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STATUTORY INSTRUMENTS

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**1990 No. 2024**

**The National Health Service Trusts  
(Membership and Procedure) Regulations 1990**

**PART II**

**MEMBERSHIP**

**Maximum number of directors**

2. The maximum number of directors of an NHS trust shall be eleven.

**Appointment of directors**

3.—(1) Of the non-executive directors of an NHS trust whose hospital establishment or facility is situated in England—

- (a) two shall be appointed by the Regional Health Authority in whose region the hospital establishment or facility is situated, or, if it is situated in more than one region, the Regional Health Authority in whose region it principally carries out its functions; and
- (b) the remainder, which shall include the person, if any, appointed pursuant to paragraph 3(1)(d) of Schedule 2 to the Act, shall be appointed by the Secretary of State.

(2) All of the non-executive directors of an NHS trust whose hospital establishment or facility is situated in Wales shall be appointed by the Secretary of State.

- (3) The executive directors of an NHS trust shall be appointed by the relevant committee.

**Qualifications for appointments**

4.—(1) The executive directors of an NHS trust shall include—

- (a) the chief officer of the trust;
- (b) the chief finance officer of the trust;
- (c) except in the case of a trust mentioned in paragraph (2) a medical or dental practitioner and a registered nurse or registered midwife as defined in section 10(7) of the Nurses, Midwives and Health Visitors Act 1979<sup>(1)</sup>.

(2) Paragraph 1(c) shall not apply in the case of a trust—

- (a) which does not provide services directly to patients; or
- (b) whose principal function is to provide ambulance or patient transport services.

**Persons to be regarded as executive directors**

5. A person who is not an employee of an NHS trust but—

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(1) 1979 c. 36.

- (a) holds a post in a university with a medical or dental school, and also works for the trust; or
- (b) is seconded from his employers to work for the trust,

is nevertheless, on appointment as a director, to be regarded as an executive rather than a non-executive director of the trust.

### **Joint directors**

6. Where more than one person is appointed jointly to a post in an NHS trust which qualifies the holder for executive directorship or in relation to which an executive director is to be appointed, those persons shall become or be appointed an executive director jointly, and shall count for the purposes of regulation 2 as one person.

### **Tenure of office of chairman and directors**

7.—(1) Subject to regulation 9, the chairman and non-executive directors of an NHS trust shall be appointed for such period not exceeding four years as the appointing authority may specify on making the appointment.

(2) Subject to regulation 8, the tenure of office of executive directors, other than the chief officer and chief finance officer, shall be for such period as the appointing authority may specify on making the appointment.

### **Tenure and suspension of tenure of office of executive directors**

8.—(1) Subject to paragraphs (2) to (4) and regulation 7(2), an executive director of an NHS trust shall hold office—

- (a) if he is not the chief officer or the chief finance officer, for as long as he holds a post in the trust;
- (b) if he is the chief officer or the chief finance officer, for as long as he holds that post in the trust.

(2) If the appointing authority is of the opinion that it is not in the interests of the NHS trust that an executive director of an NHS trust other than the chief officer or chief finance officer should continue to hold office as director the appointing authority shall forthwith terminate his tenure of office.

(3) If an executive director of an NHS trust is suspended from his post in the trust he shall be suspended from performing his functions as director for the period of his suspension.

(4) An executive director other than the chief officer or chief finance officer of an NHS trust may resign his office at any time during the period for which he was appointed by giving notice in writing to the relevant committee.

### **Termination of tenure of office of chairman and non-executive directors**

9.—(1) The chairman or a non-executive director of an NHS trust may resign his office at any time during the period for which he was appointed by giving notice in writing to the appointing authority.

(2) Where during his period of directorship a non-executive director of a trust is appointed chairman of the trust, his tenure of office as non-executive director shall terminate when his appointment as chairman takes effect.

(3) If an appointing authority is of the opinion that it is not in the interests of the health service that a person who is appointed as chairman or non-executive director of an NHS trust should continue to hold that office the appointing authority may, subject to the consent of the Secretary of State, unless it is the Secretary of State, forthwith terminate his tenure of office.

(4) If a chairman or non-executive director of an NHS trust has not attended a meeting of the trust for a period of six months, the Secretary of State shall forthwith terminate his tenure of office unless the Secretary of State is satisfied that—

- (a) the absence was due to a reasonable cause; and
- (b) the chairman or non-executive director will be able to attend meetings of the trust within such period as the Secretary of State considers reasonable.

