

SCHEDULE 5

Regulation 25(3)

Persons disqualified from being a chair, CCG member or social services authority member of a review panel

1. A Member of Parliament, Member of the European Parliament or member of the London Assembly.

2.—(1) An individual who, by arrangement with a CCG, provides it with any service or facility in order to support that CCG in discharging its commissioning functions, or an employee or member (including shareholder) of, or a partner in, a body which does so.

(2) The services and facilities mentioned in sub-paragraph (1) do not include services commissioned by a CCG in the exercise of its commissioning functions.

3. A person who, within the period of five years immediately preceding the date of the proposed appointment, has been convicted—

(a) in the United Kingdom of any offence; or

(b) outside the United Kingdom 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, the final outcome of the proceedings was a sentence of imprisonment (whether suspended or not) for a period of not less than three months without the option of a fine.

4. A person who is subject to a bankruptcy restrictions order or an interim bankruptcy restrictions order under Schedule 4A to the Insolvency Act 1986(1), sections 56A to 56K of the Bankruptcy (Scotland) Act 1985(2) or Schedule 2A to the Insolvency (Northern Ireland) Order 1989(3) (which relate to bankruptcy restrictions orders and undertakings).

5.—(1) A person who has been dismissed within the period of five years immediately preceding the date of the proposed appointment, otherwise than because of redundancy, from paid employment by any of the following—

(a) the Board;

(b) a CCG;

(c) a social services authority;

(d) a Strategic Health Authority(4);

(e) a Primary Care Trust(5);

(f) an NHS trust(6);

(g) an NHS foundation trust;

(h) a Special Health Authority(7);

(i) a Local Health Board established under section 11 of the National Health Service (Wales) Act 2006;

(1) 1986 c. 45. Schedule 4A was inserted by the Enterprise Act 2002 (c. 40), Schedule 20.

(2) 1985 c. 66. Sections 56A to 56K were inserted by the Bankruptcy and Diligence etc. (Scotland) Act 2007 (asp 3), section 2(1).

(3) S.I. 1989/2405 (N.I. 19). Schedule 2A was inserted by S.I. 2005/1455 (N.I. 10).

(4) Strategic Health Authorities are continued in existence or established under section 13 of the 2006 Act. They are abolished by section 33 of the 2012 Act.

(5) Primary Care Trusts are continued in existence or established under section 18 of the 2006 Act. They are abolished by section 34 of the 2012 Act.

(6) NHS trusts are established under section 25 of the 2006 Act or section 18 of the National Health Service (Wales) Act 2006 (c. 42). NHS Trusts in England are abolished by section 179 of the 2012 Act.

(7) Special Health Authorities are established under section 28 of the 2006 Act or section 22 of the National Health Service (Wales) Act 2006.

Status: This is the original version (as it was originally made).

- (j) a Health Board or Special Health Board constituted under the National Health Service (Scotland) Act 1978**(8)**;
- (k) a Scottish NHS trust established under section 12A of the National Health Service (Scotland) Act 1978**(9)**;
- (l) a Health and Social Services Board constituted under the Health and Personal Social Services (Northern Ireland) Order 1972**(10)**;
- (m) the Care Quality Commission established by section 1 of the Health and Social Care Act 2008**(11)**;
- (n) the Health Protection Agency established by section 1 of the Health Protection Agency Act 2004**(12)**;
- (o) Monitor**(13)**;
- (p) the Wales Centre for Health established by section 2 of the Health (Wales) Act 2003**(14)**;
- (q) the Common Services Agency for the Scottish Health Service constituted by section 10 of the National Health Service (Scotland) Act 1978**(15)**;
- (r) Healthcare Improvement Scotland, established by section 10A of the National Health Service (Scotland) Act 1978**(16)**;
- (s) the Scottish Dental Practice Board constituted under section 4 of the National Health Service (Scotland) Act 1978**(17)**;
- (t) the Northern Ireland Central Services Agency for the Health and Social Services established under the Health and Personal Social Services (Northern Ireland) Order 1972**(18)**;
- (u) the Regional Health and Social Care Board established under section 7 of the Health and Social Care (Reform) Act (Northern Ireland) 2009**(19)**;
- (v) the Regional Agency for Public Health and Wellbeing established under section 12 of the Health and Social Care (Reform) Act (Northern Ireland) 2009;
- (w) the Regional Business Services Organisation established under section 14 of the Health and Social Care (Reform) Act (Northern Ireland) 2009;

