
WELSH STATUTORY INSTRUMENTS

2009 No. 779

**The Local Health Boards (Constitution, Membership
and Procedures) (Wales) Regulations 2009**

PART 1

Introduction

Title, commencement and application

1. The title of these Regulations is the Local Health Boards (Constitution, Membership and Procedures) (Wales) Regulations 2009 and they come into force on 1 June 2009.

Interpretation

2. The following words and phrases have the following meanings —

“the Act” (“*y Ddeddf*”) means the National Health Service (Wales) Act 2006;

“associate member” (“*aelod cyswllt*”) means a person who is appointed in accordance with regulation 4(3) or 4(4).

“Board” (“*Bwrdd*”) means a Local Health Board;

“Board’s area” (“*ardal y Bwrdd*”) means the area for which a Board is established as set out—

- (a) in the Local Health Boards (Establishment and Dissolution) (Wales) Order 2009(1);
- (b) in relation to Powys Local Health Board, in the Local Health Boards (Establishment) (Wales) Order 2003(2),

as such area may be varied from time to time;

“health service body” (“*corff gwasanaeth iechyd*”) means a Special Health Authority, Strategic Health Authority, Local Health Board, NHS Trust, NHS Foundation Trust or Primary Care Trust;

“local authority” (“*awdurdod lleol*”) means a county or county borough council in Wales;

“member” (“*aelod*”) means a chair, vice-chair, officer or non-officer member of a Board;

“non-officer member” (“*aelod nad yw'n swyddog*”) means a member of a Board who holds any office set out in regulation 3(4);

“officer member” (“*swyddog-aelod*”) means a member of a Board who holds any office set out in regulation 3(2);

“shadow period” (“*cyfnod cysgodol*”) means the period between the date of the coming into force of these Regulations and 1 October 2009;

(1) S.I. 2009 No. 778 (W.66).

(2) S.I. 2003 No.148 (W.18) as amended by S.I. 2009/778 (W.66).

“trade union” (“*undeb llafur*”) has the meaning assigned to it in section 1 of the Trade Union and Labour Relations (Consolidation) Act 1992(3) and which is registered on the list of trade unions held by the Certification Officer in accordance with section 2 of that Act;

“voluntary organisations” (“*sefydliadau gwirfoddol*”) has the meaning assigned to it in section 206(1) of the Act.

PART 2

Membership

Membership of Local Health Boards

- 3.—(1) The members of the Board consist of—
- (a) a chair;
 - (b) a vice-chair;
 - (c) officer members; and
 - (d) non-officer members.
- (2) The officer members consist of—
- (a) a chief officer;
 - (b) a medical officer;
 - (c) a finance officer;
 - (d) a nurse officer;
 - (e) an officer who has responsibility for provision of the following—
 - (i) primary care services;
 - (ii) community health services; and
 - (iii) mental health services.
 - (f) an officer who has responsibility for workforce and organisational development;
 - (g) an officer who has responsibility for public health;
 - (h) an officer who has responsibility for the strategic and operational planning of the provision of health services;
 - (i) an officer who has responsibility for therapies and health science.
- (3) Officer members in paragraph (2) will have such other responsibilities as may be prescribed by the Board.
- (4) There are nine non-officer members which must include—
- (a) a local authority member;
 - (b) a voluntary organisation member;
 - (c) a trade union member;
 - (d) a person who holds a post in a university that is related to health.
- (5) In addition there may be associate members appointed in accordance with regulation 4(3) and (4).

Appointment of Local Health Board members

- 4.—(1) The chair, vice-chair and non-officer members are appointed by the Welsh Ministers.
- (2) The officer members are appointed by the Board.
- (3) The Welsh Ministers may appoint no more than three associate members.
- (4) If it considers it necessary or expedient for the performance by the Board of any of its functions, the Board may appoint one associate member.
- (5) Before making an appointment in accordance with paragraph (4) the Board must have written consent from the Welsh Ministers.
- (6) Where the Board makes an appointment in accordance with paragraphs (2) or (4) it must have regard to any guidance issued by the Welsh Ministers from time to time concerning appointments.
- (7) Appointments made in accordance with paragraphs (1) will be in accordance with the provisions in Schedule 1 (where they apply).
- (8) Where a person is appointed in accordance with paragraphs (1), (3) and (4) regard must be had to the need to encourage diversity in the range of persons who may be appointed and to ensure that they are representative of the interests of the community within the Board's area.
- (9) Each local authority within the Board's area may nominate two persons and the Welsh Ministers may choose a person from those persons nominated to be the local authority member under regulation 3(4)(a).
- (10) The university in column 1 of Schedule 4 may nominate two persons and the Welsh Ministers may choose a person from those persons nominated to be the university member under regulation 3(4)(d) for the Local Health Board assigned to it in column 2 of Schedule 4.