(5) Where a person has been appointed the chairman or non-executive director of an NHS trust—

- (a) if he becomes disqualified for appointment under regulation 11 the appointing authority shall forthwith notify him in writing of such disqualification; or
- (b) if it comes to the notice of the appointing authority that at the time of his appointment he was so disqualified it shall forthwith declare that he was not duly appointed and so notify him in writing,

and upon receipt of any such notification, his tenure of office, if any, shall be terminated and he shall cease to act as chairman or non-executive director.

(6) If it appears to the Secretary of State that the chairman or non-executive director of an NHS trust has failed to comply with regulation 20 (disclosure etc. on account of pecuniary interest) he may forthwith terminate that person's tenure of office.

(7) Where a person appointed as a non-executive director pursuant to paragraph 3(1)(d) of Schedule 2 to the Act ceases to hold a post in the university in question the Secretary of State shall terminate his appointment as non-executive director.

### **Eligibility for reappointment**

**10.**—(1) Subject to regulation 11 the chairman or non-executive director of an NHS trust shall, on the termination of the period of his tenure of office, be eligible for reappointment.

(2) An executive director of an NHS trust other than the chief officer and the chief finance officer shall on the termination of the period of his tenure of office be eligible for re-appointment.

### **Disqualification for appointment of chairman and non-executive directors**

**11.**—(1) Subject to regulation 12 a person shall be disqualified for appointment as the chairman or non-executive director of an NHS trust if—

- (a) he has within the preceding five years been convicted in the United Kingdom, the Channel Islands or the Isle of Man of any offence and has had passed on him a sentence of imprisonment (whether suspended or not) for a period of not less than three months without the option of a fine; or
- (b) he has been adjudged bankrupt or has made a composition or arrangement with his creditors; or
- (c) he has been dismissed, otherwise than by reason of redundancy, from any paid employment with a health service body; or
- (d) he is a person whose tenure of office as the chairman member or director of a health service body has been terminated because his appointment is not in the interests of the health service, for non-attendance at meetings or for non-disclosure of a pecuniary interest;
- (e) he is a chairman, member, director or employee of a health service body; or
- (f) he is a general medical practitioner or general dental practitioner or an employee of either of those; or
- (g) he holds a paid appointment or office with a trade union which represents the interests of members who are employed by a health service body; or

(h) he has had his name removed, by a direction under section 46 of the National Health Service Act 1977, from any list prepared under Part II of that Act and has not subsequently had his name included in such a list.

(2) For the purposes of paragraph (1)(a) the date of conviction shall be deemed to be the date on which the ordinary period allowed for making an appeal or application with respect to the conviction expires, or if such 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 it not being prosecuted.

(3) For the purposes of paragraph (1)(c) a person shall not be treated as having been in paid employment by reason only of his chairmanship, membership or directorship of the health service body.

(4) A person shall not be disqualified by paragraph (1)(e) from being the non-executive director of an NHS trust referred to in paragraph 3(1)(d) of Schedule 2 to the Act by reason of his employment with the trust.

### **Cessation of disqualification**

**12.**—(1) Where a person is disqualified under regulation 11 (1)(b) by reason of having been adjudged bankrupt—

(a) if the bankruptcy is annulled on the ground that he ought not to have been adjudged bankrupt or on the ground that his debts have been paid in full, the disqualification shall cease on the date of the annulment;

(b) if he is discharged the disqualification shall cease on the date of his discharge.

(2) Where a person is disqualified under regulation 11 (1)(b) by reason of his having made a composition or arrangement with his creditors, if he pays his debts in full the disqualification shall cease on the date on which the payment is completed and in any other case it shall cease on the expiry of five years from the date on which the terms of the deed of composition or arrangement are fulfilled.

(3) Subject to paragraph (4) where a person is disqualified under regulation 11(1)(c) (dismissed employees) he may, after the expiry of a period of not less than two years, apply in writing to the Secretary of State to remove the disqualification and the Secretary of State may direct that the disqualification shall cease.

(4) Where the Secretary of State refuses an application to remove a disqualification no further application may be made by that person until the expiration of two years from the date of the application.

(5) Where a person is disqualified under regulation 11 (1)(d) (certain chairmen and directors whose appointments have been terminated), the disqualification shall cease on the expiry of a period of two years or such longer period as the appointing authority specifies when terminating his period of office but the Secretary of State may on application being made to him by that person or by that appointing authority, reduce the period of disqualification.