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- (8)** 1978 c. 29. Section 2 was amended by paragraph 1 of Schedule 7 to the Health and Social Services Adjudications Act 1983 (c. 41), section 28 of, and paragraph 19(1) of Schedule 9 and paragraph 1 of Schedule 10 to, the National Health Service and Community Care Act 1990 (c. 19), paragraph 1(2) of Schedule 1 to the National Health Service Reform (Scotland) Act 2004 (asp 7), paragraph 2(2) of Schedule 2 to the Smoking, Health and Social Care (Scotland) Act 2005 (asp 13) and section 2(1) of the Health Boards (Membership and Elections) (Scotland) Act 2009 (asp 5).
 - (9)** Section 12A was inserted by section 31 of the National Health Service and Community Care Act 1990 and amended by paragraph 34 of Schedule 2 to the National Health Service (Primary Care) Act 1997 (c. 46) and sections 46(1) and 48 of, and paragraph 45 of Schedule 4 to, the Health Act 1999 (c. 8).
 - (10)** S.I. 1972/1265 (N.I. 14). Health and Social Services Boards were dissolved by section 1(1) of the Health and Social Care (Reform) Act (Northern Ireland) 2009.
 - (11)** 2008 c. 14.
 - (12)** 2004 c. 17. The Health Protection Agency is abolished by section 56 of the 2012 Act.
 - (13)** "Monitor" is the new name given to the Independent Regulator of NHS Foundation Trusts: see section 61 of the 2012 Act, and generally, Chapter 1 of Part 3 of that Act.
 - (14)** 2003 c. 4. The Wales Centre for Health is abolished under S.I. 2009/2653 (W215).
 - (15)** Section 10 was amended by paragraph 2 of Schedule 6 to the Health Services Act 1980 (c. 53), paragraph 1 of Schedule 10 to the National Health Service and Community Care Act 1990, paragraph 44 of Schedule 8 to the Health Act 1999 (c. 8) and paragraph 2(4) of Schedule 2 to the Smoking, Health and Social Care (Scotland) Act 2005 (asp 13).
 - (16)** Section 10A was inserted by section 108 of the Public Services Reform (Scotland) Act 2010 (asp 8).
 - (17)** Section 4 was amended by section 12(3) of, and Schedule 3 to, the Health and Medicines Act 1988 (c. 49) and paragraph 2(3) of Schedule 2 to the Smoking, Health and Social Care (Scotland) Act 2005.
 - (18)** The Northern Ireland Central Services Agency for the Health and Social Services was dissolved by section 1(1) of the Health and Social Care (Reform) Act (Northern Ireland) 2009.
 - (19)** 2009 c. 1 (N.I.).

