

Status: Point in time view as at 31/10/2012.

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SCHEDULES

SCHEDULE 3

Section 19

NHS AND OTHER HEALTH APPOINTMENTS: SUSPENSION

PART 1

AMENDMENTS OF ENACTMENTS

Medicines Act 1968 (c. 67)

1 (1) In Schedule 1A to the Medicines Act 1968 (provisions relating to Commission on Human Medicine and Committees), paragraph 6 is amended as follows.

(2) At the beginning, insert “ (1) ”.

(3) At the end insert—

“(2) Regulations made under sub-paragraph (1) may include such incidental, supplemental, consequential or transitional provision as appears to the Ministers to be expedient.”

Commencement Information

II Sch. 3 para. 1 in force at 19.1.2010 by S.I. 2010/30, art. 2(d)

Licensing (Alcohol Education and Research) Act 1981 (c. 28)

^{F12}

Textual Amendments

F1 Sch. 3 para. 2 omitted (1.7.2012) by virtue of Health and Social Care Act 2012 (c. 7), s. 306(4), Sch. 20 para. 3(b) (with Sch. 20 para. 4); S.I. 2012/1319, art. 2(3)

Human Fertilisation and Embryology Act 1990 (c. 37)

3 (1) Schedule 1 to the Human Fertilisation and Embryology Act 1990 (the Human Fertilisation and Embryology Authority: supplementary provision) is amended as follows.

(2) In paragraph 5(1), after “this paragraph” insert “ and paragraphs 5A and 5B ”.

(3) After paragraph 5 insert—

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- “5A The Secretary of State may suspend a member from office as chairman, deputy chairman or other member of the Authority if it appears to him that one of the conditions in paragraph 5(5) is or may be satisfied in relation to the member.
- 5B (1) This paragraph applies where the Secretary of State decides to suspend a member under paragraph 5A.
- (2) The Secretary of State must give notice to the member of the decision and the suspension takes effect on receipt by the member of the notice.
- (3) A notice under subsection (2) is treated as being received by the member—
- (a) in a case where it is delivered in person or left at the member's proper address, at the time at which it is delivered or left;
 - (b) in a case where it is sent by post to the member at that address, 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 Secretary of State may review the member's suspension at any time.
- (6) The Secretary of State must review the member's suspension if requested in writing by the member 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 Secretary of State may—
- (a) revoke the suspension, or
 - (b) suspend the member for another period of not more than 6 months from the expiry of the current period.
- (8) The Secretary of State must revoke the suspension if at any time—
- (a) he decides that neither of the conditions mentioned in paragraph 5(5) is satisfied, or
 - (b) he decides that either of those conditions is satisfied but does not remove the member from office as chairman, deputy chairman or other member of the Authority.”

Commencement Information

I2 Sch. 3 para. 3 in force at 19.1.2010 by S.I. 2010/30, art. 2(d)

Health Protection Agency Act 2004 (c. 17)

- 4 Schedule 1 to the Health Protection Agency Act 2004 (the Health Protection Agency) is amended as follows.

Commencement Information

I3 Sch. 3 para. 4 in force at 19.1.2010 by S.I. 2010/30, art. 2(d)

- 5 (1) Paragraph 1 is amended as follows.
- (2) After sub-paragraph (3) insert—

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“(3A) Where the membership of a non-executive member is suspended in accordance with any regulations made under paragraph 8(2)(d), that member's appointment is to be disregarded at any time during the suspension for the purpose of determining the appointments to be made under sub-paragraph (3).”

(3) After sub-paragraph (5) insert—

“(5A) But the Secretary of State may by regulations—

- (a) provide that if the chairman's membership is suspended the Secretary of State may direct that the appointment of the deputy chairman under sub-paragraph (5) is to cease to have effect; and
- (b) make provision about the appointment by the Secretary of State in those circumstances of another non-executive member to be deputy chairman.”

(4) In sub-paragraph (7), after “sub-paragraph” insert “ (5A) or ”.

Commencement Information

I4 Sch. 3 para. 5 in force at 19.1.2010 by S.I. 2010/30, art. 2(d)

6 In paragraph 29, after sub-paragraph (2) insert—

“(3) Regulations may include such incidental, supplemental, consequential or transitional provision as appears to the Secretary of State to be expedient.”

Commencement Information

I5 Sch. 3 para. 6 in force at 19.1.2010 by S.I. 2010/30, art. 2(d)

Human Tissue Act 2004 (c. 30)

7 In Schedule 2 to the Human Tissue Act 2004 (the Human Tissue Authority) after paragraph 9 insert—

“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.

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.

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- (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.
- 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.
 - (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.

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- (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.”

Commencement Information

I6 Sch. 3 para. 7 in force at 19.1.2010 by S.I. 2010/30, art. 2(d)

Health Act 2006 (c. 28)

F28

Textual Amendments

F2 Sch. 3 para. 8 omitted (31.10.2012) by virtue of Health and Social Care Act 2012 (c. 7), s. 306(4), Sch. 20 para. 7(d); S.I. 2012/1831, art. 2(3)

National Health Service Act 2006 (c. 41)

9 The National Health Service Act 2006 is amended as follows.

Commencement Information

I7 Sch. 3 para. 9 in force at 19.1.2010 by S.I. 2010/30, art. 2(d)

10 In Schedule 2 (Strategic Health Authorities), for paragraph 9(d) substitute—
“(d) the circumstances in which the chairman or vice-chairman or any member of a Strategic Health Authority may be suspended from office.”.

