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STATUTORY INSTRUMENTS

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**2012 No. 1290**

**NATIONAL HEALTH SERVICE, ENGLAND**

**The Health Education England Regulations 2012**

<i>Made</i>	- - - -	<i>15th May 2012</i>
<i>Laid before Parliament</i>		<i>18th May 2012</i>
<i>Coming into force</i>	- -	<i>28th June 2012</i>

The Secretary of State for Health makes the following Regulations in exercise of the powers conferred by sections 29(2) and 272(7) and (8) of, and paragraphs 5 and 13 of Schedule 6 to, the National Health Service Act 2006(1).

**Citation, commencement and interpretation**

1.—(1) These Regulations may be cited as the Health Education England Regulations 2012 and come into force on 28th June 2012.

(2) In these Regulations—

“the Act” means the National Health Service Act 2006;

“chair” means the chairman of HEE;

“final outcome” in relation to proceedings where there are rights of appeal, means the outcome of proceedings—

- (a) once the period for bringing an appeal has expired without an appeal being brought, or
- (b) if an appeal is brought in accordance with those rights, once those rights have been exhausted;

“health service body” means—

- (a) a Strategic Health Authority, a Special Health Authority, a Primary Care Trust, an NHS trust, a Local Health Board or an NHS foundation trust(2);
- (b) a Health Board or Special Health Board constituted under section 2 of the National Health Service (Scotland) Act 1978(3);

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(1) 2006 c.41; paragraph 5 of Schedule 6 was amended by section 19 of, and paragraph 11 of Schedule 3 to, the Health Act 2009 (c.21). The powers exercised in making these Regulations are exercisable by the Secretary of State only in relation to England by virtue of section 271(1) of the National Health Service Act 2006 (“the Act”).

(2) See sections 13, 18, 25, 28 and 30 of the Act and 11, 18 and 22 of the National Health Service (Wales) Act 2006 (c.42).

(3) 1978 c.29; section 2 was amended by paragraph 1 of Schedule 7 to the Health and Social Services and Social Security Adjudications Act 1983 (c.41), section 28 of, and paragraph 19(1) of Schedule 9 and Schedule 10 to, the National Health Service and Community Care Act 1990 (c.19) (“the 1990 Act”), paragraph 1(2) of Schedule 1 to the National Health Service

- (c) the Scottish Dental Practice Board, the Common Services Agency for the Scottish Health Service, Healthcare Improvement Scotland or an NHS trust constituted under any of sections 4, 10, 10A and 12A of the National Health Service (Scotland) Act 1978(4);
  - (d) the Care Quality Commission(5);
  - (e) the Health Protection Agency(6);
  - (f) the Independent Regulator of NHS Foundation Trusts(7);
  - (g) the Secretary of State;
  - (h) the Northern Ireland Central Services Agency for Health and Social Services established under the Health and Personal Social Services (Northern Ireland) Order 1972(8);
  - (i) a special health and social services agency established under the Health and Personal Social Services (Special Agencies) (Northern Ireland) Order 1990(9);
  - (j) a Health and Social Services Board constituted under the Health and Personal Social Services (Northern Ireland) Order 1972;
  - (k) a Health and Social Services trust established under the Health and Personal Social Services (Northern Ireland) Order 1991(10); and
  - (l) the Department for Health, Social Services and Public Safety for Northern Ireland;
- “HEE” means Health Education England established by article 2 of the Health Education England (Establishment and Constitution) Order 2012(11);
- “member”, except in regulation 3(1)(d) and (3) means a member of HEE, including the chair;
- “non-officer member”, except in regulation 3(2)(a), means a member who is not an officer of HEE;
- “primary care list” means—
- (a) a list referred to in section 159(1)(a) to (e) of the Act(12);
  - (b) a list of persons undertaking to provide general medical services or general dental services prepared in accordance with regulations under section 29 or 36 of the National Health Service Act 1977(13) as the list existed on or before 31st March 2004;
  - (c) a list of persons approved for the purposes of assisting in the provision of general medical services or general dental services prepared in accordance with regulations under

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Reform (Scotland) Act 2004 (asp 7), paragraph 2(2) of Schedule 2 to the Smoking, Health and Social Care (Scotland) Act 2005 (asp 13) (“the 2005 Act”) and section 2(1) of the Health Boards (Membership and Elections) (Scotland) Act 2009 (asp 5).

