
STATUTORY INSTRUMENTS

2005 No. 2531

The NHS Blood and Transplant (Gwaed a Thrawsblaniadau'r GIG) Regulations 2005

Citation, commencement and interpretation

1.—(1) These Regulations may be cited as the NHS Blood and Transplant (Gwaed a Thrawsblaniadau'r GIG) Regulations 2005 and shall come into force on 1st October 2005.

(2) In these Regulations—

“the Act” means the National Health Service Act 1977;

“the Authority” means NHS Blood and Transplant established by the NHS Blood and Transplant Authority (Gwaed a Thrawsblaniadau'r GIG) (Establishment and Constitution Order) 2005(1);

“appropriate authority” means—

(a) in relation to England, the Secretary of State; and

(b) in relation to Wales, the National Assembly for Wales;

“the chairman” means, unless the context otherwise requires, the chairman of the Authority;

“the FHSAA” means the Family Health Service Appeal Authority constituted under section 49S of the Act(2);

“health service body” means—

(a) a Strategic Health Authority(3), Special Health Authority(4), Primary Care Trust(5), NHS trust(6), Local Health Board(7), NHS foundation trust(8), or Community Health Council(9),

(b) a Health Board or Special Health Board constituted under section 2 of the National Health Service (Scotland) Act 1978(10) or the Scottish Dental Practice Board, the Common Service Agency for the Scottish Health Service or an NHS trust constituted under, respectively, sections 4, 10 or 12A of that Act(11),

(c) the Dental Practice Board constituted under section 37(1) of the Act(12),

(1) [S.I. 2005/2529](#).

(2) Section 49S was inserted by section 27(1) of the 2001 Act and amended by section 1(3) of, and paragraphs 1 and 18 of Schedule 1 to, the 2002 Act.

(3) See section 8 of the Act.

(4) See section 11 of the Act.

(5) See section 16A of the Act.

(6) See section 5 of the 1990 Act.

(7) See section 16BA of the Act.

(8) See section 1 of the 2003 Act.

(9) See section 20A of the Act.

(10) [1978 c. 29](#).

(11) Section 4 was amended by section 12(3) and Schedule 3 of the Health and Medicines Act 1988 (c. 49) (“the 1988 Act”); section 10 was amended by paragraph 2 of Schedule 6 to the Health Services Act 1980 (c. 53) and Schedule 10 to the 1990 Act; section 12A was inserted by section 31 of the 1990 Act and amended by section 46(1) of the 1999 Act.

(12) Section 37(1) was amended by section 12 of the 1988 Act and repealed in part by section 25 and Schedule 3 of that Act; amended by section 2(1) of, and paragraph 26 of Schedule 1 to, the 1995 Act and section 1(3) of, and paragraphs 1 and 17 of Schedule 1 to, the 2002 Act. The functions of the Secretary of State under these provisions are, so far as exercisable in

- (d) the Commission for Healthcare Audit and Inspection(**13**),
- (e) the Health Protection Agency(**14**),
- (f) the Secretary of State,
- (g) the Northern Ireland Central Services Agency for Health and Social Services established under the Health and Personal Social Services (Northern Ireland) Order 1972(**15**),
- (h) a special health and social services agency established under the Health and Personal Social Services (Special Agencies) (Northern Ireland) Order 1990(**16**),
- (i) a Health and Social Services Board constituted under the Health and Personal Social Services (Northern Ireland) Order 1972,
- (j) a Health and Social Services trust established under the Health and Personal Social Services (Northern Ireland) Order 1991(**17**), and
- (k) the Department of Health, Social Services and Public Safety for Northern Ireland;

“member” means, unless the context otherwise requires, a member of the Authority other than the chairman;

“national NHS disqualification” means—

- (a) a decision made by the FHSAA under section 49N of the Act(**18**),or
- (b) a decision by the NHS Tribunal which is treated as a national disqualification by the FHSAA by virtue of regulation 6(4)(b) of the Abolition of the National Health Service Tribunal (Consequential Provisions) Regulations 2001(**19**) or regulation 6(4)(b) of the Abolition of the National Health Service Tribunal (Consequential Provisions) Regulations 2002(**20**);

“the NHS Tribunal” means the Tribunal constituted under section 46 of the Act(**21**) for England and Wales;

“non-officer member” means a member who is not an officer of the Authority; and

“primary care list” means—

- (a) a list referred to in section 49N(1)(a) to (c) of the Act,
- (b) a list of persons undertaking to provide general medical services prepared in accordance with regulations under section 29 of the Act(**22**) as the list existed on or before 31st March 2004,

relation to Wales, transferred to the National Assembly for Wales by article 2(a) of, and Schedule 1 to, the 1999 Order, except that the regulation-making function in section 37(1) continues as a function of the Secretary of State in respect of Wales as well as England; see the entry in Schedule 1 for the National Health Service Act 1977 as amended; the Dental Practice Board is abolished by sections 181 and 196 of, and Schedule 14 to, the 2003 Act on a date to be appointed.

