

SCHEDULE

Regulation 4

GROUND FOR DISQUALIFICATION

1.—(1) The person has within the preceding five years—

- (a) been convicted in the United Kingdom of any criminal offence or been convicted elsewhere of any offence which, if committed in any part of the United Kingdom, would constitute a criminal offence; and
- (b) been sentenced to a sentence of imprisonment (whether suspended or not),

and the conviction has not been quashed nor the sentence reduced to a sentence other than a sentence of imprisonment (whether suspended or not) on appeal.

(2) For the purposes of this paragraph, the date of conviction is 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.

2. The person is an undisclosed bankrupt or a person whose estate has had sequestration awarded in respect of it and who has not been discharged.

3. The person is the subject of a bankruptcy restrictions order or an interim bankruptcy restrictions order⁽¹⁾ or an order to like effect made in Scotland or Northern Ireland.

4. The person is a person to whom a moratorium period under a debt relief order applies under Part 7A of the Insolvency Act 1986⁽²⁾ (debt relief orders).

5. The person has made a composition or arrangement with, or granted a trust deed for, creditors and not been discharged in respect of it.

6.—(1) The person has been dismissed (without being re-instated) by reason of misconduct from any paid employment where that dismissal has not been the subject of a finding of unfair dismissal by a tribunal or court.

(2) For the purposes of this paragraph, a person is not to be treated as having been in paid employment by reason only of that person having been—

- (a) the chair or non-executive director of an NHS trust;
- (b) the chair, or a governor or a non-executive director of an NHS foundation trust;
- (c) in the case of any other NHS body, the chair or a non-officer member of the body; or
- (d) a member of the Audit Commission.

7.—(1) The person is the subject of a national NHS disqualification, namely—

- (a) a decision made by the First-tier Tribunal under section 159 of the NHS Act 2006⁽³⁾ or under regulations corresponding to that section made under section 91(3), 106(3), 123(3) or 146(3) of that Act (regulations in relation to lists of persons performing primary medical, dental, ophthalmic and local pharmaceutical services); 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 NHS Tribunal

(1) See Schedule 4A to the Insolvency Act 1986 (c.45), inserted by sections 257(2) of, and Schedule 20 to, the Enterprise Act 2002 (c.40).

(2) Part 7A was inserted by section 108 of, and Schedule 17 to, the Tribunals, Courts and Enforcement Act 2007 (c.15).

(3) Section 159 was amended by paragraph 119 of Schedule 2 to the Transfer of Tribunal Functions Order 2010 S.I. 2010/22 and paragraph 85 of Schedule 4 to the Health and Social Care Act 2012. Section 91(3) was amended by para 35 of Schedule 4 to the Health and Social Care Act 2012. Section 106(3) was amended by paragraph 47 of Schedule 4 to the Health and Social Care Act 2012. Section 123(3) was amended by paragraph 60 of Schedule 4 to the Health and Social Care Act 2012.

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(Consequential Provisions) Regulations 2001(4) or regulation 6(4)(b) of the Abolition of the NHS Tribunal (Consequential Provisions) Regulations 2002(5).

(2) In this paragraph—

“FHSAA” means the Family Health Service Appeal Authority(6) constituted under section 169 of, and Schedule 13 to, the NHS Act 2006;

“NHS Tribunal” means the Tribunal constituted under section 46 of the National Health Service Act 1977(7).

8. The person has been refused inclusion—

- (a) under regulations made under section 129 of the NHS Act 2006, in a pharmaceutical list; or
- (b) in a performers list,

and has not subsequently been included in a pharmaceutical list or, as the case may be, a performers list.

9. The person is conditionally included—

- (a) under regulations made under section 148 of the NHS Act 2006(8), in a pharmaceutical list; or
- (b) under regulation 10 of the Performers Lists Regulations, in a performers list.

10. The person has been removed—

- (a) under section 151 of the NHS Act 2006(9), from a pharmaceutical list; or
- (b) from a performers list.

11. The person is contingently removed, under section 152 of the NHS Act 2006(10), from a pharmaceutical list.

12. The person is suspended—

- (a) under section 154 or 155 of the NHS Act 2006(11), from a pharmaceutical list; or
- (b) under regulation 12 of the Performers Lists Regulations, from a performers list.

13. The person is one in whose case a body that licences or regulates a profession has made a decision under any enactment in force in Wales, Scotland or Northern Ireland corresponding to those prescribed in paragraphs 7 to 12 where that decision has like effect to the circumstances in those paragraphs.

14. The person is subject to—

- (a) a disqualification order or disqualification undertaking under the Company Directors Disqualification Act 1986(12);
- (b) a disqualification order or disqualification undertaking under the Company Directors Disqualification (Northern Ireland Order) 2002(13); or

(4) [S.I. 2001/3744](#). Relevant amending instrument is [S.I. 2002/2469](#).

(5) [S.I. 2002/1920](#)

(6) The Family Health Services Appeal Authority was abolished on 18 January 2010 by article 3 of [S.I. 2010/22](#).

(7) [1977 c.49](#). Section 46 was repealed by the Health and Social Care Act 2001, paragraph 5(8) of Schedule 5 and Schedule 6, Part 1.

