ireland department,
 - (b) any defect in a person's appointment as chairman or other member, or
 - (c) the composition for the time being of the membership of the Authority.

Textual Amendments

F5 Words in [Sch. 2 para. 13\(a\)\(ii\)](#) substituted (E.W.) (1.12.2015) by [Human Transplantation \(Wales\) Act 2013 \(anaw 5\)](#), [ss. 16\(1\)\(b\), 21\(1\)](#) (with [s. 14](#)); [S.I. 2015/1679](#), [art. 3\(e\)](#)

Commencement Information

I13 Sch. 2 para. 13 in force at 1.4.2005 by [S.I. 2005/919](#), [art. 3](#), [Sch.](#) (with [art. 2](#))

Members' interests

- 14 (1) The Authority shall establish and maintain a system for the declaration and registration of private interests of its members.
- (2) The Authority shall publish entries recorded in the register of members' interests.

Commencement Information

I14 Sch. 2 para. 14 in force at 1.4.2005 by [S.I. 2005/919](#), [art. 3](#), [Sch.](#) (with [art. 2](#))

Finance

- 15 The Secretary of State may out of money provided by Parliament make payments to the Authority of such amounts, at such times and on such conditions (if any) as he considers appropriate.

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Commencement Information

I15 Sch. 2 para. 15 in force at 1.4.2005 by S.I. 2005/919, art. 3, Sch. (with art. 2)

Accounts and audit

- 16 (1) The Authority shall keep proper accounts and proper records in relation to its accounts.
- (2) The Authority shall prepare a statement of accounts in respect of each of its financial years.
- (3) Any such statement of accounts must comply with any directions given by the Secretary of State with the approval of the Treasury as to—
- (a) the information to be contained in it,
 - (b) the manner in which that information is to be presented, and
 - (c) the methods and principles according to which the statement is to be prepared.
- (4) The Authority shall send a copy of each statement of accounts required by sub-paragraph (2) to—
- (a) the Secretary of State,
 - (b) the [^{F6}Welsh Ministers],
 - (c) the relevant Northern Ireland department, and
 - (d) the Comptroller and Auditor General,
- before the end of such period after the end of the financial year to which the statement relates as the Secretary of State may specify by notice given to the Authority.
- (5) The relevant Northern Ireland department shall lay before the Northern Ireland Assembly each statement of accounts received by it under sub-paragraph (4).
- [^{F7}(5A) The Welsh Ministers shall lay before the National Assembly for Wales each statement of accounts received by them under sub-paragraph (4).]
- (6) The Comptroller and Auditor General shall—
- (a) examine, certify and report on each statement of accounts received by him under sub-paragraph (4), and
 - (b) lay a copy of each such statement of accounts, and of his report on it, before each House of Parliament.
- (7) The power under sub-paragraph (3) to give directions includes power to vary or revoke directions given in previous exercise of the power.
- (8) In this paragraph, “financial year” means—
- (a) the period beginning with the date on which the Authority is established and ending with the next 31st March, and
 - (b) each successive period of 12 months ending with 31st March.

Textual Amendments

F6 Words in Sch. 2 para. 16(4)(b) substituted (E.W.) (1.12.2015) by Human Transplantation (Wales) Act 2013 (anaw 5), ss. 16(11)(c), 21(1) (with s. 14); S.I. 2015/1679, art. 3(e)

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- F7** Sch. 2 para. 16(5A) inserted (E.W.) (1.12.2015) by Human Transplantation (Wales) Act 2013 (anaw 5), ss. 16(11)(d), 21(1) (with s. 14); S.I. 2015/1679, art. 3(e)

Commencement Information

- I16** Sch. 2 para. 16 in force at 1.4.2005 by S.I. 2005/919, art. 3, Sch. (with art. 2)

Instruments

- 17 The application of the seal of the Authority shall be authenticated by the signature of any member of the Authority or of any other person who has been authorised for the purpose by the Authority, whether generally or specially.