Eligibility requirements for membership of a Local Health Board

5. Any person must fulfil the relevant requirements for eligibility in Schedule 2 before that person may be appointed as a member or associate member and must continue to fulfil the relevant requirements while that person holds office.

Tenure of office of chair, vice-chair, non-officer members and associate members

- 6.—(1) This regulation applies to any person who is appointed as—
 - (a) a chair, vice-chair or non-officer member; or
 - (b) an associate member appointed by Welsh Ministers in accordance with regulation 4(3).
- (2) Subject to these Regulations, a member or associate member holds and vacates office in accordance with the terms of that person's appointment.
- (3) A member or associate member may be appointed for a period of no longer than four years.
- (4) Subject to paragraph (5) a member or associate member may on the expiration of his or her term of office be re-appointed in accordance with regulations 4(1) or 4(3).
- (5) A person may not hold office as a member or an associate member for the same Board for a total period of more than eight years.

Tenure of office of associate members appointed by the Board

- 7.—(1) This regulation applies to any person who is appointed by the Board as an associate member in accordance with regulation 4(4).
- (2) Subject to these Regulations, an associate member holds and vacates office in accordance with the terms of that person's appointment.

(3) An associate member may be appointed for a period of no longer than one year.

(4) Subject to paragraph (5), an associate member may on the expiration of his or her term of office be re-appointed in accordance with regulation 4(4).

(5) A person may not hold office as an associate member for the same Board for a total period of more than four years.

Termination of appointment of officer members

8.—(1) The chair, vice-chair and non-officer members may immediately remove an officer member from office —

- (a) if they are of the opinion that it is not in the interests of the Board that a person who is an officer member should continue to hold office as a member; or
- (b) having been notified by officer members in accordance with paragraph (2), they are of the opinion that it is not in the interests of the Board that a person who is an officer member should continue to hold office as a member.

(2) If all of the officer members (other than an officer member who is the subject of a notification to the chair under this paragraph) are of the opinion that a person who is an officer member should not continue to hold office as a member, they may notify the Board.

(3) Where the chair, the vice-chair and non-officer members remove a person from office in accordance with paragraph (1) or, having been notified by the officer members in accordance with paragraph (2), determine that a person should continue to hold office, they must immediately notify the Welsh Ministers in writing, stating the reasons for their decision.

(4) Where a person has been appointed to be an officer member, if it comes to the notice of the chair, the vice-chair or any of the non-officer members that the person—

- (a) has become ineligible for appointment under Schedule 2, or
- (b) was at the time of their appointment ineligible for appointment under Schedule 2,

they must immediately notify the Board and the chair must immediately notify that officer member and the Welsh Ministers in writing of such ineligibility.

(5) An officer member must immediately notify the Board if that member becomes ineligible under Schedule 2.

(6) Where notice has been given in accordance with paragraph (4), the chair, the vice-chair and the non-officer members must remove that person from office and that person ceases to act as an officer member.

(7) If it appears to the chair, the vice-chair and the non-officer members that an officer member has failed to comply with regulation 17, they may remove that person from office and that person ceases to act as an officer member.

(8) Where an officer member has been removed from office in accordance with paragraphs (6) and (7) the chair must immediately notify the Welsh Ministers.

(9) If a person who is an officer member has failed to attend any meeting of the Board for a period of six months or more, the chair, the vice-chair and the non-officer members must remove that person from office unless they are 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 chair, the vice-chair and the non-officer members consider reasonable.

Suspension of officer members

9.—(1) Before deciding whether to remove a person from office in accordance with regulation 8, the chair, the vice-chair and the non-officer members may, if they consider it appropriate to do so, suspend the tenure of office of an officer member for such period as they consider reasonable.

(2) Where an officer member is suspended in accordance with paragraph (1), the chair, the vice-chair and the non-officer members must immediately notify that member and the Welsh Ministers in writing, stating the reasons for his or her suspension.

(3) An officer member whose tenure of office is suspended may not perform the functions of any member of the Board.

Termination of appointment of members and associate members appointed by Welsh Ministers

10.—(1) This regulation applies to any person who is appointed as—

- (a) a chair;
- (b) a vice-chair;
- (c) a non-officer member;
- (d) an associate member appointed by the Welsh Ministers in accordance with regulation 4(3).

(2) The Welsh Ministers may immediately remove a person from office if they determine that —

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

for that person to continue to hold office.

(3) If it comes to the notice of the Welsh Ministers that a person appointed has become ineligible under Schedule 2 or has failed to comply with regulation 17, the Welsh Ministers may remove that person from that office.

(4) A person appointed must immediately notify the Board if that person becomes ineligible under Schedule 2.

(5) If a person appointed has failed to attend any meeting of the Board for a period of six months or more, the Welsh Ministers may remove that person from that office unless they are 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 Welsh Ministers consider reasonable.

