

*Changes to legislation: There are currently no known outstanding effects for the Health Act 2006, SCHEDULE 4. (See end of Document for details)*

## SCHEDULES

### SCHEDULE 4

Section 57

#### THE APPOINTMENTS COMMISSION: SUPPLEMENTARY

##### *Status*

- 1 (1) The Commission is not to be regarded as the servant or agent of the Crown or as enjoying any status, immunity or privilege of the Crown.
- (2) The Commission's property is not to be regarded as property of, or property held on behalf of, the Crown.

##### **Commencement Information**

- I1** Sch. 4 para. 1 in force at 1.10.2006 by [S.I. 2006/2603](#), [art. 4\(4\)\(b\)](#)

##### *The Board of the Commission*

- 2 The Commission is to consist of the following members—
  - (a) the chairman,
  - (b) the prescribed number of non-executive members,
  - (c) the chief executive, and
  - (d) the prescribed number of executive members.

##### **Commencement Information**

- I2** Sch. 4 para. 2 in force for certain purposes at Royal Assent see s. 83
- I3** Sch. 4 para. 2 in force at 1.10.2006 in so far as not already in force by [S.I. 2006/2603](#), [art. 4\(4\)\(b\)](#)

##### *Chairman and non-executive members*

- 3 (1) The chairman and non-executive members are to be appointed by the Secretary of State.
- (2) Of the non-executive members at least one (but not more than four) must be persons who are also appointed to be health and social care commissioners under paragraph 10.
- (3) Regulations may—
  - (a) prescribe conditions which must be satisfied in relation to a person before he is appointed as chairman or as a non-executive member;
  - (b) make provision as to the circumstances in which a person is disqualified for being the chairman or a non-executive member.

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#### Commencement Information

- I4** Sch. 4 para. 3 in force for certain purposes at Royal Assent see s. 83  
**I5** Sch. 4 para. 3 in force at 1.10.2006 in so far as not already in force by [S.I. 2006/2603](#), [art. 4\(4\)\(b\)](#)

#### *Chief executive*

- 4 (1) The chief executive is to be appointed by the chairman and the non-executive members of the Commission.
- (2) The chief executive must be—
- (a) an employee of the Commission, or
  - (b) a person seconded to the staff of the Commission.
- (3) Anything authorised or required to be done by the chief executive may be done by any other member of the Commission's staff who is authorised for the purpose by the chief executive (whether generally or specially).

#### Commencement Information

- I6** Sch. 4 para. 4 in force at 1.10.2006 by [S.I. 2006/2603](#), [art. 4\(4\)\(b\)](#)

#### *The executive members*

- 5 (1) The executive members are to be appointed by the chairman and the non-executive members of the Commission.
- (2) The executive members must be—
- (a) employees of the Commission, or
  - (b) persons seconded to the staff of the Commission.
- (3) A person may not be appointed as an executive member unless he is recommended for appointment by the chief executive.

#### Commencement Information

- I7** Sch. 4 para. 5 in force at 1.10.2006 by [S.I. 2006/2603](#), [art. 4\(4\)\(b\)](#)

#### *The vice-chairman*

- 6 <sup>[F1]</sup>(1) The members of the Commission may appoint one of the non-executive members to be vice-chairman for such period (not exceeding the remainder of his period of office as member) as they specify on making the appointment.
- <sup>[F2]</sup>(2) But regulations may—
- (a) provide that if the chairman's membership is suspended the Secretary of State may direct that the appointment of the vice-chairman under subparagraph (1) ceases to have effect;
  - (b) make provision about the appointment by the Secretary of State in those circumstances of another non-executive member to be vice-chairman.]

