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SCHEDULES

SCHEDULE 5

HEALTH EDUCATION ENGLAND

PART 1

CONSTITUTION

Membership

- 1 (1) HEE consists of—
 - (a) a chair appointed by the Secretary of State,
 - (b) six other members appointed by the Secretary of State,
 - (c) a chief executive appointed by the members appointed under paragraphs (a) and (b), and
 - (d) no more than four other members appointed by the members appointed under paragraphs (a) and (b).
- (2) The members appointed under sub-paragraph (1)(a) and (b)—
 - (a) are not employees of HEE, and
 - (b) are referred to in this Schedule as the “non-executive members”.
- (3) The members appointed under sub-paragraph (1)(c) and (d)—
 - (a) are employees of HEE, and
 - (b) are referred to in this Schedule as the “executive members”.

Commencement Information

II Sch. 5 para. 1 in force at 1.4.2015 by S.I. 2014/3186, art. 2(f)

- 2 (1) The members of HEE must include persons who have clinical expertise of a description specified in regulations.
- (2) The regulations may require—
 - (a) a specified number of members to have that expertise;
 - (b) a specified number of non-executive members to have that expertise;
 - (c) a specified number of executive members to have that expertise.
- (3) The non-executive members of HEE must include a person who will represent the interests of patients.

Commencement Information

II Sch. 5 para. 2(1)(2) in force at 1.10.2014 for specified purposes by S.I. 2014/2473, art. 4(1)(f)

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- I3** Sch. 5 para. 2(1)(2) in force at 1.4.2015 in so far as not already in force by S.I. 2014/3186, art. 2(f)
I4 Sch. 5 para. 2(3) in force at 1.4.2015 by S.I. 2014/3186, art. 2(f)

Non-executive members: terms of office

- 3 (1) A person holds office as a non-executive member of HEE on the terms of that person's appointment.
- (2) A person may not be appointed as a non-executive member for a period of more than four years.
- (3) A person who ceases to be a non-executive member is eligible for re-appointment.
- (4) A person may resign from office as a non-executive member by giving notice to the Secretary of State.
- (5) The Secretary of State may remove a person from office as a non-executive member on any of the following grounds—
- (a) incapacity;
 - (b) misbehaviour;
 - (c) failure to carry out his or her duties as a non-executive member.
- (6) The Secretary of State may suspend a person from office as a non-executive member if it appears to the Secretary of State that there are or may be grounds to remove that person from office under sub-paragraph (5).

Commencement Information

- I5** Sch. 5 para. 3 in force at 1.4.2015 by S.I. 2014/3186, art. 2(f)

Non-executive members: suspension from office

- 4 (1) Having decided to suspend a person under paragraph 3(6), the Secretary of State must give notice of the decision to the person; and the suspension takes effect when the person receives the notice.
- (2) The notice may be—
- (a) delivered in person (in which case the person is taken to receive it when it is delivered), or
 - (b) sent by first class post to the person's last known address (in which case, the person is taken to receive it on the third day after the day on which it is posted).
- (3) The initial period of suspension must not exceed six months.
- (4) The Secretary of State may review the suspension.
- (5) The Secretary of State—
- (a) must review the suspension, if requested in writing by the person to do so, but
 - (b) need not review the suspension less than three months after the beginning of the initial period of suspension.
- (6) Following a review during a period of suspension, the Secretary of State may—

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- (a) revoke the suspension, or
 - (b) suspend the person for a period of no more than six months from the expiry of the current period.
- (7) The Secretary of State must revoke the suspension if the Secretary of State—
- (a) decides that there are no grounds to remove the person from office under paragraph 3(5), or
 - (b) decides that there are grounds to do so but nonetheless decides not to do so.

