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STATUTORY INSTRUMENTS

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**1999 No. 260**

**NATIONAL HEALTH SERVICE,  
ENGLAND AND WALES**

**The National Institute for Clinical Excellence Regulations 1999**

*Made* - - - - *4th February 1999*  
*Laid before Parliament* *5th February 1999*  
*Coming into force* - - *26th February 1999*

The Secretary of State for Health, in exercise of powers conferred on him by sections 16(2) and 126(4) of, and paragraphs 10, 12 and 16 of Schedule 5 to, the National Health Service Act 1977(1) and of all other powers enabling him in that behalf, hereby makes the following Regulations:

**Citation, commencement and interpretation**

1.—(1) These Regulations may be cited as the National Institute for Clinical Excellence Regulations 1999 and shall come into force on 26th February 1999.

(2) In these Regulations—

“the Act” means the National Health Service Act 1997;

“the Institute” means the National Institute for Clinical Excellence established by the Order;

“chairman” means the chairman of the Institute;

“health service body” shall be construed in accordance with section 4 of the National Health Service and Community Care Act 1990(2);

“member” means a member of the Institute other than the chairman;

“non-officer member” and “officer member” mean respectively, a member who is not, and one who is, an officer of the Institute;

“the Order” means the National Institute for Clinical Excellence (Establishment and Constitution) Order 1999(3).

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(1) 1977 c. 49. Section 16 was substituted by section 7 of the Health Authorities Act 1995 (c. 17); section 126(4) was amended by section 65(2) of the National Health Service and Community Care Act 1990 (c. 19) (“the 1990 Act”); paragraph 12 of Schedule 5 was amended by article 7 of S.I. 1985/39, by paragraph 9 of Schedule 1 to the 1990 Act and by paragraph 60(e) of Schedule 1 to the Health Authorities Act 1995 (c. 17). See section 128(1), as amended by section 26(2)(g) and (i) of the 1990 Act, for the definitions of “prescribed” and “regulations”.

(2) 1990 c. 19.

(3) S.I. 1999/220.

(3) In these Regulations, unless the context otherwise requires, any reference to a numbered regulation is a reference to the regulation bearing that number in these Regulations, and any reference in a regulation to a numbered paragraph is a reference to the paragraph bearing that number in that regulation.

### **Appointment of Chairman and Members**

2.—(1) The chairman and non-officer members shall be appointed by the Secretary of State.

(2) Subject to regulation 8 (termination of tenure of office), the term of office of the chairman and of non-officer members shall be such period, not exceeding five years, as the Secretary of State shall specify on making the appointment.

(3) Subject to regulation 5 (disqualification for appointment), the chairman and any non-officer member shall, on the termination of his office, be eligible for re-appointment.

### **Appointment of Vice-Chairman**

3.—(1) Subject to paragraph (2), the chairman and members may appoint one of the non-officer members to be vice-chairman for such period, not exceeding the remainder of his term as a member, as they may specify on appointing him.

(2) Any member so appointed may at any time resign from the office of vice-chairman by giving notice in writing to the chairman.

(3) Where the chairman has died or has ceased to hold office, or where he is unable to perform his duties as chairman owing to illness, absence from England and Wales or any other cause, references to the chairman in the Schedule to these Regulations shall, so long as there is no chairman available to perform his duties, be taken to include references to the vice-chairman.

### **Appointment of Chief Officers**

4.—(1) The Institute shall appoint four officers who should include a chief officer, a chief finance officer and a clinical director.

(2) The appointment of the chief officer shall be subject to the approval of the Secretary of State.

### **Disqualification for Appointment**

5.—(1) Subject to regulation 6 (cessation of disqualification), a person shall be disqualified for appointment as the chairman or as a non-officer member 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;
- (b) he has been adjudged bankrupt or has made a composition or arrangement with his creditors;
- (c) he has been dismissed, otherwise than by reason of redundancy, from any paid employment with a health service body;
- (d) he is a person whose tenure of office as the chairman or as a member or director of a health service body has been terminated on the grounds that—
  - (i) it was not in the interests of the health service body or of the health service that he should continue to hold that office, or
  - (ii) he failed, without reasonable cause, to attend any meeting of that health service body for a period of three months; or

- (e) he has had his name removed, by a direction under section 46 of the Act, from any list prepared under Part II of the 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 its 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 having been the chairman or a member or director of a health service body.