- (x) Health and Social Care trusts (formerly known as Health and Social Services trusts), established under the Health and Personal Social Services (Northern Ireland) Order 1991(20);
 - (y) Special health and social care agencies (formerly known as Special health and social services agencies), established under the Health and Personal Social Services (Special Agencies) (Northern Ireland) Order 1990(21);
 - (z) the Patient and Client Council established under section 16 of the Health and Social Care (Reform) Act (Northern Ireland) 2009; and
 - (aa) the Health and Social Care Regulation and Quality Improvement Authority (formerly known as The Northern Ireland Health and Personal Social Services Regulation and Improvement Authority), established under the Health and Personal Social Services (Quality Improvement and Regulation) (Northern Ireland) Order 2003(22).
- (2) For the purposes of paragraph (1), a person is not to be treated as having been in paid employment by reason only of having been—
- (a) in the case of an NHS foundation trust, the chairman, a governor or a non-executive director of the trust;
 - (b) in the case of a CCG, the chair or a member of the governing body of that CCG; or
 - (c) in the case of any other NHS body, the chairman or chair, or a member or a director of the NHS body in question.
6. A person's term of office as the chairman or chair or as a member, director or governor of any of the bodies specified in paragraph 5(1) has been terminated on the grounds—
- (a) that it was not in the interests of, or conducive to the good management of, that body that they should continue to hold office;
 - (b) that it was not in the interests of the health service that they should continue to hold office;
 - (c) of non-attendance at meetings;
 - (d) of non-disclosure of a pecuniary interest;
 - (e) of misbehaviour, misconduct or failure to carry out the person's duties.
7. A health care professional or other professional person who has at any time been subject to an investigation or proceedings, by any body which regulates or licenses the profession concerned ("the regulatory body"), in connection with the person's fitness to practise or any alleged fraud, the final outcome of which was—
- (a) the person's suspension from a register held by the regulatory body, where that suspension has not been terminated;
 - (b) the person's erasure from such a register, where the person has not been restored to the register;
 - (c) a decision by the regulatory body which had the effect of preventing the person from practising the profession in question, where that decision has not been superseded; or
 - (d) a decision by the regulatory body which had the effect of imposing conditions on the person's practice of the profession in question, where those conditions have not been lifted.

(20) S.I. 1991/194 (N.I. 1). Health and Social Services trusts established under Article 10 of S.I. 1991/194 (N.I.) were renamed Health and Social Care trusts under section 1(3) of the Health and Social Care (Reform) Act (Northern Ireland) 2009.

(21) S.I. 1990/247 (N.I. 3). Special health and social services agencies established under Article 10 of the Health and Personal Social Services (Special Agencies) (Northern Ireland) Order 1990 were renamed Special health and social care agencies under section 1(3) of the Health and Social Care (Reform) Act (Northern Ireland) 2009.

(22) S.I. 2003/431 (N.I. 9). The Northern Ireland Health and Personal Social Services Regulation and Improvement Authority established under Article 10 of S.I. 2003/431 (N.I. 9) was renamed The Health and Social Care Regulation and Quality Improvement Authority under section 1(2) of the Health and Social Care (Reform) Act (Northern Ireland) 2009.

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8. A person who is subject to—

- (a) a disqualification order or disqualification undertaking under the Company Directors Disqualification Act 1986**(23)** or the Company Directors Disqualification (Northern Ireland) Order 2002**(24)**; or
- (b) an order made under section 429(2) of the Insolvency Act 1986**(25)** (disabilities on revocation of administration order against an individual).

9. A person who has at any time been removed from the office of charity trustee or trustee for a charity by an order made by the Charity Commissioners for England and Wales**(26)**, the Charity Commission, the Charity Commission for Northern Ireland or the High Court, on the grounds of misconduct or mismanagement in the administration of the charity for which the person was responsible, to which the person was privy, or which the person by their conduct contributed to or facilitated.

10. A person who has at any time been removed, or is suspended, from the management or control of any body under—

- (a) section 7 of the Law Reform (Miscellaneous Provisions) (Scotland) Act 1990**(27)** (powers of the Court of Session to deal with the management of charities); or
- (b) section 34(5)(e) or (ea) of the Charities and Trustee Investment (Scotland) Act 2005**(28)** (powers of the Court of Session to deal with the management of charities).

(23) 1986 c. 46.

(24) S.I. 2002/3150 (N.I. 4).

(25) 1986 c. 45. The original subsections (1) and (2) were substituted by paragraph 3(2) of Schedule 16 to the Tribunals, Courts and Enforcement Act 2007 (c. 15), and subsection (2) was amended by paragraph 15 of Schedule 23 to the Enterprise Act 2002 (c. 40).

(26) The Charity Commissioners for England and Wales were replaced by the Charity Commission: section 6 of the Charities Act 2006 (c. 50).

(27) 1990 c. 40. Section 7 was repealed by paragraph 7(b) of Schedule 4 to the Charities and Trustee Investment (Scotland) Act 2005 (asp 10).

(28) 2005 (asp 10). Section 34 was amended by section 122 of the Public Services Reform (Scotland) Act 2010 (asp 8).