Commencement Information

I8 Sch. 3 para. 10 in force at 19.1.2010 by S.I. 2010/30, art. 2(d)

11 In Schedule 6 (Special Health Authorities), for paragraph 5(d) substitute—
“(d) the circumstances in which the chairman or vice-chairman or any member of a Special Health Authority may be suspended from office.”.

Commencement Information

I9 Sch. 3 para. 11 in force at 19.1.2010 by S.I. 2010/30, art. 2(d)

12 (1) Schedule 8 (Independent Regulator of NHS Foundation Trusts) is amended as follows.

(2) In paragraph 2(2), after paragraph (b) insert—

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“(c) the Secretary of State may suspend him from office if it appears to the Secretary of State that there are or may be grounds to remove him from office under paragraph (b).”

(3) After paragraph 2 insert—

“2A (1) This paragraph applies where the Secretary of State decides to suspend a person under paragraph 2(2)(c).

(2) The Secretary of State 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 Secretary of State may review the person's suspension at any time.

(6) The Secretary of State 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 during any period of suspension, the Secretary of State 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 Secretary of State must revoke the suspension if at any time—

- (a) he decides that there are no grounds to remove the person from office under paragraph 2(2)(b), or
- (b) he decides that there are such grounds but does not remove the person from office under that provision.

(9) A person who is suspended under paragraph 2(2)(c) is to be disregarded for the purposes of the maximum number of members under paragraph 1(1) at any time during the suspension.”

Commencement Information

I10 Sch. 3 para. 12 in force at 19.1.2010 by S.I. 2010/30, art. 2(d)

^{F3}13

Textual Amendments

F3 Sch. 3 para. 13 omitted (1.7.2012) by virtue of Health and Social Care Act 2012 (c. 7), ss. 283(2), 306(4); S.I. 2012/1319, art. 2(3)

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National Health Service (Wales) Act 2006 (c. 42)

14 The National Health Service (Wales) Act 2006 is amended as follows.

Commencement Information

I11 Sch. 3 para. 14 in force at 1.4.2010 by S.I. 2010/930, art. 2(a)

15 In Schedule 5 (Special Health Authorities established under section 22), for paragraph 5(d) substitute—

“(d) the circumstances in which the chairman or vice-chairman or any member of a Special Health Authority may be suspended from office.”.

Commencement Information

I12 Sch. 3 para. 15 in force at 1.4.2010 by S.I. 2010/930, art. 2(a)

16 (1) Schedule 10 (further provision about community health councils) is amended as follows.

(2) In paragraph 2(a), omit the words from “(including” to the end.

(3) After paragraph 2 insert—

“2A Regulations made under paragraph 2(a) may make provision about—

- (a) the election by members of a Council of a member to chair the Council, and
- (b) the appointment by the Welsh Ministers of a member to chair the Council on an interim basis in cases where the member so elected is removed or suspended from office.”

Commencement Information

I13 Sch. 3 para. 16 in force at 1.4.2010 by S.I. 2010/930, art. 2(a)

17 (1) Schedule 13 (further provision about standing advisory committees) is amended as follows.

(2) In paragraph 1(b), after “office” insert “ (including removal or suspension from office) ”.

(3) After paragraph 5 insert—

“5A But regulations under paragraph 1(b) may make provision about the appointment by the Welsh Ministers of an interim chairman of a standing advisory committee in cases where the chairman elected under paragraph 5 is removed or suspended from office.”

Commencement Information

I14 Sch. 3 para. 17 in force at 1.4.2010 by S.I. 2010/930, art. 2(a)

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PART 2

SUPPLEMENTARY

Cross-border bodies

- 18 (1) In relation to a cross-border body—
- (a) functions exercisable by the Secretary of State under the National Health Service Act 2006 (c. 41) by virtue of paragraph 11 or 13 are exercisable by the Welsh Ministers concurrently with the Secretary of State, and
 - (b) functions exercisable by the Welsh Ministers under the National Health Service (Wales) Act 2006 (c. 42) by virtue of paragraph 15 or 17 are exercisable by the Secretary of State concurrently with the Welsh Ministers.
- (2) In sub-paragraph (1) “cross-border body” has the same meaning as in the Government of Wales Act 2006 (c. 32).

Commencement Information

- I15** Sch. 3 para. 18 in force at 19.1.2010 for specified purposes by S.I. 2010/30, art. 2(e)
I16 Sch. 3 para. 18 in force at 1.4.2010 for specified purposes by S.I. 2010/930, art. 2(b)

Transitional provision

- 19 The amendments made by this Schedule apply in relation to a person appointed at any time (including a time before the coming into force of those amendments).

Commencement Information

- I17** Sch. 3 para. 19 in force at 19.1.2010 for specified purposes by S.I. 2010/30, art. 2(e)
I18 Sch. 3 para. 19 in force at 1.4.2010 for specified purposes by S.I. 2010/930, art. 2(b)

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