### **Cessation of Disqualification**

6.—(1) Where a person is disqualified under regulation 5(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 5(1)(b) by reason of his having made a composition or arrangement with his creditors—

- (a) if he pays his debts in full, the disqualification shall cease on the date on which such payment is completed; and
- (b) in any other case, it shall cease on the expiry of the period of five years beginning on the date on which the terms of the deed of composition or arrangement are fulfilled.

### **Termination and Suspension of Tenure of Office of Officer Members**

7.—(1) An officer member shall cease to hold office as a member where he ceases to hold one of the offices in the Institute specified in article 4(c) of the Order.

(2) If an officer member is suspended from his post in the Institute he shall be suspended from performing his functions as a member during the period of his suspension.

### **Termination of Tenure of Office of Chairman and Non-Officer Members**

8.—(1) The chairman or a non-officer member may resign his office at any time during his term of office, by giving notice in writing to the Secretary of State.

(2) Where during his term of office a non-officer member is appointed to be the chairman, his tenure of office as a non-officer member shall terminate when his appointment as chairman takes effect.

(3) Where the Secretary of State is of the opinion that it is not in the interests of the Institute or of the health service that the chairman or a non-officer member should continue to hold that office, he may forthwith terminate his tenure of office by giving him notice in writing to that effect.

(4) If the chairman or a non-officer member fails to attend any meeting of the Institute for a period of three months the Secretary of State shall forthwith terminate that person's tenure of office unless he is satisfied that—

- (a) the absence was due to a reasonable cause; and
- (b) the person in question will be able to attend meetings of the Institute within such a period as the Secretary of State considers reasonable.

- (5) Where a person has been appointed to be the chairman or a non-officer member, and—
- (a) he becomes disqualified for appointment under regulation 5, the Secretary of State shall forthwith notify him in writing of such disqualification; or
  - (b) it comes to the notice of the Secretary of State that at the time of his appointment he was so disqualified, he shall forthwith declare that the person in question was not duly appointed and notify him in writing to that effect;

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

(6) If it appears to the Secretary of State that the chairman or a non-officer member has failed to comply with regulation 12 (disability on account of pecuniary or other personal interest) he may forthwith terminate that person's tenure of office by giving him notice in writing to that effect.

### **Appointment of Committees and Sub-Committees**

**9.**—(1) The Institute shall, in accordance with directions given by the Secretary of State, appoint the following committees—

- (a) a committee to be known as the Partners Council to advise the Institute in relation to such matters as the Institute may refer to them;
- (b) a committee to be known as the Appraisal Committee to advise the Institute on such matters relating to the use of new and existing technology in the health service as the Institute may refer to them.

(2) The chairman of the Institute shall be the chairman of the Partners Council.

(3) The other members of the Partners Council and the members of the Appraisal Committee may be drawn wholly or partly from members of the Institute or wholly from persons who are not members of the Institute and their appointments shall be subject to the approval of the Secretary of State.

(4) Subject to such directions as may be given by the Secretary of State, the Institute may, and if so directed by him shall, appoint other committees of the Institute consisting wholly or partly of members of the Institute or wholly of persons who are not members of the Institute.

(5) A committee appointed under this regulation may, subject to such directions as may be given by the Secretary of State or the Institute, appoint sub-committees consisting wholly or partly of members of the committee (whether or not they are members of the Institute) or wholly of persons who are not members of the Institute or the committee.

### **Arrangements for the Exercise of Functions**

**10.** Subject to such directions as may be given by the Secretary of State, the Institute may make arrangements for the exercise, on behalf of the Institute of any of its functions by a committee or sub-committee appointed by virtue of regulation 9 or by an officer of the Institute, in each case subject to such restrictions and conditions as the Institute thinks fit.