(4) 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 2005 Act; section 10 was amended by paragraph 2 of Schedule 6 to the Health Services Act 1980 (c.53), Schedule 10 to the 1990 Act, paragraph 44 of Schedule 4 to the Health Act 1999 (c.8) and paragraph 2(4) of Schedule 2 to the 2005 Act; section 10A was inserted by section 108 of the Public Services Reform (Scotland) Act 2010 (asp 8); section 12A was inserted by section 31 of the 1990 Act 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.

(5) The Care Quality Commission was established by section 1 of the Health and Social Care Act 2008 (c.14).

(6) The Health Protection Agency was established in relation to England and Wales by the Health Protection Agency Act 2004 (c.17).

(7) See section 31 of the National Health Service Act 2006.

(8) S.I. 1972/1265 (N.I. 14).

(9) S.I. 1990/247 (N.I. 3).

(10) S.I. 1991/194 (N.I. 1).

(11) S.I. 2012/1273.

(12) See, in relation to the lists referred to under section 159(1)(c), the National Health Service (Performers Lists) Regulations 2004 (S.I. 2004/585).

(13) 1977 c. 49; sections 29 and 36 were repealed by section 196 of, and Schedule 14 to, the Health and Social Care (Community Health and Standards) Act 2003 (c.43).

section 43D(1) of the National Health Service Act 1977(14) as the list existed on or before 31st March 2004; or

- (d) a services list referred to in section 8ZA(1)(a) of the National Health Service (Primary Care) Act 1997(15) as the list existed on or before 31st March 2004.

### **Appointment and tenure of office of members**

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

(2) The term of appointment of a non-officer member is such period, not exceeding 4 years, as the Secretary of State specifies on making the appointment.

(3) The chair and one other non-officer member must appoint the member who is to be the chief executive of HEE, subject to the approval of the Secretary of State.

(4) The chair and non-officer members must appoint the other members who are officers of HEE.

(5) A person who has been a member is eligible for re-appointment.

(6) A person must not be a non-officer member for a continuous period of more than 10 years.

### **Disqualification for appointment**

3.—(1) A person (P) is disqualified for appointment as a non-officer member if—

- (a) within the period of 5 years immediately preceding the date of the proposed appointment, P has been convicted—

(i) in the United Kingdom of an offence, or

(ii) 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 or not suspended) for a period of not less than three months without the option of a fine;

- (b) P is the subject of a bankruptcy restrictions order or an interim bankruptcy restrictions order under Schedule 4A to the Insolvency Act 1986(16), Schedule 2A to the Insolvency (Northern Ireland) Order 1989(17) or sections 56A to 56K of the Bankruptcy (Scotland) Act 1985(18) (which relate to bankruptcy restrictions orders and undertakings);

- (c) P has been dismissed within the period of five years immediately preceding the date of the proposed appointment, otherwise than by reason of redundancy, from paid employment with a health service body;

- (d) P is a person whose term of appointment as the chairman, a member, a director or a governor of a health service body has been terminated on the grounds—

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(14) Section 43D was inserted by section 24 of the Health and Social Care Act 2001 (c.15) and amended by section 2(5) of, and paragraphs 1 and 20 of Schedule 2 to, the National Health Service Reform and Health Care Professions Act 2002 (c.17); section 43D(1) was repealed in part by section 196 of, and Schedule 14 to, the Health and Social Care (Community Health and Standards) Act 2003 and section 43D(10) was amended by section 184 of, and paragraph 20 of Schedule 11 to, that Act. The National Health Service Act 1977 was repealed by the National Health Service (Consequential Provisions) Act 2006 and section 43D was re-enacted as section 149 of the National Health Service Act 2006.

(15) 1997 c. 46; section 8ZA was inserted by section 26 of the Health and Social Care Act 2001 (c.15), amended by section 4 of, and Schedule 3 to, the National Health Service Reform and Health Care Professions Act 2002 (c. 17) and repealed by section 196 of, and Schedule 14 to, the Health and Social Care (Community Health and Standards) Act 2003.