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#### Textual Amendments

- F1** Reference in [Sch. 4 para. 6\(1\)](#) inserted (19.1.2010) by [Health Act 2009 \(c. 21\)](#), s. 40(1), [Sch. 3 para. 8\(2\)](#) (with [Sch. 3 para. 19](#)); [S.I. 2010/30](#), art. 2(d)
- F2** [Sch. 4 para. 6\(2\)](#) inserted (19.1.2010) by [Health Act 2009 \(c. 21\)](#), s. 40(1), [Sch. 3 para. 8\(3\)](#) (with [Sch. 3 para. 19](#)); [S.I. 2010/30](#), art. 2(d)

#### Commencement Information

- I8** Sch. 4 para. 6 in force at 1.10.2006 by [S.I. 2006/2603](#), [art. 4\(4\)\(b\)](#)

#### *Terms of appointment: chairman and non-executive members*

- 7 (1) Regulations may make provision as to the terms on which the chairman and non-executive members of the Commission are to be appointed.
- (2) The regulations may in particular make provision as to—
- (a) the period for which they are to hold office;
  - (b) their eligibility for re-appointment;
  - (c) remuneration and allowances;
  - (d) circumstances in which their membership may be suspended or terminated.
- (3) Sub-paragraph (4) applies if—
- (a) a person ceases to hold office as chairman or a non-executive member of the Commission, and
  - (b) the Secretary of State determines that there are special circumstances that make it appropriate for that person to receive compensation.
- (4) The Secretary of State must—
- (a) pay to that person such compensation as the Secretary of State may determine, or
  - (b) make provision for the payment to or in respect of that person of such pension, allowances or gratuities by way of compensation as the Secretary of State may determine.

#### Commencement Information

- I9** Sch. 4 para. 7 in force for certain purposes at Royal Assent see s. 83
- I10** Sch. 4 para. 7 in force at 1.10.2006 in so far as not already in force by [S.I. 2006/2603](#), [art. 4\(4\)\(b\)](#)

#### *Terms of appointment: chief executive and executive members*

- 8 (1) The Commission must determine—
- (a) the conditions of service of, and
  - (b) the remuneration and allowances payable to,
- the chief executive and the executive members.
- (2) The chief executive or (as the case may be) an executive member must not take part in a discussion or decision in pursuance of sub-paragraph (1) which relates to—
- (a) his own conditions of service, or
  - (b) remuneration or allowances payable to him.

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- (3) If the chief executive or an executive member is a person seconded to the Commission—
- (a) his conditions of service, and
  - (b) remuneration or allowances payable to him,
- must be determined by agreement between his employer and the Commission.

**Commencement Information**

**I11** Sch. 4 para. 8 in force at 1.10.2006 by [S.I. 2006/2603](#), [art. 4\(4\)\(b\)](#)

*Committees: general*

- 9 (1) The Commission may appoint such committees and sub-committees as it thinks appropriate.
- (2) A committee or sub-committee may consist of or include persons who are not members of the Commission.
- (3) The Commission—
- (a) may delegate to a committee or sub-committee such of its functions as it thinks fit; and
  - (b) may, in particular, delegate to a committee the function of appointing a sub-committee.
- (4) The Commission may make arrangements for the payment of such remuneration and allowances as it thinks fit to any person who—
- (a) is a member of a committee or sub-committee, but
  - (b) is not an employee of the Commission,
- whether or not he is also a member of the Commission.
- (5) This paragraph is subject to paragraph 10 and to any directions given by the Secretary of State.

**Commencement Information**

**I12** Sch. 4 para. 9 in force at 1.10.2006 by [S.I. 2006/2603](#), [art. 4\(4\)\(b\)](#)

*The Health and Social Care Appointments Committee*

- 10 (1) There is to be a committee of the Commission to be known as the Health and Social Care Appointments Committee.
- (2) The Committee is to discharge on behalf of the Commission—
- (a) the functions which are exercisable by it by virtue of directions under section 58, 60 or 61, and
  - (b) such other functions as the Secretary of State may specify.
- (3) The Committee is to consist of—
- (a) the chairman of the Commission,
  - (b) the chief executive, and

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- (c) not more than the prescribed number of persons appointed by the Secretary of State.
- (4) The persons so appointed are to be known as “health and social care commissioners”.
- (5) Regulations may—
  - (a) prescribe conditions which must be satisfied in relation to persons before they are appointed as health and social care commissioners;
  - (b) make provision as to the circumstances in which persons are disqualified for being health and social care commissioners;
  - (c) make provision as to the terms on which the health and social care commissioners are to be appointed.
- (6) The provision that may be made in relation to the health and social care commissioners under sub-paragraph (5)(c) includes, in particular, provision as to—
  - (a) the period for which they are to hold office as health and social care commissioners;
  - (b) their eligibility for re-appointment as such commissioners;
  - (c) remuneration and allowances payable to them as such commissioners;
  - (d) circumstances in which they may be suspended or removed from office as such commissioners.

