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## STATUTORY INSTRUMENTS

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# 1991 No. 535

## The National Health Service Trusts (Membership and Procedure) (Scotland) Regulations 1991

### PART III

### PROCEEDINGS

#### **Appointment and powers of vice-chairman**

**10.**—(1) For the purpose of enabling the business of the trust to be conducted in the absence of the chairman, the directors of an NHS trust may appoint one of the non-executive directors to be vice-chairman for such a period, not exceeding the remainder of his period as director of the trust, as they may specify on appointing him.

(2) Any director so appointed may at any time resign from the office of vice-chairman by giving notice in writing to the chairman, and the directors of the trust may thereupon appoint another director as vice-chairman in accordance with paragraph (1).

(3) Where the chairman of an NHS trust has died or has ceased to hold office or where he has been unable to perform his duties as chairman owing to illness, absence from Scotland or any other cause, the vice-chairman shall take the place of the chairman in the conduct of the business of the trust and references to the chairman shall, so long as there is no chairman able to perform his duties, be taken to include references to the vice-chairman.

#### **Appointment and functions of committees and sub-committees**

**11.**—(1) Subject to regulation 12, the board of directors of an NHS trust may appoint committees consisting wholly or partly of directors of the trust or wholly of persons who are not directors of the trust.

(2) A committee appointed under this regulation may appoint sub-committees consisting wholly or partly of members of the committee (whether or not they include directors of the trust) or wholly of persons who are not members of the committee (whether or not they include directors of the trust).

(3) Subject to paragraph (4) and to regulation 12, the board of directors of an NHS trust may make arrangements for the exercise of any of its functions by a committee or sub-committee appointed by virtue of this regulation subject to such restrictions and conditions as the board may specify in Standing Orders under regulation 13(3) or otherwise.

(4) If the board of directors of an NHS Trust appoints a committee to exercise any of its functions as managers of a hospital in relation to the discharge of patients under Part V of the Mental Health (Scotland) Act 1984<sup>(1)</sup>, that committee shall not include any employees of the Trust.

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(1) 1984 c. 36; see section 125(1) for the definitions of “hospital” and “managers of a hospital” which were amended by the 1990 Act, Schedule 9, paragraph 28(4).

**Appointment of the executive directors: committees**

**12.—**(1) A committee consisting of the chairman and the non-executive directors of an NHS trust shall appoint a person to be the chief officer.

(2) The committee appointed under paragraph (1), with the addition of the chief officer, shall appoint—

(a) a person to be the chief finance officer; and

(b) the executive directors other than the chief officer and the chief finance officer.

(3) In this regulation the expression “executive director” includes any person to whom regulation 3(3) applies.

**Meetings and proceedings**

**13.—**(1) The meetings and proceedings of the board of directors of an NHS trust shall be conducted in accordance with—

(a) the provisions of regulation 14;

(b) the rules set out in the Schedule; and

(c) Standing Orders made under paragraph (2).

(2) The board of directors of an NHS trust shall make and may vary or revoke Standing Orders for the regulation of its proceedings and business including the authorisation of persons to sign or subscribe documents on behalf of the trust and provision may be made in such Standing Orders for their suspension and those Standing Orders will be subject to the rules set out in the Schedule.

(3) The board of directors of an NHS trust may make, vary and revoke Standing Orders relating to the quorum, proceedings and place of meetings of a committee or sub-committee.

(4) Standing Orders made under this regulation may contain provision for the exclusion, subject to such exceptions and qualifications as may be so provided, of a director from a meeting of the board of directors and any committee or sub-committee of the trust while any contract, proposed contract, or other matter in which he or an associate of his has an interest is under consideration.

(5) The proceedings of the board of directors of an NHS trust or of any committee or sub-committee shall not be invalidated by any vacancy in its membership or by any defect in the appointment of any director or member of such committee or sub-committee.

**Disability of directors: conflict of interest**

**14.—**(1) Subject to the following provisions of this regulation, if a director of an NHS trust or any nominee or associate of his has any interest, direct or indirect other than as such director, in any contract, proposed contract or other matter and is present at a meeting of the board of directors of the trust at which the contract or other matter is the subject of consideration, he shall at the meeting and as soon as practicable after its commencement disclose the fact and shall not take part in any consideration and discussion of the contract, proposed contract or other matter or vote on any question with respect to it.

(2) The Secretary of State may, subject to such conditions as he may think fit to impose, remove in whole or in part any disability imposed by this regulation, in any case in which it appears to him to be in the interests of the health service that the disability should be removed.

(3) Any remuneration, compensation or allowances payable to a director by virtue of paragraph 9 of Schedule 7A to the Act shall not be treated as an interest for the purpose of this regulation.

(4) A director shall not be treated as having an interest in any contract, proposed contract or other matter by reason only that he, or an associate of his, has an interest in any company, body or person which is so remote or insignificant that he cannot reasonably be regarded as likely to effect

any influence in the consideration or discussion of or in voting on, any question with respect to that contract or matter.

(5) This regulation applies to a committee or sub-committee of an NHS trust as it applies to the board of directors of the trust and applies to any member of any such committee or sub-committee (whether or not he is also a director of the trust) as it applies to a director of the trust.

(6) For the purposes of this regulation, the word “associate” has the meaning indicated by section 74 of the Bankruptcy (Scotland) Act 1985(2).

### **Execution of documents**

**15.**—(1) A document is signed on behalf of an NHS Trust if it is signed on its behalf by a director of the trust or by any person authorised generally or specifically to sign the document on its behalf and a document so signed is for any purpose other than those mentioned in paragraph (3), validly executed by an NHS trust.

(2) For the purposes of any enactment or rule of law relating to the authentication of documents under the law of Scotland, a document is validly executed by an NHS trust if it is subscribed on behalf of the trust by—

- (a) the chairman and one of the directors of the trust; or
- (b) a director of the trust and one other person authorised generally or specifically to subscribe the document; or
- (c) two persons not being directors of the trust, authorised to subscribe the document on behalf of the trust,

notwithstanding that such subscription is not effected by witnesses and the document is not sealed with the seal of the trust.

(3) A document which bears to be executed by an NHS trust in accordance with paragraph (2) is, in relation to such execution, a probative document.

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(2) 1985 c. 66; section 74 was amended by the Bankruptcy (Scotland) Regulations 1985 (S.I. 1985/1925), regulation 11.