- (13) See section 41 of the 2003 Act for the establishment of the Commission for Healthcare Audit and Inspection.
- (14) Health Protection Agency Act 2004 (c. 17).
- (15) S.I. 1972/1265 (N.I. 14).
- (16) S.I. 1990/247 (N.I. 3).
- (17) S.I. 1991/194 (N.I. 1).
- (18) Section 49N was inserted by section 25 of the 2001 Act and amended by section 2(5) of, and paragraphs 1 and 25 of Schedule 2 to, the 2002 Act and section 184 of, and paragraph 24(a) and paragraph 24(b) of Schedule 11 to, the 2003 Act in respect of paragraph 24(b) on a date to be appointed. A transitional amendment is made to section 49N(1) inserting sub-paragraph (bb) by article 7(4)(i) of the Health and Social Care (Community Health and Standards) Act 2003 Commencement (No. 2) Order 2004 S.I. 2004/288 (C. 12).
- (19) S.I. 2001/3744, as modified and amended by S.I. 2002/2469.
- (20) S.I. 2002/1920 amended by S.I.2004/865.
- (21) Section 46 was repealed by section 67 of, and paragraph 5 of Schedule 5 and Part 1 of Schedule 6 to, and the 2001 Act; the NHS Tribunal, except for prescribed cases, had effect in relation to England only until 14th December 2001, and in relation to Wales, only until 26th August 2002; see article 2(5) and (6)(b) of S.I. 2001/3738 which sets out the prescribed cases for England, and article 2(2) and (3)(b) of S.I. 2002/1919 which sets out the prescribed cases for Wales.
- (22) Section 29 is repealed by section 196 of, and Schedule 14 to, the 2003 Act.

- (c) a list of persons approved by a Primary Care Trust for the purpose of assisting in the provision of general medical services prepared in accordance with regulations under section 43D(1) of the Act⁽²³⁾ as the list existed on or before 31st March 2004, or
- (d) a services list referred to in section 8ZA(1)(a) of the National Health Service (Primary Care) Act 1997⁽²⁴⁾ as the list existed on or before 31st March 2004.

Appointment and tenure of office of chairman and members

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

(2) Subject to regulation 5 (termination of tenure of office of chairman and non-officer members), the term of office of the chairman and non-officer members shall be such period, not exceeding four years, as the Secretary of State shall specify on making the appointment.

(3) Subject to regulation 3 (disqualification for appointment), the chairman and any non-officer member shall, on the termination of his office, be eligible for re-appointment, provided that he shall not hold office for longer than a total of eight years.

(4) The chairman and non-officer members shall appoint the member who is the chief executive of the Authority.

(5) The chairman and non-officer members and the chief executive shall appoint the members who are officers of the Authority.

Disqualification for appointment

3.—(1) Subject to regulation 4 (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 of any offence or convicted elsewhere of an offence which, if committed in any part of the United Kingdom would constitute a criminal offence in that part, and in either case has been sentenced to a period of imprisonment (whether suspended or not) for a period of not less than three months without the option of a fine, and the conviction not been quashed on appeal;
- (b) he is the subject of a bankruptcy restrictions order or an interim bankruptcy restrictions order⁽²⁵⁾;
- (c) he has been dismissed within the previous five years, 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, a member, a director or a governor of a health service body has been terminated on the grounds that—
 - (i) it was not in the interests of, or conducive to the good management of, the health service body or of the health service that he should continue to hold that office,
 - (ii) he failed, without reasonable cause, to attend any meeting of that health service body for three successive meetings, or
 - (iii) he failed to declare a pecuniary interest or withdraw from consideration of any matter in respect of which he had a pecuniary interest;

(23) Section 43D was inserted by section 24 of the 2001 Act and amended by section 2(5) of, and paragraphs 1 and 20 of Schedule 2 to, the 2002 Act; section 43D(1) is repealed in part by section 196 of, and Schedule 14 to, the 2003 Act; section 43D(10) (a) (and other parts of 43D(10) on a date to be appointed) is amended by section 184 of, and paragraph 20 of Schedule 11 to, the 2003 Act.

