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STATUTORY INSTRUMENTS

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**1996 No. 489**

**The Ashworth, Broadmoor and Rampton Hospital  
Authorities (Functions and Membership) Regulations 1996**

**PART 3**

**Membership and proceedings of the hospital authorities**

**Appointment of members**

**3.—**(1) Subject to article 4 (constitution) of the Order the appointment of members to each hospital authority shall be in accordance with the procedure in paragraphs (2) to (3) below.

(2) The non-officer members shall be appointed by the Secretary of State.

(3) The officer members, other than the chief executive and director of finance, shall be appointed by the non-officer members and the chief executive provided that such officer members are officers of the hospital authority of which they are appointed as an officer member on the date on which that appointment takes effect.

**Appointment of officers**

**4.—**(1) Subject to paragraph 6(2) of Schedule 2 the chief executive of the hospital authority shall be appointed by a committee of the hospital authority consisting of non-officer members.

(2) The director of finance of the hospital authority shall be appointed by a committee of the hospital authority consisting of non-officer members and the chief executive.

**Tenure of membership**

**5.—**(1) Subject to regulations 6 and 7 below—

(a) the term of office of a non-officer member shall be for such period, not exceeding four years, as the Secretary of State shall specify on making the appointment;

(b) the chief executive and the director of finance shall each hold office as a member for so long as each remains as chief executive and director of finance respectively;

(c) subject to regulation 6(1) the term of office of an officer member other than the chief executive and the director of finance shall be for such period as the appointing authority shall specify on the making of the appointment.

(2) Nothing in this regulation shall prevent the reappointment of a member who has previously been a member of a health service body.

**Termination and suspension of membership of officer members**

**6.—**(1) Subject to paragraphs (2) to (4) below, an officer member, other than the chief executive and director of finance, shall cease to be a member on the date he ceases to be an officer of the hospital authority.

(2) If the non-officer members are of the opinion that it is not in the interests of the hospital authority of which they are members, for an officer member, other than the chief executive and director of finance, to continue as a member they shall terminate his membership without notice.

(3) If an officer member is suspended from his post in the hospital authority he shall be suspended from performing the functions of a member of the hospital authority for the period during which he is suspended.

(4) An officer member other than the chief executive or director of finance may resign from his membership of a hospital authority by giving notice in writing to the appointing authority and his resignation shall take effect from the date specified in the notice or if there is no such date specified from the date that the appointing authority receives the notice.

### **Termination and suspension of membership of non-officer members**

7.—(1) A non-officer member may resign his office at any time by giving notice in writing to the Secretary of State and the resignation shall take effect from the date specified in the notice or if there is no such date specified from the date that the Secretary of State receives the notice.

(2) If a non-officer member is appointed as chairman he will act as a member only in his capacity as chairman from the date that appointment takes effect.

(3) If the Secretary of State is of the opinion that it is not in the interests of the hospital authority for a non-officer member to continue as a member he may terminate that member's membership by giving him notice in writing to that effect.

(4) The Secretary of State shall terminate the membership of a non-officer member who fails to attend a meeting of the hospital authority of which he is a member for six months unless he is satisfied that—

- (a) the absence was due to a reasonable cause; and
- (b) the non-officer member will be able to attend meetings within such period as the Secretary of State considers reasonable.

(5) Where it appears to the Secretary of State that a non-officer member has failed to comply with regulation 15(1) (disability etc. on account of pecuniary interest) he may forthwith terminate that member's membership.

(6) Where a person has been appointed as a non-officer member and—

- (a) he becomes disqualified from membership under regulation 8 (disqualification for appointment) the Secretary of State shall, when this disqualification comes to his attention, forthwith terminate his membership; or
- (b) it comes to the attention of the Secretary of State that he was so disqualified when he was appointed the Secretary of State shall forthwith notify him in writing that he was not duly appointed,

and upon receipt of such a notification his membership (if any) shall terminate and he shall cease to act as a member.

