

SCHEDULE 4

Regulation 12

Disqualification for holding office

Mental disorder

1. A person shall be disqualified for holding, or for continuing to hold, office as a member of a foundation body at any time when he is liable to be detained under the Mental Health Act 1983(1).

Bankruptcy

2. A person shall be disqualified for holding, or for continuing to hold, office as a member of a foundation body if—

- (a) he has been adjudged bankrupt or sequestration of his estate has been awarded and (in either case) he has not been discharged and the bankruptcy order has not been annulled or rescinded;
- (b) he has made a composition or arrangement with, or granted a trust deed for, his creditors and has not been discharged in respect of it.

Disqualification of company directors

3. A person shall be disqualified for holding, or for continuing to hold, office as a member of a foundation body at any time when he is subject to a disqualification order under the Company Directors Disqualification Act 1986(2) or to an order made under section 429(2)(b) of the Insolvency Act 1986(3) (failure to pay under county court administration order).

Disqualification of charity trustees

4. A person shall be disqualified for holding, or for continuing to hold, office as a member of a foundation body if—

- (a) he has been removed from the office of charity trustee or trustee for a charity by an order made by the Charity Commissioners or the High Court on the grounds of any misconduct or mismanagement in the administration of the charity for which he was responsible or to which he was privy, or which he by his conduct contributed to or facilitated; or
- (b) he has been removed, under section 7 of the Law Reform (Miscellaneous Provisions) (Scotland) Act 1990(4) (powers of Court of Session to deal with management of charities), from being concerned in the management or control of any body.

Persons whose employment is prohibited or restricted

5.—(1) A person shall be disqualified for holding, or for continuing to hold, office as a member of a foundation body at any time when he is included in the list of teachers and workers with children or young persons whose employment is prohibited or restricted.

(2) In sub-paragraph (1), “the list” means the list kept for the purposes of regulations made under section 218(6) of the Education Reform Act 1988(5)

(1) 1983 c. 20.

(2) 1986 c. 46.

(3) 1986 c. 45.

(4) 1990 c. 40.

(5) Section 218 of the 1988 Act has been amended by paragraph 17 of Schedule 30 to the 1998 Act.

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

Persons disqualified for being proprietors of independent schools

6. A person shall be disqualified for holding, or for continuing to hold, office as a member of a foundation body at any time when he is, by virtue of an order made under section 470 or 471 of the Education Act 1996, disqualified for being the proprietor of any independent school or for being a teacher or other employee in any school.

Criminal convictions

7.—(1) Subject to sub-paragraph (5) below, a person shall be disqualified for holding, or for continuing to hold, office as a member of a foundation body where any of sub-paragraphs (2) to (4) or (6) below apply to him.

(2) This sub-paragraph applies to a person if—

- (a) within the period of five years ending with the date immediately preceding the date on which his appointment would otherwise have taken effect; or
- (b) since his appointment,

he has been convicted, whether in the United Kingdom or elsewhere, 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.

(3) This sub-paragraph applies to a person if within the period of 20 years ending with the date immediately preceding the date on which his appointment would otherwise have taken effect, he has been convicted as aforesaid of any offence and has had passed on him a sentence of imprisonment for a period of not less than two and half years.

(4) This sub-paragraph applies to a person if he has at any time been convicted as aforesaid of any offence and has had passed on him a sentence of imprisonment for a period of not less than five years.

(5) For the purposes of sub-paragraphs (2) to (4) above, there shall be disregarded any conviction by or before a court outside the United Kingdom of an offence which, if the facts giving rise to the offence had taken place in any part of the United Kingdom, would not have constituted an offence under the law in force in that part of the United Kingdom.

(6) This sub-paragraph applies to a person if—

- (a) within the period of five years ending with the date immediately preceding the date on which his appointment would otherwise have taken effect; or
- (b) since his appointment,

he has been convicted under section 547 of the Education Act 1996 (nuisance and disturbance on education premises) of an offence which took place on the premises of a school maintained by a local education authority or a grant maintained school and has been sentenced to a fine.

Failure to attend meetings

8.—(1) A member of a foundation body who, without the consent of the foundation body concerned, has failed to attend two consecutive meetings thereof, shall, from the day after the second meeting, be disqualified for continuing to hold office as a member of that foundation body.

(2) Where a member of a foundation body has sent an apology to the clerk before a meeting which he does not propose to attend, the minutes of the meeting shall record the foundation body's consent or otherwise to his absence and a copy of the minutes shall be sent to the member concerned at his normal place of residence.

(3) A member of a foundation body who has been disqualified under sub-paragraph (1) shall not be qualified for nomination or appointment as a member of that foundation body during the twelve months immediately following his disqualification under sub-paragraph (1).

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Notice to clerk

9. Where, by virtue of any of paragraphs 1 to 7 of this Schedule, a member becomes disqualified for holding, or for continuing to hold, office as a member, he shall give written notice of that fact to the clerk.