(8) Section 148 was amended by paragraph 113 of Schedule 2 to [S.I. 2010/22](#) and paragraph 77 of Schedule 4 to the Health and Social Care Act 2012.

(9) Section 151 was amended by paragraph 79 of Schedule 4 to the Health and Social Care Act 2012.

(10) Section 152 was amended by paragraph 80 of Schedule 4 to the Health and Social Care Act 2012.

(11) Section 154 was amended by paragraph 113 of Schedule 2 to the Transfer of Tribunal Functions Order 2010 ([S.I. 2010/22](#)) and paragraph 81 of Schedule 4 to the Health and Social Care Act 2012. Section 155 was amended by paragraph 116 of Schedule 2 to [S.I. 2010/22](#) and paragraph 82 of Schedule 4 to the Health and Social Care Act 2012.

(12) [1986 c.46](#). Section 1A (disqualification undertakings) was inserted by section 6 of the Insolvency Act 2000 ([c.39](#)).

(13) [S.I. 2002/3150 \(N.I. 4\)](#).

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- (c) an order made under section 429(2)(b) of the Insolvency Act 1986(14) (disabilities on revocation of administration order against an individual).
15. The person has been removed—
- (a) 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 that person was responsible or to which that person was privy, or which that person, by his conduct, contributed to or facilitated; or
 - (b) under section 34 of the Charities and Trustee Investment (Scotland) Act 2005(15) (powers of Court of Session to deal with management of charities) from being concerned in the management or control of any charity or body controlled by a charity.
16. The person’s tenure of office as the chair or as a member, director or governor of an NHS body has been terminated on the ground that—
- (a) it was not in the interests of, or conducive to the good management of, that NHS body or the health service that that person should continue to hold that office;
 - (b) that person failed, without reasonable cause, to attend any meeting of that NHS body for a period of three months or more; or
 - (c) that person failed to declare a pecuniary interest or withdraw from consideration of any matter in respect of which that person had a pecuniary interest.
17. The person ceased to be a member of a local authority by virtue of section 85 of the Local Government Act 1972(16) (vacation of office by failure to attend meetings).
18. The person—
- (a) is disqualified from being or becoming a member of a local authority by virtue of a decision of the First-tier Tribunal made under section 78A of the Local Government Act 2000(17) or a decision of a Welsh case tribunal under section 79 of that Act, or
 - (b) is subject to an order under section 34(4) of the Localism Act 2011(18) (disqualification from being or becoming a member or co-opted member of a local authority).
19. The person ceased to be a Scottish councillor by virtue of section 35 of the Local Government (Scotland) Act 1973(19) (vacation of office by failure to attend meetings).

(14) 1986 c.45. Section 429(2) was amended by paragraph 15 of Schedule 23 to the Enterprise Act 2002 (c.40).

(15) 2005 asp 10. Section 34 was amended by section 122 of the Public Services Reform (Scotland) Act 2010 (asp 8).

(16) 1972 c. 70. Section 85 was modified by the Waste Regulation and Disposal (Authorities) Order 1985 (S.I. 1985/1884), article 10, Schedule 3; subsections (2A) and (2B) were inserted in relation to England by S.I. 2001/2237, article 7(a), and in relation to Wales, by S.I. 2002/808, article 7(a); sub-section (3) was amended in relation to England by S.I. 2001/2237, article 7(b), and in relation to Wales, by S.I. 2002/808, article 7(b); subsection (3A) was inserted by the Local Government Act 2000 (c. 22), section 107, Schedule 5, paragraph 9, and was amended in relation to England by S.I. 2001/2237, article 7(c), and in relation to Wales, by S.I. 2002/808, article 7(c); sub-sections (3B), (3C) and (3D) were inserted by the Local Government (Wales) Measure 2011 (nawm 4), section 31; sub-section (4) was inserted by the Local Government Act 1985 (c. 51), section 84, Schedule 14, paragraph 7, and was repealed in part by the Education Reform Act 1988 (c. 40), section 237, Schedule 13, Part 1; the functions of the Secretary of State under section 85(3), so far as exercisable in relation to Wales, transferred to the National Assembly for Wales by the National Assembly for Wales (Transfer of Functions) Order 1999 (S.I.1999/672), article 2, Schedule 1; see the entry in Schedule 1 to that Order for the Local Government Act 1972. The functions were subsequently transferred to the Welsh Ministers by virtue of paragraph 30(1) of Schedule 11 to the Government of Wales Act 2006 (c. 32).

(17) 2000 c.22. Section 78A was inserted and section 79 amended by the Local Government and Public Involvement in Health Act 2007 (c.28), section 198. See section 76 of the Local Government Act 2000 for the function of case tribunals. Section 78A was repealed by the Localism Act 2011 (c.20), section 237 and Part 5 of Schedule 25.

(18) 2011 c.20.

(19) 1973 c.65. Section 35 was amended by the Ethical Standards In Public Life etc. (Scotland) Act 2000 (asp 7), section 29(1); the functions of the Secretary of State under section 35(3) transferred to the Scottish Ministers by virtue of section 53 of the Scotland Act 1998 (c. 46).