### **Disqualification for appointment**

8.—(1) Subject to regulation 9 (cessation of disqualification for appointment) a person shall be disqualified from membership as a non-officer member if—

- (a) he has within the preceding five years been convicted in the United Kingdom, the Channel Islands or the Isle of Man of any offence and has been sentenced to a term of imprisonment (whether or not this term was suspended) for a period of not less than three months without the option of a fine;

- (b) he has been adjudged bankrupt or has made a composition or arrangement with his creditors;
  - (c) he has been dismissed, otherwise than by reason of redundancy, from any paid employment with a health service body;
  - (d) he has had his name removed, by a direction under section 46 of the 1977 Act from any list prepared under Part II of that Act and has not subsequently had his name included in such a list;
  - (e) he is a person whose tenure of office as chairman or as a member of a health service body has been terminated on the grounds that—
    - (i) it was not in the interests of the health service body or of the health service that he should continue to hold that office;
    - (ii) he failed, without reasonable excuse, to attend any meeting of that health service body for a period of 6 months; or
    - (iii) he failed to disclose a pecuniary interest;
  - (f) he is a member, director, officer or paid employee of a health service body;
  - (g) he is a general medical or general dental practitioner or an employee of either of those;
  - (h) he holds any paid employment or office with a trade union which represents the interests of members who are employed by a health service body.
- (2) For the purposes of paragraph (1)(a) the date of conviction shall be deemed to be—
- (a) subject to sub-paragraph (b) the date on which the ordinary period allowed for making an appeal or application with respect to the conviction expires; or
  - (b) if such an appeal or application is made, the date on which the appeal or application with respect to the conviction is finally disposed of or abandoned or fails by reason of its not being prosecuted.
- (3) For the purposes of paragraph (1)(c) a person shall not be treated as having been in paid employment by reason only of his chairmanship or membership of a health service body.

### **Cessation of disqualification for appointment**

**9.—(1)** Where a person is disqualified under regulation 8(1)(b) (disqualification for appointment) by reason of having been adjudged bankrupt—

- (a) if the bankruptcy is annulled on the ground that he ought not to have been adjudged bankrupt or on the ground that his debts have been paid in full, the disqualification shall cease on the date of the annulment;
- (b) if he is discharged, the disqualification shall cease on the date of his discharge.

(2) Where a person is disqualified under regulation 8(1)(b) by reason of his having made a composition or arrangement with his creditors—

- (a) if he pays his debts in full, the disqualification shall cease on the date on which the payment is completed;
- (b) in any other case, it shall cease on the expiry of five years from the date on which the terms of the deed of composition or arrangement are fulfilled.

(3) Subject to paragraph (4), where a person is disqualified under regulation 8(1)(c) (dismissed employees) he may after the expiry of not less than two years beginning on the date of his dismissal, apply in writing to the Secretary of State to end the disqualification, and the Secretary of State may direct that the disqualification shall cease.

(4) Where the Secretary of State refuses an application to end a disqualification, no further such application may be made by that person until the expiry of two years from the date on which the refused application was made.

(5) Where a person is disqualified under regulation 8(1)(e) (certain chairmen and members whose appointments have been terminated), the disqualification shall cease on the expiry of two years or such longer period as the person who, or body which terminates the appointment may specify when terminating the tenure of office, but the Secretary of State may, on application being made to him by the disqualified person or that other person (not being the Secretary of State himself) or body, reduce the period of disqualification.

### **Appointment of vice-chairmen**

**10.**—(1) Subject to paragraph (2), the chairman and members shall appoint one of the non-officer members to be vice-chairman for such period, not exceeding the remainder of his current term of membership, as they shall specify on appointing him.

(2) Any member so appointed may at any time resign from the office of vice-chairman by giving notice in writing to the chairman.

### **Powers of vice-chairmen**

**11.** Where the chairman has died or has ceased to hold office, or where he is unable to perform his duties owing to illness, absence from England and Wales or any other cause, the vice-chairman shall act as chairman for so long as there is no chairman able to perform his duties.

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

**12.**—(1) Subject to such directions as may be given by the Secretary of State—

- (a) each hospital authority may (and if so directed by him shall) appoint committees of the hospital authority; and
- (b) such committees may appoint sub-committees.

(2) Committees appointed under paragraph (1) may consist—

- (a) wholly or partly of members of the hospital authority; or
- (b) wholly or partly of persons who are not members of the hospital authority.

(3) Sub-committees appointed under paragraph (1) by a committee may consist—

- (a) wholly or partly of members of that committee (whether or not they are members of the hospital authority); or
- (b) wholly or partly of persons who are not members of the hospital authority or that committee.