### **Meetings and Proceedings**

**11.**—(1) The meetings and proceedings of the Institute shall be conducted in accordance with the rules set out in the Schedule to these Regulations and with Standing Orders made under paragraph (2).

(2) Subject to those rules, to regulation 12 (disability on account of pecuniary or other personal interest) and to such directions as may be given by the Secretary of State, the Institute shall make, and may vary or revoke, Standing Orders for the regulation of its proceedings and business, including provision for the suspension of the Standing Orders or any of them.

(3) Subject to such directions as may be given by the Secretary of State, the Institute may make, vary and revoke Standing Orders relating to the quorum, proceedings and place of meeting of any committee or sub-committee of the Institute; but, subject to any such Standing Orders, the quorum, proceedings and place of meeting shall be such as the committee or sub-committee may determine.

### **Disability of Chairman and Members in Proceedings on Account of Pecuniary or Other Personal Interest**

12.—(1) Subject to the following provisions of this regulation, if the chairman or a member has any pecuniary or other personal interest, direct or indirect, in any matter and is present at any meeting of the Institute at which the matter is the subject of consideration, he shall at the meeting and as soon as practicable after its commencement, disclose his interest and shall not take part in the consideration or discussion of the matter or vote on any question with respect to it.

(2) The Secretary of State may, subject to such conditions as he may think fit to impose, remove any disability imposed by this regulation in any case in which it appears to him in the interests of the health service that the disability should be removed.

(3) The Institute may, by Standing Orders made under regulation 11(2), provide for the exclusion of the chairman or a member from a meeting of the Institute while any matter in which he has a pecuniary or other personal interest, direct or indirect, is under consideration.

(4) Any remuneration, compensation or allowances payable to the chairman or a member by virtue of paragraph 9 of Schedule 5 to the Act (pay and allowances) shall not be treated as a pecuniary or other personal interest for the purpose of this regulation.

(5) Subject to paragraphs (2) and (6), the circumstances in which the chairman or a member shall be treated for the purpose of this regulation as having an indirect pecuniary or other personal interest in a matter include—

- (a) if he, or a nominee of his, is a director of a company or other body, not being a public body, which has a direct pecuniary interest in the matter under consideration; or
- (b) if he is a partner of, or is in the employment of, a person who has a direct pecuniary interest in the matter under consideration;

and in the case of married persons living together the interest of one spouse shall, if known to the other, be deemed for the purpose of this regulation to be also an interest of the other.

(6) Neither the chairman nor a member shall be treated as having a pecuniary or other personal interest in any matter by reason only—

- (a) of his membership of a company or other body if he has no beneficial interest in any securities of that company or other body; or
- (b) of an interest which is so remote or insignificant that it cannot reasonably be regarded as likely to influence him in the consideration or discussion of, or in voting on, any question with respect to that matter.

(7) Where the chairman or a member—

- (a) has a pecuniary or other personal interest in a matter by reason only of a beneficial interest in securities of a company or other body; and
- (b) the total nominal value of those securities does not exceed £5,000 or one-hundredth of the total nominal value of the issued share capital of the company or body, whichever is the lesser; and
- (c) if the share capital is of more than one class, the total nominal value of shares of any one class in which he has a beneficial interest does not exceed one-hundredth of the total issued share capital of that class,

this regulation shall not prohibit him from taking part in the consideration or discussion of the matter, or from voting on any question with respect to it, without prejudice however to his duty to disclose his interest.

(8) This regulation applies to a committee or sub-committee as it applies to the Institute and applies to a member of any such committee or sub-committee (whether or not he is also a member of the Institute) as it applies to a member of the Institute.