(24) 1997 c. 46; section 8ZA was inserted by section 26(2) of the 2001 Act and was amended by section 4(3) of, and paragraphs 1 and 3 of Schedule 3 of the 2002 Act; and is repealed by section 196 of, and Schedule 14 to, the 2003 Act so far as it relates to personal medical services and otherwise on a date to be appointed.

(25) See Schedule 4A to the Insolvency Act 1986 (c. 45), inserted by Schedule 20 to the Enterprise Act 2002 (c. 40).

- (e) he—
- (i) is the subject of a national NHS disqualification,
 - (ii) was refused nomination or approval to fill a vacancy for a medical practitioner pursuant to regulations made under section 29B(2A) of the Act and was not subsequently nominated or approved or included in a primary care list(26),
 - (iii) has been refused admission to a primary care list on grounds corresponding to the conditions referred to in section 49F(2), (3) or (4) of the Act(27) and has not subsequently been included in a primary care list,
 - (iv) is conditionally included in a primary care list(28),
 - (v) has been removed from a primary care list on any of the grounds set out in section 49F(2),(3) or (4) of the Act or by a direction of the NHS Tribunal and has not subsequently been included in such a list,
 - (vi) is contingently removed from a primary care list(29), or
 - (vii) is suspended from a primary care list(30) or treated as so suspended by virtue of regulation 6(2) of the Abolition of the National Health Service Tribunal (Consequential Provisions) Regulations 2001 or regulation 6(2) of the Abolition of the National Health Service Tribunal (Consequential Provisions) Regulations 2002, and in this sub-paragraph any reference to a provision in the Act includes a reference to the provision corresponding to that provision in legislation relating to Scotland and Northern Ireland;
- (f) he is subject to a disqualification order under the Company Directors Disqualification Act 1986(31), the Companies (Northern Ireland) Order 1986(32) or to an order made under section 429(2)(b) of the Insolvency Act 1986(33) (disabilities on revocation of administration order against an individual);
- (g) he has been—
- (i) 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
 - (ii) removed under section 7 of the Law Reform (Miscellaneous Provisions) (Scotland) Act 1990(34) (powers of Court of Session to deal with management of charities) from being concerned in the management or control of any body;
 - (iii) removed as a director, trustee or committee member of a registered social landlord(35)
- (h) he is the chairman or another member of the Independent Regulator of NHS foundation trusts.

(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

(26) Section 29B is repealed by section 196 of, and Schedule 14 to, the 2003 Act.

(27) Section 49F was inserted by section 25 of the 2001 Act and amended by section 2(5) of, and paragraphs 1 and 21(a) of Schedule 2 to, the 2002 Act; section 49F(1)(a) and 49F(1)(c) are repealed by section 196 of, and Schedule 14 to, the 2003 Act.

(28) See section 43ZA of the Act for conditional inclusion. See also sections 28X(5) and 43D(4) of the Act and section 8ZA(4)(a) of the 1997 Act.

(29) See section 49G of the Act for contingent removal. See also sections 28X(4) and 43D(6) of the Act.

(30) See section 49I of the Act for suspension. See also sections 28X(4) and 43D(6) of the Act and section 8ZA(7) of the 1997 Act.

(31) 1986 c. 46.

(32) S.I. 1986/1032 (N.I.6).

(33) 1986 c. 45.

(34) 1990 c. 40.

(35) See Schedule 1, paragraph 4 to the Housing Act 1996 c. 52.

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 non-officer member of, or in the case of an NHS trust, the chairman or a non-executive director of, or in the case of an NHS foundation trust, the chairman, a governor or a non-executive director of, the health service body in question.

Cessation of disqualification

4.—(1) Subject to paragraph (2), where a person is disqualified under regulation 3(1)(c) or (g) (i) or (iii) he may, after the expiry of two years beginning on the date on which he was dismissed or removed, apply in writing to the Secretary of State to remove the disqualification, and the Secretary of State may direct that the disqualification shall cease.

(2) Where the Secretary of State refuses an application to remove a disqualification no further application may be made by that person until the expiry of the period of two years beginning with the date of the application and this paragraph shall apply to any subsequent application.