(4) Where a member of the hospital authority is appointed as a member of a committee or a sub-committee—

- (a) his membership of the committee or sub-committee will cease on the termination or expiry of his tenure of office as a member of the hospital authority; and
- (b) on such cessation he will be eligible for appointment to the committee or sub-committee as a person who is not a member of the hospital authority.

### **Arrangements for the exercise of functions**

**13.** Subject to such directions as may be given by the Secretary of State, each hospital authority may make arrangements for the exercise, on behalf of that hospital authority, of any of its functions

by a committee or sub-committee appointed by virtue of regulation 12 or by an officer of that hospital authority, in each case subject to such restrictions and conditions as the hospital authority thinks fit.

### **Meetings and proceedings**

**14.—(1)** The meetings and proceedings of the hospital authorities shall be conducted in accordance with the rules set out in Schedule 2 to these Regulations and with Standing Orders made under paragraph (2).

(2) Subject to those rules, regulation 15(1) (disability on grounds of pecuniary interest), and such directions as may be given by the Secretary of State, each hospital authority shall make, and may vary or revoke, Standing Orders for the regulation of its proceedings and business and may provide for the suspension of any Standing Orders.

(3) Subject to those rules and such directions as may be given by the Secretary of State, each hospital authority may make, vary or revoke Standing Orders relating to the quorum, proceedings and place of meeting of any committee or sub-committee of the hospital authority but, subject to any such Standing Orders, the quorum, proceedings and place of meeting shall be such as the committee or sub-committee may determine.

### **Disability of non-officer members in proceedings on account of pecuniary interest**

**15.—(1)** Subject to the following provisions of this regulation, if a non-officer member has any pecuniary interest, direct or indirect, in any contract, proposed contract or other matter and is present at a meeting of a hospital authority at which the contract, proposed contract or other matter is the subject of consideration, he shall at the meeting and as soon as practicable after its commencement disclose his interest and shall not take part in the consideration or discussion of the 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 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) Each hospital authority may by Standing Orders made under regulation 14(2) (meetings and proceedings), provide for the exclusion of the non-officer member from a meeting of the hospital authority while any contract, proposed contract or other matter in which he has a pecuniary interest, direct or indirect is under consideration.

(4) Any remuneration, compensation or allowances payable to the non-officer members by virtue of paragraph 9 of Schedule 5 to the 1977 Act (pay and allowances) shall not be treated as a pecuniary interest for the purpose of this regulation.

(5) Subject to paragraphs (2) and (6) a non-officer member shall be treated as having an indirect pecuniary interest in a contract, proposed contract or other matter if—

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

and in the case of married persons living together, the interest of one spouse shall, if known to the other, be deemed for the purpose of this regulation to be also an interest of the other.

(6) A non-officer member shall not be treated as having a pecuniary interest in any contract, proposed contract or other matter by reason only of—

- (a) his membership of a company or other body if he has no beneficial interest in any securities of that company or other body; or
  - (b) an interest in any company, body or person with which he is connected as mentioned in paragraph (5) which is so remote or insignificant that it cannot reasonably be regarded as likely to influence him in the consideration or discussion of, or voting on, any question with respect to that contract or matter.
- (7) Where a non-officer member—
- (a) 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
  - (b) 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 lesser; and
  - (c) if the share capital is of more than one class, the total nominal value of the shares of any one class in which he has a beneficial interest does not exceed one-hundredth of the total issued share capital of that class,

this regulation shall not prohibit him from taking part in the consideration or discussion of the contract or other matter or from voting on any question with respect to it, without prejudice however to his duty to disclose his interest.

(8) This regulation applies to a committee or sub-committee as it applies to the hospital authorities and applies to any member of any such committee or sub-committee (whether or not he is also a member of the hospital authority) as it applies to a member of the hospital authority.

- (9) In this regulation—
- “public body” includes—
- (a) any body established for the purpose of carrying on, under national ownership, any industry or part of any industry or undertaking;
  - (b) the governing body of any university, university college or college, school or university hall; and
  - (c) the National Trust for Places of Historic Interest or Natural Beauty incorporated by the National Trust Act 1907(1);

- “securities” 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 shares or such 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” means shares in the share capital of a company or other body or the stock of a company or other body.

### **Public meetings**

**16.** Each hospital authority shall hold at least one public meeting each year and shall present its audited accounts and annual report at one such public meeting.