(16) Schedule 4A to the Insolvency Act 1986 (c. 45) was inserted by Schedule 20 to the Enterprise Act 2002 (c. 40).

(17) Schedule 2A to the Insolvency (Northern Ireland) Order 1989 S.I. 1989/2405 (N.I. 19) was inserted by article 13(2) of, and Schedule 5 to, the Insolvency (Northern Ireland) Order 2005 S.I. 2005/1455 (N.I. 10).

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

- (i) that it was not in the interests of, or conducive to the good management of, the health service body or of the health service that P should continue to hold the office,
  - (ii) that P failed, without reasonable excuse, to attend a meeting of the body on three successive occasions,
  - (iii) that P failed to declare a pecuniary interest or withdraw from consideration of a matter in respect of which P had a pecuniary interest, or
  - (iv) of misbehaviour, misconduct or failure to carry out P's duties;
- (e) that P—
- (i) is subject to a national disqualification within the meaning of section 159 of the Act(19),
  - (ii) is subject to a national disqualification under a decision by the NHS Tribunal(20) which is treated as a national disqualification by virtue of regulation 6(4)(b) of the Abolition of the NHS Tribunal (Consequential Provisions) Regulations 2001(21) or regulation 6(4)(b) of the Abolition of the NHS Tribunal (Consequential Provisions) Regulations 2002(22),
  - (iii) has been refused admission to a primary care list and was not subsequently nominated or approved for inclusion in a primary care list,
  - (iv) is conditionally included in a primary care list(23),
  - (v) is suspended from a primary care list(24) or treated as so suspended by virtue of regulation 6(2) of the Abolition of the NHS Tribunal (Consequential Provisions) Regulations 2001 or regulation 6(2) of the Abolition of the NHS Tribunal (Consequential Provisions) Regulations 2002,
  - (vi) is contingently removed from a primary care list(25), or
  - (vii) has been removed from a primary care list on any of the grounds set out in regulation 10(1)(a) or (b) or (4) of the National Health Service (Performers Lists) Regulations 2004(26), or by a direction of the NHS Tribunal, and has not subsequently been included in such a list,
- and in this sub-paragraph, a reference to a provision in, or made under, the Act includes a reference to the provision corresponding to that provision in legislation relating to Scotland or Northern Ireland;
- (f) P is subject to—
- (i) a disqualification order or disqualification undertaking under the Company Directors Disqualification Act 1986(27),
  - (ii) a disqualification order or disqualification undertaking under the Company Directors Disqualification (Northern Ireland) Order 2002(28), or

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(19) Section 159 of the National Health Service Act 2006 (“the Act”) was amended by S.I. 2010/22.

(20) The NHS Tribunal was abolished by section 16 of the Health and Social Care Act 2001 (c.15).

(21) S.I. 2001/3744, amended by S.I. 2002/2469.

(22) S.I. 2002/1920, regulation 6 applies in Wales only.

(23) See, in particular, section 148 of the Act and regulation 8 of S.I. 2004/585 as amended by S.I. 2010/22.

(24) See, in particular, section 154 of the Act and regulation 13 of S.I. 2004/585 as amended by S.I. 2006/1385 and 2010/22.

(25) See, in particular, section 152 of the Act and regulation 12 of S.I. 2004/585.

(26) S.I. 2004/585 to which there are no relevant amendments.

(27) 1986 c.46.

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

- (iii) an order under section 429(2) of the Insolvency Act 1986<sup>(29)</sup> (disabilities on revocation of administration order against an individual); or
  - (g) P has at any time been removed—
    - (i) from the office of charity trustee or trustee for a charity by an order made by the Charity Commissioners, the Charity Commission, the Charity Commission for Northern Ireland or the High Court on the grounds of any misconduct or mismanagement in the administration of the charity for which P was responsible or to which P was privy or which P’s conduct contributed to or facilitated, or
    - (ii) under section 7 of the Law Reform (Miscellaneous Provisions) (Scotland) Act 1990<sup>(30)</sup> (powers of the Court of Session to deal with the management of charities) or section 34(5)(e) of the Charities and Trustee Investment (Scotland) Act 2005<sup>(31)</sup> (powers of the Court of Session to deal with management of charities) from being concerned in the management or control of any body.
- (2) For the purposes of paragraph (1)(c), P is not to be treated as having been in paid employment by reason only of having been—
- (a) in the case of a health service body which is not an NHS trust or an NHS foundation trust, the chairman or a non-officer member of the body;
  - (b) in the case of an NHS trust, the chairman or a non-executive director of the trust; or
  - (c) in the case of an NHS foundation trust, the chairman, a governor or a non-executive director of the trust.
- (3) In paragraph (2)(a), “non-officer member” means a member of a health service body who is not employed by the body.