(6) A person may at any time resign his or her office as member or associate member by notice in writing to the Welsh Ministers and to the Board but subject to the terms of that person's appointment.

Suspension of members and associate members appointed by Welsh Ministers

11.—(1) Before making a decision to remove a person from office under regulation 10, the Welsh Ministers may suspend the tenure of office of that person for such period as they consider reasonable.

(2) Where a member is suspended in accordance with paragraph (1), the Welsh Ministers will immediately notify that member in writing, stating the reasons for his or her suspension.

(3) A person whose appointment is suspended under paragraph (1) may not perform the functions of any member.

Termination of appointment of associate members appointed by the Board

12.—(1) This regulation applies to associate members appointed in accordance with regulation 4(4).

(2) The Board may immediately remove a person from office if it determines that —

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

for a person to continue to hold office .

(3) If it comes to the notice of the Board that a person appointed has become ineligible for appointment under Schedule 2 or has failed to comply with regulation 17, the Board may remove that person from that office.

(4) A person appointed must immediately notify the Board if that person becomes ineligible under Schedule 2.

(5) If a person appointed as an associate member is required to attend a meeting of the Board but has failed to do so for a period of six months or more, the Board may remove that person from that office 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 Board considers reasonable.

(6) Any member may at any time resign his or her office as associate member by notice in writing to the Welsh Ministers and to the Board but subject to the terms of that person's appointment.

PART 3**Proceedings and Administrative Arrangements of Boards****Powers of vice-chair**

13. Where the chair of the Board—

- (a) has died;
- (b) has ceased to hold office; or
- (c) is unable to perform the duties of chair owing to illness, absence or any other cause,

the vice-chair will act as chair until a new chair is appointed or the existing chair resumes the duties of chair, as the case may be; and references to the chair in Schedule 3 will, so long as there is no chair able to perform the duties of chair, be taken to include references to the vice-chair.

Appointment of committees and sub-committees

14. Subject to such directions as may be given by the Welsh Ministers, the Board may and, if directed by the Welsh Ministers, must —

- (a) appoint committees or sub-committees of the Board, or
- (b) together with one or more Boards or NHS Trusts or a local authority in the Board's area, appoint joint committees or joint sub-committees,

consisting wholly or partly of the members of the Board or other health service bodies or of persons who are not members of the Board or other health service bodies.

Meetings and proceedings

15.—(1) The meetings and proceedings of the Board must be conducted in accordance with Schedule 3 and with Standing Orders made under paragraph (2).

(2) The Board must make Standing Orders for the regulation of its proceedings and business including provisions for the Board's suspension.

(3) The Board may—

- (a) vary; or
- (b) revoke and remake,

its Standing Orders.

(4) The Board may, in the case of a committee or sub-committee established in accordance with regulation 14(a), make, vary and revoke Standing Orders relating to that committee or sub-committee.

(5) Where a joint committee or joint sub-committee has been established in accordance with regulation 14(b), the Board must approve any Standing Orders that may be made by that committee or sub-committee.

(6) Standing Orders made under this regulation will be subject to, and must be made in accordance with, such directions as may be issued by Welsh Ministers.

Associate members

16. Associate members may not vote in any meetings or proceedings of a Board.

Disability of members on account of pecuniary interest

17.—(1) Subject to this regulation, if a member or an associate member—

- (a) has any pecuniary interest, direct or indirect, in any contract, proposed contract or other matter; and
- (b) is present at a meeting of the Board at which the contract, proposed contract or other matter is the subject of consideration,

that member must at the meeting and as soon as practicable after its commencement disclose the fact and must not take part in the consideration or discussion of the contract, proposed contract or other matter or, if that member has the right to vote, must not vote on any question with respect to it.

(2) The Welsh Ministers may, subject to such conditions as they may consider fit, impose or remove any disability imposed by this regulation in any case in which it appears to the Welsh Ministers to be in the interests of the health service to do so.

(3) A Board may, by Standing Orders made under regulation 15, provide for the exclusion of any member or associate member from a meeting of the Board while any contract, proposed contract or other matter in which that member has a pecuniary interest, direct or indirect, is under consideration.

(4) Any remuneration, compensation or allowances payable to a member or associate member by virtue of paragraph 10 of Schedule 2 to the Act is not to be treated as a pecuniary interest for the purpose of this regulation.

(5) Subject to paragraphs (2) and (6), a member or associate member is to be treated for the purposes of this regulation as having an indirect pecuniary interest in a contract, proposed contract or other matter if such member, or any nominee of such member —

- (a) is a director or other officer of a company or other body, not being a public body, with which the contract was made or is proposed to be made or which has a direct pecuniary interest in the matter under consideration; or

- (b) is a person with whom the contract was made or is proposed to be made, or who has a direct pecuniary interest in the matter under consideration, or is a partner of, or is in the employment of, such a person;

and in the case of persons who are married to each other or in a civil partnership with each other or who are living together as spouses or civil partners, the interest of one such person will, if known to the other, be deemed for the purpose of this regulation to be also an interest of the other.

