

---

WELSH STATUTORY INSTRUMENTS

---

**2007 No. 953 (W.84)**

**NATIONAL HEALTH SERVICE, WALES**

**The Local Health Boards (Constitution, Membership and Procedures) (Wales) (Amendment) Regulations 2007**

*Made* - - - - 20 March 2007

*Coming into force* - - 1 April 2007

The National Assembly for Wales, in exercise of the powers conferred by sections 13(2) and (3) of, and paragraphs 4(1) and (2) of Schedule 2 to the National Health Service (Wales) Act 2006<sup>(1)</sup> which are exercisable by the National Assembly in relation to Wales, makes the following Regulations:

**Title, commencement and application**

1. The title of these Regulations is the Local Health Boards (Constitution, Membership and Procedures) (Wales) (Amendment) Regulations 2007; they apply in relation to Wales and come into force on 1 April 2007.

**Amendment of the principal Regulations**

2. The Local Health Boards (Constitution, Membership and Procedures) (Wales) Regulations 2003<sup>(2)</sup> (“the principal Regulations”) are amended in accordance with regulations 3 to 15.

**Amendment of the principal Regulations**

3. In regulation 2 (Interpretation)

- (a) delete the definition of “first members” (“*aelodau cyntaf*”);
- (b) in the definition of “health service body” (“*corff gwasanaeth iechyd*”) after “NHS Trust” insert the words —  
“, NHS Foundation Trust”;
- (c) in the definition of “local authority member” (“*aelod awdurdod lleol*”) for “nominated” substitute —  
“appointed”;
- (d) in the definition of “member” (“*aelod*”) delete the following —  
“, associate members and co-opted members”;

---

(1) 2006 c. 42.

(2) S.I. 2003/149 (W.19).

- (e) in the definition of “officer member” (“*aelod sy'n swyddog*”) for the “regulation 3(3)” substitute the following —  
“regulation 3(2)”;
- (f) in the definition of “non-officer member” (“*aelod nad yw'n swyddog*”)
  - (i) for “does not hold any office” substitute the following —  
“falls within a category”
  - (ii) at the end insert —  
  
“.”; and
- (g) the definition of “shadow member” (“*aelod cysgodol*”) is deleted.

4.—(1) Regulation 3 (membership of Local Health Boards) of the principal Regulations is amended in accordance with this regulation.

(2) For regulation 3(1) substitute the following —

“3.—(1) The members of the Board comprise

- (a) a chair appointed by the Assembly;
- (b) if the Assembly thinks fit, a vice chair appointed by the Assembly;
- (c) officer members; and
- (d) non-officer members.”;

(3) In regulation 3(3)

- (i) delete paragraphs (a) and (b);
- (ii) in paragraph (c) delete “up to”;
- (iii) in paragraph (l) delete “and”;
- (iv) in paragraph (m) delete “.” and insert “;and”; and
- (v) after paragraph (m) insert  
“(n) co-opted members.”.

(4) Regulation 3(4) is deleted.

5. Regulation 4 (Appointment of Local Health Board members) of the principal Regulations is amended in accordance with this regulation.

(1) Paragraph (1) is deleted;

(2) In paragraph (3)

- (i) after “vice chair” delete “and” and insert “appointed under paragraph (2),”;
- (ii) after “co-opted members” insert “and local authority members”; and
- (iii) delete “subject to the approval of the Assembly”.

(3) After paragraph (3) insert the following —

“(3A) All local authority members are to be appointed by the local authority for the Board’s area.”.

(4) In paragraph (4) —

- (a) for “will” substitute the following —  
“may”
- (b) after “time concerning appointments” insert —  
“and Schedule 1A”.