### **Cessation of disqualification**

- 4.—(1) A person who is disqualified under regulation 3(1)(c) may, on the expiry of the period of two years beginning on the date of the dismissal, apply in writing to the Secretary of State to have the disqualification removed.
- (2) Where a person makes an application under paragraph (1), the Secretary of State may direct that the person’s disqualification under regulation 3(1)(c) is to cease to have effect.
- (3) If the Secretary of State refuses a person’s application under paragraph (1), no further application may be made by the person before the expiry of the period of two years beginning with the date of the person’s last application.
- (4) If a person is disqualified under regulation 3(1)(d), the disqualification ceases to have effect on the expiry of the period of two years beginning on the date of the termination of the term of appointment, or such longer period as the Secretary of State may specify when the period of office is terminated.
- (5) The Secretary of State may reduce the period of disqualification mentioned in paragraph (4) on the application of the disqualified person.

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<sup>(29)</sup> 1986 c.45; section 429(2)(b) was amended by paragraph 15 of Schedule 23 to the Enterprise Act 2002 (c.40) and is to be substituted by paragraph 3 of Schedule 16 to the Tribunal, Courts and Enforcement Act 2007 (c.15), on a date to be appointed under section 148 of that Act.

<sup>(30)</sup> 1990 c. 40; section 7 was repealed by section 104 of, and Schedule 4 to, the Charities and Trustee Investment (Scotland) Act 2005 asp 10.

<sup>(31)</sup> 2005 asp 10; section 34 was amended by section 122 of the Public Services Reform (Scotland) Act 2010 (asp 8).

### **Termination of term of appointment of non-officer members**

5.—(1) A non-officer member may resign from that office at any time during the term of the member's appointment by giving notice in writing to the Secretary of State.

(2) If the Secretary of State thinks that it is not in the interests of, or conducive to the good management of, HEE or of the health service that the term of appointment of a non-officer member should continue, the Secretary of State may terminate the member's appointment with immediate effect by giving the member notice in writing to that effect.

(3) If a non-officer member fails to attend three successive meetings of HEE, the Secretary of State must terminate the member's appointment with immediate effect unless the Secretary of State is satisfied that—

- (a) the absence was due to a reasonable cause, and
- (b) the member will be able to attend meetings of HEE within such period as the Secretary of State thinks reasonable.

(4) If a person has been appointed to be a non-officer member and becomes disqualified for appointment under regulation 3, the person must notify the Secretary of State in writing of the disqualification.

(5) If it comes to the notice of the Secretary of State that at the time of a person's appointment as a non-officer member the person was disqualified under regulation 3, the Secretary of State must—

- (a) declare that the person was not duly appointed, and
- (b) notify the person in writing to that effect.

(6) If it comes to the notice of the Secretary of State (whether under paragraph (5) or otherwise) that a person appointed as a non-officer member has, since the appointment, become disqualified under regulation 3, the Secretary of State must notify the person in writing of such disqualification.

(7) If a person receives notice under paragraph (5) or (6), the person's term of appointment, if any, is terminated with immediate effect and the person is to cease to act as a non-officer member.

(8) If it appears to the Secretary of State that a non-officer member has failed to comply with regulation 13, the Secretary of State may terminate the member's appointment with immediate effect by giving the member notice in writing to that effect.

### **Suspension of non-officer members**

6.—(1) The Secretary of State may suspend a non-officer member from office while the Secretary of State considers whether—

- (a) to remove the member under regulation 5(2) or (8), or
- (b) the member has become disqualified for appointment under regulation 3, or was so disqualified at the time of appointment.