(6) A member or an associate member is not to be treated as having a pecuniary interest in any contract, proposed contract or other matter by reason only —

- (a) of such member's membership of a company or other body if such member has no beneficial interest in any securities of that company or body; or
- (b) of an interest in any company, body or person with which such member is connected as mentioned in paragraph (5) which is so remote or insignificant that it cannot reasonably be regarded as likely to influence a member in the consideration or discussion of or in voting on, any question with respect to that contract, proposed contract or matter.

(7) Where a member or an associate member 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—

- (a) 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 less, and
- (b) if the share capital is of more than one class, the total nominal value of shares of any one class in which that member has a beneficial interest does not exceed one hundredth of the total issued share capital of that class,

this regulation does not prohibit that member from taking part in the consideration or discussion of the contract, proposed contract or other matter or, where that member has the right to vote, from voting on any question with respect to it.

(8) Paragraph (7) does not affect a member's or associate member's duty to disclose an interest under paragraph (1).

(9) This regulation applies in relation to a committee or sub-committee and to a joint committee or joint sub-committee as it applies in relation to a Board, and applies to a member of any such committee, sub-committee or joint committee or sub-committee (whether or not such person is also a member of a Board or an associate member) as it applies to a member of a Board or associate member.

(10) In this regulation —

“public body” (“*corff cyhoeddus*”) includes any body established for the purpose of carrying on, under national ownership, any industry or part of any industry or undertaking, the governing body of any university, university college or college, school or hall of a university and the National Trust for Places of Historic Interest or Natural Beauty incorporated by the National Trust Act 1907(4);

“securities” (“*gwarannau*”) 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 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” (“*cyfranddaliadau*”) means shares in the share capital of a company or other body or the stock of a company or other body.

(4) 1907 c. 136.

PART 4

Transitional Arrangements for Powys Teaching Local Health Board

18. This Part applies in relation to the Powys Teaching Local Health Board only.

Arrangements for existing members of Powys Teaching Local Health Board

19. Any person who is, or has been, appointed to be a member or co-opted member in accordance with the Local Health Board (Constitution, Membership and Procedures) (Wales) Regulations 2003⁽⁵⁾ will cease to be a member or co-opted member at the end of the shadow period.

Arrangements for the shadow board

20.—(1) Persons appointed in accordance with paragraphs (2) and (3) will comprise the shadow Board until the end of the shadow period.

(2) The Welsh Ministers will appoint persons who will become the chair, vice-chair and non-officer members at the end of the shadow period.

(3) The shadow Board will appoint persons who will become officer members at the end of the shadow period.

(4) The Board will co-operate with the shadow Board to enable the shadow Board to operate as the Board from the end of the shadow period.

(5) Persons appointed in accordance with paragraphs (2) and (3) must comply with the eligibility requirements in Schedule 2 and will be treated as if they were members appointed in accordance with regulation 4.

PART 5

Miscellaneous

Transitional arrangements during the shadow period

21. During the shadow period paragraph 6 of Schedule 3 applies as if it read—

“No business may be transacted at a meeting unless the number of members present is not less than two.”.

Revocation

22.—(1) Subject to paragraphs (2) and (3), the following Regulations are revoked—

(a) the Local Health Board (Constitution, Membership and Procedure) (Wales) Regulations 2003⁽⁶⁾;

(b) the Local Health Board (Constitution, Membership and Procedure) (Wales) (Amendment) Regulations 2007⁽⁷⁾.

(2) In relation to the Boards listed in Schedule 2 to the Local Health Boards (Establishment and Dissolution) (Wales) Order 2009⁽⁸⁾—

(a) the Regulations in paragraph (1) are revoked at the end of the shadow period;

⁽⁵⁾ S.I. 2003/149 (W.19). As amended by S.I. 2007/953 (W.84).

⁽⁶⁾ S.I. 2003/149 (W.19).

⁽⁷⁾ S.I. 2007/953 (W.84).

⁽⁸⁾ S.I. 2009/778 (W.66).

- (b) except for this regulation, these Regulations do not apply.
- (3) In relation to Powys Teaching Local Health Board—
 - (a) subject to sub-paragraph (b), the Regulations in paragraph (1) are revoked at the end of the shadow period;
 - (b) these Regulations will apply at the end of the shadow period except that for the purposes of appointments under regulation 20 and for this regulation they apply from the beginning of the shadow period.

24 March 2009

Edwina Hart
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the Welsh Ministers