(9) In this regulation—

“public body” includes

- (a) any body established for the purpose of carrying on, under national ownership, any industry or undertaking or part of any industry or undertaking;
- (b) the governing body of any university, university college or college school or hall of a university; and
- (c) the National Trust for Places of Historic Interest or Natural Beauty incorporated by the National Trust Act 1907(4);

“securities” mean—

- (a) shares or debentures, whether or not constituting a charge on the assets of a company or other body, or rights or interests in any share or such debentures; or
- (b) rights (whether actual or contingent) in respect of money lent to, or deposited with, any industrial or provident society or building society;

“shares” means shares in the share capital of a company or other body of the stock of a company or other body.

### **Reports by the Institute**

**13.** The Institute shall make reports to the Secretary of State in such manner and at such time as the Secretary of State may direct, and shall furnish to the Secretary of State such information as he may from time to time require.

### **Public Meeting**

**14.** If, in pursuance of regulation 13, the Secretary of State directs the Institute to make an annual report to him for any particular year or for each year, the Institute shall present the report at a public meeting held not later than 30 days after the date on which the report was made.

*Frank Dobson*  
One of Her Majesty’s Principal Secretaries of  
State,  
Department of Health

4th February 1999

## SCHEDULE

Regulation 11(1)

### RULES AS TO MEETINGS AND PROCEEDINGS OF THE INSTITUTE

1. The first meeting of the Institute shall be held on such day and at such place as may be fixed by the chairman, and he shall be responsible for convening the meeting.

2.—(1) The chairman may call a meeting of the Institute at any time.

(2) If a requisition for a meeting, signed by at least one third of the total number of members, is presented to the chairman, and the chairman either—

(a) refuses to call a meeting; or

(b) without so refusing, does not within 21 days after the requisition has been presented to him call a meeting,

those members may forthwith call a meeting.

(3) Before each meeting of the Institute, a notice of the meeting which—

(a) specifies the principal business proposed to be transacted at it; and

(b) is signed by the chairman or by an officer of the Institute authorised by the chairman to sign on his behalf,

shall be delivered to each member, or sent by post to his last known address, at least seven clear days before the day of the meeting.

(4) The proceedings of any meeting shall not be invalidated by a failure to deliver such notice to any member.

(5) In the case of a meeting called under sub-paragraph (2) above by members, the notice shall be signed by those members and no business other than that specified in the notice shall be transacted at the meeting.

3.—(1) At any meeting of the Institute the chairman or, in his absence, the vice-chairman (if there is one and he is present) shall preside.

(2) If the chairman and any vice-chairman are absent, such other non-officer member present as the other members present shall choose for the purpose shall preside.

4. Every question at a meeting shall be determined by a majority of votes of the members present and competent to vote on the question and, in the case of an equality of votes, the chairman or, in his absence, the person presiding at the meeting shall have a second or casting vote.

5.—(1) Subject to sub-paragraph (2) below, no business shall be transacted at any meeting unless at least four non-officer members, or the chairman and three non-officer members, are present.

(2) The chairman and at least three non-officer members shall be present at any meeting of the Institute which is convened for the purposes of appointing a person to act as an officer member.

6.—(1) The minutes of the proceedings of a meeting shall be drawn up and shall be signed at the next ensuing meeting by the person presiding at that next meeting.

(2) The names of the members present at a meeting shall be recorded in the minutes.

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

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## **EXPLANATORY NOTE**

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

These Regulations make provision concerning the membership and procedure of the National Institute for Clinical Excellence which is a Special Health Authority established under the National Health Service Act 1977 by the National Institute for Clinical Excellence (Establishment and Constitution) Order 1999.

In particular, these Regulations make provision in relation to the appointment of the chairman, members and chief officers of the Institute (regulations 2 to 4); disqualification for appointment (regulations 5 and 6) and termination of appointments (regulations 7 and 8). Provision is also made relating to the appointment of, and exercise of functions by, committees and sub-committees (regulations 9 and 10); the conduct of meetings and proceedings (regulation 11 and the Schedule) and disability in the case of conflicts of interest (regulation 12).

In addition provision is made for requiring the Institute to furnish reports and certain other information to the Secretary of State and for requiring presentation of an annual report at a public meeting (regulations 13 and 14).