Commencement Information

I6 Sch. 5 para. 4 in force at 1.4.2015 by S.I. 2014/3186, art. 2(f)

- 5
- (1) Where a person is suspended from office as the chair under paragraph 3(6), the Secretary of State may appoint a non-executive member as interim chair to exercise the chair's functions.
 - (2) Appointment as interim chair is for a term not exceeding the shorter of—
 - (a) the period ending with either—
 - (i) the appointment of a new chair, or
 - (ii) the revocation or expiry of the existing chair's suspension, and
 - (b) the remainder of the interim chair's term as a non-executive member.
 - (3) A person who ceases to be the interim chair is eligible for re-appointment.

Commencement Information

I7 Sch. 5 para. 5 in force at 1.4.2015 by S.I. 2014/3186, art. 2(f)

Non-executive members: pay

- 6
- (1) HEE must pay its non-executive members such remuneration as the Secretary of State may decide.
 - (2) HEE must pay, or provide for the payment of, such allowances or gratuities as the Secretary of State may decide to a person who is or has been a non-executive member of HEE.

Commencement Information

I8 Sch. 5 para. 6 in force at 1.4.2015 by S.I. 2014/3186, art. 2(f)

Employees: terms of office

- 7
- (1) Each executive member of HEE is appointed as an employee of HEE on such terms as it decides.
 - (2) A person may not be appointed as chief executive without the consent of the Secretary of State.

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- (3) HEE may appoint, on such terms as it decides, other persons as employees of HEE (in addition to those appointed as executive members).

Commencement Information

I9 Sch. 5 para. 7 in force at 1.4.2015 by S.I. 2014/3186, art. 2(f)

Employees: pay

- 8 (1) HEE must pay its employees such remuneration as it decides.
- (2) HEE may pay, or provide for the payment of, such pensions, allowances or gratuities as it decides to or in respect of a person who is or has been an employee of HEE.
- (3) Before making a decision about pay under this paragraph, HEE must obtain the approval of the Secretary of State to its policy on the matter.

Commencement Information

I10 Sch. 5 para. 8 in force at 1.4.2015 by S.I. 2014/3186, art. 2(f)

Committees and sub-committees

- 9 (1) HEE may appoint committees and sub-committees.
- (2) A committee or sub-committee may consist of or include persons who are not members or employees of HEE.
- (3) HEE may pay such remuneration and allowances as it decides to a person who is a member of a committee^{F1}... or sub-committee, but is not an employee of HEE, regardless of whether the person is a non-executive member of HEE.
- (4) Any committees and sub-committees of the Special Health Authority called Health Education England in existence immediately before its abolition are to become respectively committees and sub-committees of HEE (and are to be treated as appointed under this paragraph).

Textual Amendments

F1 Words in Sch. 5 para. 9(3) omitted (1.7.2022) by virtue of Health and Care Act 2022 (c. 31), ss. 90(7)(a), 186(6); S.I. 2022/734, reg. 2(a), Sch. (with regs. 13, 29, 30)

Commencement Information

I11 Sch. 5 para. 9 in force at 1.4.2015 by S.I. 2014/3186, art. 2(f)

Procedure

- 10 (1) HEE may regulate its own procedure.
- (2) A vacancy among the members of HEE, or a defect in the appointment of a member, does not affect the validity of any act of HEE.

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Commencement Information

I12 Sch. 5 para. 10 in force at 1.4.2015 by S.I. 2014/3186, art. 2(f)

Seal and evidence

- 11 (1) The application of HEE's seal must be authenticated by the signature of a member of HEE or a person who has been authorised (whether generally or specifically) for the purpose.
- (2) A document purporting to be duly executed under HEE's seal or to be signed on its behalf must be received in evidence and, unless the contrary is proved, taken to be so executed or signed.
- (3) But this paragraph does not apply in relation to a document which is, or is to be, signed in accordance with the law of Scotland.

Commencement Information

I13 Sch. 5 para. 11 in force at 1.4.2015 by S.I. 2014/3186, art. 2(f)

Status of HEE

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

Commencement Information

I14 Sch. 5 para. 12 in force at 1.4.2015 by S.I. 2014/3186, art. 2(f)

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