(2) The Secretary of State must give notice to the member of the decision to suspend and the suspension takes effect on the date on which the notification is received by the member.

(3) A notice under paragraph (2) may be—

- (a) delivered in person to the member, in which case the member is treated as receiving it when it was delivered, or
- (b) sent by first class post to the member's last known postal address, in which case the member is treated as receiving it on the third day after the day on which it is posted.

(4) The initial period of suspension must not exceed 6 months.

(5) The Secretary of State may review the member's suspension at any time.

(6) The Secretary of State may review the member's suspension if requested in writing by the member to do so, but need not carry out a review if a period of less than 3 months has elapsed since the beginning of the initial period of suspension.

(7) Following a review, the Secretary of State may—

- (a) revoke the member's suspension, or
- (b) suspend the member for another period of not more than 6 months from the expiry of the current period.

(8) The Secretary of State must revoke the member's suspension if at any time the Secretary of State decides that—

- (a) there are no grounds to remove the member from office under regulation 5(2) or (8),
- (b) there are such grounds but the Secretary of State is not minded to remove the member from office under those provisions, or
- (c) the member is not disqualified for appointment under regulation 3.

#### **Appointment of vice-chair**

7.—(1) The members may appoint one of the non-officer members, other than the chair, to be vice-chair for such period, not exceeding the remainder of that person's term as a member, as they may specify on the appointment.

(2) A member appointed under paragraph (1) may at any time resign from the office of vice-chair by giving notice in writing to the chair or, if the office of chair is vacant, the members.

(3) This regulation does not apply if regulation 8 applies.

#### **Appointment of vice-chair where chair is suspended**

8.—(1) This regulation applies where the chair is suspended under regulation 6.

(2) If a vice-chair has been appointed under regulation 7(1), that appointment ceases to have effect.

(3) The Secretary of State may re-appoint the person mentioned in paragraph (2) or appoint another non-officer member to be vice-chair.

(4) The appointment of a vice-chair under paragraph (3) must be for a period not exceeding the shorter of—

- (a) the period for which the chair is suspended, and
- (b) the remainder of the non-officer member's term of appointment as a member.

(5) When the period for which a member is appointed as vice-chair expires, the Secretary of State may re-appoint the member as vice-chair or appoint another non-officer member as vice-chair.

(6) A person appointed under paragraph (3) or (5) may, at any time, resign from the office of vice-chair by giving notice in writing to the Secretary of State.

(7) A notice given under subsection (6) takes effect—

- (a) if a date is specified in the notice as the date on which the resignation is to take effect, on that date, or
- (b) in any other case, on the date the notice is received by the Secretary of State.

(8) The Secretary of State may terminate a person's appointment as vice-chair under paragraph (3) or (5) if the Secretary of State thinks that it would be in the best interests of HEE for another non-officer member to be vice-chair.

(9) If—

- (a) a person resigns from the office of vice-chair under paragraph (6), or
  - (b) the Secretary of State terminates a person's appointment as vice-chair under paragraph (8),
- the Secretary of State may appoint another non-officer member as vice-chair under paragraph (3).

#### **Powers of vice-chair**

- 9.**—(1) This regulation applies if—
- (a) the chair is suspended under regulation 6 and a non-officer member is appointed to be vice-chair under regulation 8; or
  - (b) a non-officer member is appointed to be vice-chair under regulation 7 and—
    - (i) the office of chair is vacant for any reason, or
    - (ii) the chair is unable to perform the duties of chair owing to illness, absence or any other cause.
- (2) Where this regulation applies—
- (a) the vice-chair is to act as chair until a new chair is appointed or the existing chair resumes the chair's duties (as the case may be); and
  - (b) references in the Schedule to the chair are, for so long as there is no chair available to perform the duties of the chair, to be taken to include references to the vice-chair.

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

**10.**—(1) Subject to such directions as may be given by the Secretary of State, HEE may, and if so directed must, appoint committees of HEE which may consist wholly or partly of members of HEE or wholly of persons who are not members of HEE.

(2) Subject to such directions as may be given by the Secretary of State or HEE, a committee appointed under this regulation may, and if so directed must, appoint sub-committees consisting wholly or partly of members of the committee (whether or not they are members of HEE) or wholly of persons who are not members of HEE or the committee.