- (c) in paragraph (5) —
    - (i) substitute “paragraph (3)” with the following —  
“paragraphs (3) and (3A)”; and
    - (ii) substitute “Schedule 1 to these Regulations” with the following —  
“Schedule 1 or Schedule 1A (where they apply)”;
  - (d) after paragraph (5) insert the following —  
“(5A) The person or persons responsible for making any appointment under paragraphs (3) and (3A) must use all reasonable endeavours to appoint members to fill any vacancy in the membership of the Board.”.
6. Regulation 5 (Transitional arrangements for the appointment of first members of a Local Health Board) is deleted.
7. In regulation 6 (Eligibility requirements for membership of a Local Health Board) —
- (a) Delete the following —  
“who applies to be a member of a Board”; and
  - (b) After “appointed as a member” insert —  
“and must continue to fulfil the relevant requirements while that person holds office”.
8. After regulation 7 (Period of appointment of co-opted members) the following regulation is inserted —

**“Tenure of office**

7A.—(1) Subject to these Regulations, a person holds and vacates office as a member of a Board in accordance with the terms of that person’s appointment.

(2) Subject to regulations 7, 7B, 8 and 9, a person is appointed to hold office as a non-officer member for no longer than four years.

(3) Subject to paragraph (4) a person may on the expiration of his or her term of office be eligible for re-appointment.

(4) A person may not hold office as a non-officer member on a Board without the prior approval of the Assembly if that person has held office on that Board for a total period of ten years or more.

**Tenure of office — Transitional arrangements**

7B.—(1) This regulation applies where a person has been appointed before 1 April 2007.

(2) Subject to paragraph (4), where a person has been appointed to hold office for a specified term that person’s term of office will be the remainder of that term but in any case will be no longer than four years from 1 April 2007.

(3) Subject to paragraph 4, where a person has been appointed to hold office but no term has been specified that person will hold office for no longer than four years from 1 April 2007.

(4) Where a local authority member has been appointed, the local authority may terminate that person’s tenure of office on giving that person notice in writing.”

9. In regulation 9 (Termination of appointment and suspension of non-officer members) of the principal Regulations after paragraph (2) insert the following —

“(2A) Where a person has been appointed by a local authority in accordance with regulation 4(3A) the local authority may terminate that person’s tenure of office on giving that person notice in writing.”.

**10.** After regulation 9 (Termination of appointment and suspension of non-officer members) of the principal Regulations insert the following —

**“Termination of appointment of chair or vice chair**

**9A.**—(1) If the Assembly determines that—

- (a) it is not in the interests of the health service in the area for which a Board acts; or
- (b) it is not conducive to the good management of a Board,

for a person appointed as a chair or vice chair of a Board to continue to hold that office, the Assembly may remove that person from that office.

(2) If it comes to the notice of the Assembly that a person appointed as a chair or vice chair has become ineligible for appointment under Part I of Schedule 2 to these Regulations, the Assembly may remove that person from that office.

(3) If it appears to the Assembly that a person appointed as a chair or vice chair has failed to comply with regulation 15, the Assembly may remove that person from that office.

(4) If a person appointed as a chair or vice chair has failed to attend a meeting of the Board for a period of three months, the Assembly may terminate that person’s membership unless satisfied that—

- (a) the absence was due to a reasonable cause; and
- (b) the person will be able to attend such meetings within such period as the Assembly considers reasonable.

(5) Where a person is appointed as vice chair in accordance with regulation 10 and that person has been removed from that office under any of the paragraphs above he or she may continue to be a non-officer member unless his or her membership is otherwise terminated by the Board.

(6) Before making a decision to terminate the membership of a chair or vice chair under any of the paragraphs above, the Assembly may suspend the tenure of office of that chair or vice chair for such period as it considers reasonable.

(7) A chair or vice chair whose membership is suspended under paragraph (5) may not perform the functions of any member of the Board.

**9B.** Any member may at any time resign his or her membership by notice in writing to the Board but subject to the terms of that person’s appointment.”.

**11.**—(1) Regulation 10 (Appointment of vice chair) of the principal Regulations is amended in accordance with this regulation.

(2) In regulation 10(1) after “an officer member” insert the following —  
“, a co-opted member or an associate member”.