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**Commencement Information**

**I13** Sch. 4 para. 10 in force for certain purposes at Royal Assent see s. 83

**I14** Sch. 4 para. 10 in force at 1.10.2006 in so far as not already in force by [S.I. 2006/2603](#), [art. 4\(4\)\(b\)](#)

*Proceedings*

- 11 (1) The Commission may make such provision as it thinks fit to regulate—
  - (a) its own proceedings (including quorum), and
  - (b) the procedure (including quorum) of its committees and sub-committees.
- (2) Sub-paragraph (1) has effect subject to any directions given by the Secretary of State.

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**Commencement Information**

**I15** Sch. 4 para. 11 in force at 1.10.2006 by [S.I. 2006/2603](#), [art. 4\(4\)\(b\)](#)

- 12 On any occasion when both the chairman and the vice-chairman are, for any reason, unable to perform the duties of chairman, the other members of the Commission may appoint one of the non-executive members to act in the place of the chairman.

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**Commencement Information**

**I16** Sch. 4 para. 12 in force at 1.10.2006 by [S.I. 2006/2603](#), [art. 4\(4\)\(b\)](#)

- 13 The validity of any proceedings of the Commission, or any of its committees or sub-committees, is not affected by—
  - (a) any vacancy in the office of chairman or chief executive or in the membership of the Commission or the committee or sub-committee, or

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- (b) any defect in the appointment of the chairman or the chief executive or a member of the Commission or the committee or sub-committee.

**Commencement Information**

**I17** Sch. 4 para. 13 in force at 1.10.2006 by [S.I. 2006/2603](#), [art. 4\(4\)\(b\)](#)

- 14 The Public Bodies (Admission to Meetings) Act 1960 (c. 67) applies to meetings of the Commission.

**Commencement Information**

**I18** Sch. 4 para. 14 in force at 1.10.2006 by [S.I. 2006/2603](#), [art. 4\(4\)\(b\)](#)

*Staff*

- 15 (1) The Commission may appoint such persons to be employees of the Commission as it thinks fit.
- (2) The Commission may make arrangements for persons to be seconded to the Commission to serve as members of its staff.
- (3) A period of secondment on the staff of the Commission does not affect the continuity of a person's employment with the employer from whose service he is seconded.
- (4) References in this Schedule to members of the Commission's staff are to persons who either are employees of the Commission or have been seconded to it to serve as members of its staff.

**Commencement Information**

**I19** Sch. 4 para. 15 in force at 1.10.2006 by [S.I. 2006/2603](#), [art. 4\(4\)\(b\)](#)

- 16 (1) Employees of the Commission are to be appointed on such terms and conditions as the Commission determines.
- (2) Without prejudice to its other powers, the Commission may pay, or make provision for the payment of—
- (a) pensions, allowances or gratuities, or
  - (b) compensation for loss of employment or reduction of remuneration,
- to or in respect of its employees.

**Commencement Information**

**I20** Sch. 4 para. 16 in force at 1.10.2006 by [S.I. 2006/2603](#), [art. 4\(4\)\(b\)](#)

- 17 (1) The Commission may, to such extent as it determines, delegate any of its functions to any members of its staff.
- (2) Any committee of the Commission may, to such extent as the committee determines, delegate any function conferred on it to any of its sub-committees or any member of the Commission's staff.

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- (3) This paragraph is subject to any directions given by the Secretary of State; and sub-paragraph (2) does not apply in relation to decisions falling to be made by the Health and Social Care Appointments Committee in relation to particular appointments.