Commencement Information

- I17** Sch. 2 para. 17 in force at 1.4.2005 by S.I. 2005/919, art. 3, Sch. (with art. 2)

- 18 A document purporting—
 (a) to be duly executed under the seal of the Authority, or
 (b) to be signed on its behalf,
 shall be received in evidence and be taken, without further proof, to be so executed or signed unless the contrary is shown.

Commencement Information

- I18** Sch. 2 para. 18 in force at 1.4.2005 by S.I. 2005/919, art. 3, Sch. (with art. 2)

Status

- 19 (1) The Authority is not to be regarded as the servant or agent of the Crown, or as enjoying any status, privilege or immunity of the Crown.
 (2) The property of the Authority is not to be regarded as property of, or property held on behalf of, the Crown.

Commencement Information

- I19** Sch. 2 para. 19 in force at 1.4.2005 by S.I. 2005/919, art. 3, Sch. (with art. 2)

Supplementary powers

- 20 The Authority may do anything which is calculated to facilitate, or is conducive or incidental to, the carrying-out of its functions, but may not borrow money.

Commencement Information

- I20** Sch. 2 para. 20 in force at 1.4.2005 by S.I. 2005/919, art. 3, Sch. (with art. 2)

- 21 The Authority may delegate any of its functions (to such extent as it may determine)

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- (a) to any member of the Authority,
- (b) to any member of the staff of the Authority, or
- (c) to a committee consisting of persons each of whom is—
 - (i) a member of the Authority, or
 - (ii) a member of the staff of the Authority.

Commencement Information

I21 Sch. 2 para. 21 in force at 1.4.2005 by [S.I. 2005/919](#), [art. 3](#), [Sch.](#) (with [art. 2](#))

Application of Statutory Instruments Act 1946

- 22 The Statutory Instruments Act 1946 (c. 36) shall apply to any power to make orders or regulations conferred by an Act on the Authority as if the Authority were a Minister of the Crown.

Commencement Information

I22 Sch. 2 para. 22 in force at 1.4.2005 by [S.I. 2005/919](#), [art. 3](#), [Sch.](#) (with [art. 2](#))

Public records

- 23 In Schedule 1 to the Public Records Act 1958 (c. 51) (definition of public records), in Part 2 of the Table at the end of paragraph 3 the following entry is inserted at the appropriate place— “ Human Tissue Authority. ”

Commencement Information

I23 Sch. 2 para. 23 in force at 1.4.2005 by [S.I. 2005/919](#), [art. 3](#), [Sch.](#) (with [art. 2](#))

Investigation by Parliamentary Commissioner

- 24 In Schedule 2 to the Parliamentary Commissioner Act 1967 (c. 13) (departments and authorities subject to investigation), the following entry is inserted at the appropriate place— “ Human Tissue Authority. ”

Commencement Information

I24 Sch. 2 para. 24 in force at 1.4.2005 by [S.I. 2005/919](#), [art. 3](#), [Sch.](#) (with [art. 2](#))

House of Commons Disqualification

- 25 In Part 2 of Schedule 1 to the House of Commons Disqualification Act 1975 (c. 24) (bodies of which all members are disqualified), the following entry is inserted at the appropriate place— “ The Human Tissue Authority. ”

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Commencement Information

I25 Sch. 2 para. 25 in force at 1.4.2005 by [S.I. 2005/919](#), [art. 3](#), [Sch.](#) (with [art. 2](#))

Northern Ireland Assembly Disqualification

- 26 In Part 2 of Schedule 1 to the Northern Ireland Assembly Disqualification Act 1975 (c. 25) (bodies of which all members are disqualified), the following entry is inserted at the appropriate place— “ The Human Tissue Authority. ”

Commencement Information

I26 Sch. 2 para. 26 in force at 1.4.2005 by [S.I. 2005/919](#), [art. 3](#), [Sch.](#) (with [art. 2](#))

Freedom of information

- 27 In Part 6 of Schedule 1 to the Freedom of Information Act 2000 (c. 36) (public authorities), the following entry is inserted at the appropriate place— “ The Human Tissue Authority. ”

Commencement Information

I27 Sch. 2 para. 27 in force at 1.4.2005 by [S.I. 2005/919](#), [art. 3](#), [Sch.](#) (with [art. 2](#))

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