(3) After regulation 10(1) insert the following paragraph —

“(1A) Where a non-officer member has been appointed as vice chair under this regulation that member continues to be a non-officer member for the purpose of these Regulations.

(1B) Where the Board appoints a vice chair it must do so in accordance with Schedule 1A”.

12. In regulation 13 (Meetings and proceedings) of the principal Regulations after paragraph (3) insert —

“(3A) The proceedings of the Board are not invalidated by a vacancy in the membership of the Board or by any defect in the appointment of a person as a member.”.

13. In regulation 16 (Arrangements by Boards for the exercise of their functions) of the principal Regulations

(a) in paragraph (1)(c)(iv) delete “or”; and

(b) after paragraph (1)(c)(iv) insert —

“(v) another Board; or”.

14.—(1) Schedule 1 of the principal Regulations is amended in accordance with the following provisions of this regulation.

(2) In paragraph (1) —

(a) after “vice chair” for “,” substitute “and”; and

(b) delete “and the first members”.

(3) In paragraph (2) for “The Board” substitute the following —

“The person responsible for making any appointment under regulation 4(3), (3A) and (4)”.

15. After Schedule 1 insert the following —

#### **“Schedule 1A**

##### **Procedures for Appointment of Co-opted Members and Vice chairs**

(1) This Schedule applies to the selection and appointment of —

(a) co-opted members appointed under regulation 4(4); and

(b) vice chairs appointed under regulation 10.

(2) The Board must ensure that appropriate arrangements are in place for the selection and appointment of persons as co-opted members and as vice chairs and those arrangements must take into account —

(a) the requirement that selection and appointment of members is open and transparent; and

(b) the need to ensure that a member to be appointed meets the eligibility requirements specified in Part 1 of Schedule 2 and that the member meets the selection criteria and standards of competence applied by the Board to other non officer members.”

Signed on behalf of the National Assembly for Wales under section 66(1) of the Government of Wales Act 1998(3)

20 March 2007

*D. Elis-Thomas*  
The Presiding Officer of the National Assembly

---

## EXPLANATORY NOTE

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

1. These Regulations, which apply in relation to Wales, amend the Local Health Board (Constitution, Membership and Procedures) (Wales) Regulations 2003 (S.I. 2003/149 (W.19)) (“the 2003 Regulations”). The 2003 Regulations make provisions for the constitution and membership of Local Health Boards including their procedures and administrative arrangements. The Regulations amend the 2003 Regulations to make provision for local authorities to appoint persons to represent them on the Board. The Regulations also make provision for the tenure of all Board appointments and for the termination of the appointments of Board members.

2. The Regulations—

- (a) make amendments to regulation 2 of the 2003 Regulations to include NHS Foundation Trusts in the definition of health service body (regulation 3);
- (b) amend regulation 3 of the 2003 Regulations to clarify that for the purpose of those Regulations there is a distinction between a chair or vice-chair appointed by the Assembly and other members of the Board (regulation 4);
- (c) provide that all members who represent the local authority for the Board’s area are appointed by the local authority (regulation 5(3));
- (d) where there are vacancies on a Board, that Board must use all reasonable endeavours to fill that vacancy (regulation 5(4));
- (e) remove provision for transitional arrangements for the appointment of first members of the Board. This provision is no longer necessary now that the Boards have been established (regulation 6);
- (f) provide for appointment of non-officer members for no longer than four years and provide that where a non-officer member serves on a Board for longer than ten years the Board must seek approval from the National Assembly. They also make provision for transitional arrangements for existing members (regulation 8);
- (g) make provision that where a person has been appointed by a local authority that local authority may terminate the appointment at any time (regulation 9);
- (h) provides for the National Assembly to terminate the appointment of a chair or vice-chair (regulation 10); and
- (i) provides that where a vice-chair has been appointed by the Board but the appointment is terminated by the National Assembly that person continues as a non-officer member (regulation 11).