(3) Where a person is disqualified under regulation 3(1)(d), the disqualification shall cease on the expiry of the period of two years beginning on the date of the termination of his tenure of office or such longer period as the Secretary of State specifies when terminating his period of office but the Secretary of State may, on application being made to him by that person, reduce the period of disqualification.

Termination of tenure of office of chairman and non-officer members

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

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

(3) If the chairman or a non-officer member fails to attend three successive meetings of the Authority the Secretary of State shall forthwith terminate that person's tenure of office unless 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 Authority within such a period as the Secretary of State considers reasonable.

(4) Where a person has been appointed to be the chairman or a non-officer member, and he becomes disqualified from appointment under regulation 3, he shall notify the Secretary of State in writing of such disqualification.

(5) Where it comes to the notice of the Secretary of State (whether under paragraph (4) or otherwise) that at the same time of his appointment or later a person was disqualified for appointment, the Secretary of State 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 chairman or non-officer member.

(6) If it appears to the Secretary of State that the chairman or a non-officer member has failed to comply with regulation 10 (disability on account of pecuniary interest) she may forthwith terminate that person's tenure of office by giving him notice in writing to that effect.

Appointment of vice-chairman

6.—(1) 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 electing 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 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 committees and sub-committees

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

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

(3) Subject to such directions as may be given by the appropriate authority, regulations 3 and 4 apply to the appointment of members of committees and sub-committees appointed under this regulation as they apply to the appointment of members of the Authority.

Arrangements for the exercise of functions

8. Subject to such directions as may be given by the Secretary of State, the Authority may make arrangements for the exercise, on behalf of the Authority, of any of its functions by a committee or sub-committee appointed by virtue of regulation 7 or by an officer of the Authority, in each case subject to such restrictions and conditions as the Authority thinks fit.

Meetings and proceedings

9.—(1) The meetings and proceedings of the Authority 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 10 (disability of chairman and members in proceedings on account of pecuniary interest) and to such directions as may be given by the appropriate authority, the Authority shall make, and may vary or revoke, standing orders for the regulation of its proceedings and business, including provision for the suspension of all or any of the standing orders.

(3) Subject to such directions as may be given by the appropriate authority, the Authority may make, vary and revoke standing orders relating to the quorum, proceedings and place of meeting of any committee or sub-committee of the Authority; but subject to 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 interest

10.—(1) Subject to the following provisions of this regulation, if the chairman or a member has any pecuniary interest, direct or indirect, in any contract, proposed contract or other matter and is present at any meeting of the Authority to which the contract, proposed contract or other 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 contract, proposed contract or other matter or vote on any question with respect to it.

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

(3) The Authority may, by standing orders made under regulation 9(2), provide for the exclusion of the chairman or a member from a meeting of the Authority while any contract, proposed contract or other matter in which he has a pecuniary 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 interest for the purpose of this regulation.

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

- (a) he, or a nominee of his, is a director of a company or other body, with which the contract was made or is proposed to be made or which has a direct pecuniary interest in the other matter under consideration; or
- (b) he is a partner of, or is in the employment of, a person with whom the contract was made or is proposed to be made or who has a direct pecuniary interest in the other matter under consideration,

and in the case of two persons living together as a couple (whether married or not) the interest of one 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 interest in any contract, proposed contract or other 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 in any company, body or person with which he is connected as mentioned in paragraph (5) which is so remote or insignificant that it cannot reasonably be regarded as likely to influence him in the consideration or discussion of, or voting on, any question with respect to that contract, proposed contract or other matter.

(7) Where the chairman or a member—

- (a) has an indirect pecuniary interest in a contract, proposed contract or other 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 contract, proposed contract or other matter, or from voting on any question with respect to it but in such circumstances he shall nonetheless disclose his interest.

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

(9) In this regulation—

“securities” means—

- (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 debenture; 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 or the stock of a company or other body.

Reports by the Authority

11. The Authority shall make such reports to the appropriate authority in such manner and at such time as the appropriate authority may direct, and shall furnish to the appropriate authority such information as the appropriate authority may from time to time require.

Public meeting

12. If, under regulation 11, the appropriate authority directs the Authority to make an annual report to the appropriate authority for any particular year or for each year, the Authority shall present the report at a public meeting held not later than 30 days after the date on which the report was made.

Signed by authority of the Secretary of State for Health

Rosie Winterton
Minister of State
Department of Health

9th September 2005

Signed on behalf of the National Assembly for Wales under section 66(1) of the Government of Wales Act 1998(36)

D Elis-Thomas
The Presiding Officer of the National Assembly

28th June 2005