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20. The person is disqualified from being or becoming a Scottish councillor by virtue of a decision of the Standards Commission for Scotland made under section 19 of the Ethical Standards in Public Life etc. (Scotland) Act 2000(**20**).

21. The person has been removed from office as a member of Social Care and Social Work Improvement Scotland, established under section 44 of the Public Services Reform (Scotland) Act 2010(**21**) (Social Care and Social Work Improvement), pursuant to paragraph 5 of Schedule 11 to that Act (removal of members).

22. The person is included in the children’s barred list or adults’ barred list, maintained under section 2 of the Safeguarding Vulnerable Groups Act 2006(**22**) or in any corresponding list maintained under an equivalent enactment in force in Scotland or Northern Ireland.

23. The person’s registration as a provider or manager of an establishment or agency under Part 2 of the Care Standards Act 2000 has been cancelled by the registration authority under section 14 of that Act(**23**) except where—

- (a) that decision has been subject to a direction by the Tribunal given under section 21 of that Act that it is not to have effect; or
- (b) the cancellation was only by reason of an application for cancellation having been made by the registered person pursuant to section 15(1)(b) of that Act(**24**).

24. The person’s application for registration under Part 1 of the Health and Social Care Act 2008 has been refused under section 12 or 15 of that Act.

25. The person’s registration as a provider or manager of an establishment or agency under Part 1 of the Health and Social Care Act 2008 has been cancelled by the Commission under section 17 of that Act except where—

- (a) that decision has been subject to a direction by the First-tier Tribunal given under section 32 of that Act(**25**) that it is not to have effect; or
- (b) the cancellation was only by reason of an application for cancellation having been made by the registered person pursuant to section 19(1)(b) of that Act(**26**).

26. The person’s registration under Part 1 of the Health and Social Care Act 2008 has been cancelled by an order of a justice of the peace under section 30 of that Act(**27**) (urgent procedure for cancellation) except where that order has been subject to a direction by the First-tier Tribunal given under section 32 of that Act that it ceases to have effect.

27. The person is one in whose case a decision which is of like effect to those listed in paragraph 24, 25 or 26 has been made under any enactment in force in Scotland or Northern Ireland corresponding to Part 1 of the Health and Social Care Act 2008.

28.—(1) The person’s registration as a health care professional has been withdrawn or suspended.

(20) [2000 asp 7](#). Section 19 was amended by the Water Services etc. (Scotland) Act [2005 \(asp 3\)](#), section 32 and Schedule 5, paragraph 6(a). See section 8 of the Ethical Standards in Public Life etc. (Scotland) Act 2000 for the functions of the Standards Commission for Scotland.

(21) [2010 asp 8](#).

(22) [2006 c.47](#). Section 2 was amended by articles 3 and 4 of [S.I. 2012/3006](#).

(23) [2000 c.14](#). Section 14 was amended by paragraph 107 of Schedule 3 to the Adoption and Children Act [2002 \(c.38\)](#), paragraph 12 of Schedule 5 to the Health and Social Care Act [2008 \(c.14\)](#) and section 26 of the Children and Young Persons Act [2008 \(c.23\)](#).

(24) Section 15 was amended by paragraph 14 of Schedule 5 to Health and Social Care Act 2008 and section 102 of the Children and Families Act [2014 \(c.6\)](#).

(25) Section 32 was amended by paragraph 474 of Schedule 1 to [S.I. 2009/56](#).

(26) Section 19(1) was amended by section 86 of the Care Act [2014 \(c.23\)](#).

(27) Section 30 was amended by section 155 of the Health and Social Care Act [2012 \(c.7\)](#).

(2) “Health care professional” means a person who is a member of a profession regulated by a body for the time being mentioned in section 25(3) of the National Health Service Reform and Health Care Professions Act 2002**(28)**.

29. The person has been removed or suspended—

- (a) in Wales, from a register maintained under section 56 of the Care Standards Act 2000**(29)** pursuant to rules made under sections 59 and 71 of that Act;
- (b) in England, from a register maintained under article 5 of the Health and Social Work Professions Order 2002**(30)**, pursuant to article 29 of that Order; or
- (c) from a corresponding register maintained under any enactment in force in Scotland or Northern Ireland.

(28) [2002 c.17](#). Section 25(3) was amended by paragraph 17 of Schedule 10 to the Health and Social Care Act 2008 ([c.14](#)), paragraph 10 of Schedule 4 to [S.I. 2010/231](#) and paragraph 56 of Schedule 15 to the Health and Social Care Act 2012.

(29) Section 56 was amended by regulation 232 of [S.I. 2007/3101](#) and paragraph 3 of Schedule 15(1) to the Health and Social Care Act 2012. Section 59 was amended by paragraph 7 of Schedule 15(1) to the Health and Social Care Act 2012. Section 71 was amended by [S.I. 2007/3101](#) and paragraph 19 of Schedule 15(1) to the Health and Social Care Act 2012.

(30) [S.I. 2002/254](#). Article 5 was amended by [S.I. 2009/1182](#).