**Commencement Information**

**I21** Sch. 4 para. 17 in force at 1.10.2006 by [S.I. 2006/2603](#), [art. 4\(4\)\(b\)](#)

*Financing of Commission*

- 18 (1) The Secretary of State may make—
- (a) such annual payments to the Commission as he thinks appropriate in respect of the performance by it of functions to which sub-paragraph (2) applies, and
  - (b) such other payments to the Commission as he thinks appropriate in respect of the performance by it of functions to which sub-paragraph (3) applies.
- (2) This sub-paragraph applies to—
- (a) any functions exercisable by virtue of a direction under section 58 in relation to Strategic Health Authorities, Primary Care Trusts or NHS trusts, and
  - (b) such other of the Commission's functions as may be prescribed.
- (3) This sub-paragraph applies to any functions exercisable by virtue of a direction under section 58 in relation to—
- (a) Special Health Authorities, or
  - (b) bodies mentioned in section 58(3) or (4) or section 60.
- (4) Before deciding the amount of any payment under this paragraph the Secretary of State must take account of any income received by the Commission from any other source.
- (5) Payments under this paragraph may be made—
- (a) at such times, and
  - (b) subject to such conditions (if any),
- as the Secretary of State thinks appropriate.

**Commencement Information**

**I22** Sch. 4 para. 18 in force at 1.10.2006 by [S.I. 2006/2603](#), [art. 4\(4\)\(b\)](#)

- 19 The National Assembly for Wales may make such payments to the Commission as the Assembly thinks appropriate in respect of the performance by the Commission of functions exercisable by virtue of a direction under section 61.

**Commencement Information**

**I23** Sch. 4 para. 19 in force at 1.10.2006 by [S.I. 2006/2603](#), [art. 4\(4\)\(b\)](#)

- 20 (1) The Secretary of State may make loans to the Commission.
- (2) A loan under this paragraph may be made on such terms as the Secretary of State thinks appropriate.

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#### Commencement Information

**I24** Sch. 4 para. 20 in force at 1.10.2006 by [S.I. 2006/2603](#), [art. 4\(4\)\(b\)](#)

- 21 (1) The Commission may charge for providing—
- (a) any services under arrangements under section 63(2) or (4),
  - (b) any services under section 64(1) to (3), or
  - (c) such other services as may be prescribed.
- (2) The amount of any charge is to be fixed in such a way as the Commission considers appropriate for recovering the costs incurred by it in, or in connection with, providing the services in question.

#### Commencement Information

**I25** Sch. 4 para. 21 in force for certain purposes at Royal Assent see s. 83

**I26** Sch. 4 para. 21 in force at 1.10.2006 in so far as not already in force by [S.I. 2006/2603](#), [art. 4\(4\)\(b\)](#)

#### *Accounts*

- 22 (1) The Commission must keep accounts in such form as the Secretary of State directs.
- (2) The Commission must prepare annual accounts in respect of each financial year in such form as the Secretary of State directs.
- (3) Before the end of the specified period following each financial year the Commission must send a copy of the annual accounts for that year—
- (a) to the Secretary of State, and
  - (b) to the Comptroller and Auditor General.
- (4) The Comptroller and Auditor General must—
- (a) examine, certify and report on the annual accounts, and
  - (b) lay copies of the accounts and of his report before each House of Parliament.
- (5) The “specified period” is such period as the Secretary of State directs.

#### Commencement Information

**I27** Sch. 4 para. 22 in force at 1.10.2006 by [S.I. 2006/2603](#), [art. 4\(4\)\(b\)](#)

#### *Authentication of seal*

- 23 (1) The application of the Commission's seal must be authenticated by the signature of the chairman or another member of the Commission or any other person authorised by the Commission for the purpose.
- (2) A document purporting to be duly executed under the seal of the Commission or to be signed on behalf of the Commission is to be—
- (a) received in evidence, and
  - (b) unless the contrary is proved, taken to be so executed or signed.



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(3) This paragraph does not apply in relation to Scotland.

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**Commencement Information**

**I28** Sch. 4 para. 23 in force at 1.10.2006 by [S.I. 2006/2603](#), [art. 4\(4\)\(b\)](#)

**Changes to legislation:**

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