(3) Subject to such directions as may be given by the Secretary of State, regulations 3 and 4 apply to the appointment of members of committees and sub-committees appointed under this regulation as they apply to the appointment of members of HEE.

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

**11.** Subject to such directions as may be given by the Secretary of State, HEE may make arrangements for the exercise, on behalf of HEE, of any of its functions by a committee or sub-committee appointed by virtue of regulation 10 or by an officer of HEE, in each case subject to such restrictions and conditions as HEE thinks fit.

#### **Meetings and proceedings**

**12.**—(1) The meetings and proceedings of HEE must be conducted in accordance with the rules set out in the Schedule to these Regulations and with standing orders made under paragraph (2).

(2) Subject to the rules set out in the Schedule, regulation 13 and such directions as may be given by the Secretary of State, HEE must make, and may vary or revoke, standing orders for the regulation of its proceedings and business, including provision for the suspension of all or any of the standing orders.



(3) Subject to such directions as may be given by the Secretary of State, HEE may make, vary and revoke standing orders relating to the quorum, proceedings and place of meeting of a committee or sub-committee of HEE.

(4) Subject to standing orders referred to in paragraph (3), the quorum, proceedings and place of meeting of a committee or sub-committee of HEE are to be such as the committee or sub-committee may determine.

### **Disability of members in proceedings on account of pecuniary interest**

**13.**—(1) This paragraph applies where a member has a pecuniary interest, direct or indirect, in a contract, proposed contract or other matter and is present at a meeting of HEE at which the contract, proposed contract or other matter is the subject of consideration.

(2) Subject to the following provisions of this regulation, where paragraph (1) applies in respect of a member, the member must at the meeting and as soon as practicable after its commencement, disclose the interest and must not take part in the consideration or discussion of the contract, proposed contract or other matter or vote on any question with respect to it.

(3) The Secretary of State may, subject to such conditions as the Secretary of State thinks fit to impose, remove a disability imposed by this regulation if the Secretary of State thinks it is in the interests of the health service to do so.

(4) HEE may, by standing orders made under regulation 12(2), provide for the exclusion of a member from a meeting of HEE while any contract, proposed contract or other matter in which the member has a pecuniary interest, direct or indirect, is under consideration.

(5) Any remuneration, compensation or allowances payable to a member by virtue of paragraph 2 of Schedule 6 to the Act (pay and allowances) is not a pecuniary interest for the purposes of this regulation.

(6) Subject to paragraphs (3) and (7), the member must be treated for the purposes of this regulation as having an indirect pecuniary interest in a contract, proposed contract or other matter if—

- (a) the member, or his or her nominee, is a director of a company or other 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) the member 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 two individuals living together as a couple (whether married or in a civil partnership or not) the interest of one is, if known to the other, to be taken for the purpose of this regulation as also being an interest of the other.

(7) A member is not to be treated as having a pecuniary interest in a contract, proposed contract or other matter by reason only—

- (a) of membership of a company or other body if the member has no beneficial interest in securities of the company or other body; or
- (b) of an interest in a company, body or person with which the member is connected as mentioned in paragraph (6) which is so remote or insignificant that it cannot reasonably be regarded as likely to influence the member in the consideration or discussion of, or voting on, any question with respect to the contract, proposed contract or other matter.

(8) Where a 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;

- (b) the total nominal value of the 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 shares of any one class in which the person has a beneficial interest does not exceed one-hundredth of the total issued share capital of that class,

this regulation does not prohibit the member from taking part in the consideration or discussion of the contract, proposed contract or other matter, or from voting on any question with respect to it, but, in such circumstances the member must nonetheless disclose their interest.

(9) This regulation applies, subject to such directions as may be given by the Secretary of State—

- (a) to a committee or sub-committee as it applies to HEE; and
- (b) to a member of a committee or sub-committee (whether or not the person is a member of HEE) as it applies to a member of HEE.

(10) In this regulation—

“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 a share or debenture; or
- (b) rights (whether actual or contingent) in respect of money lent to, or deposited with, an 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.

### **Reports by HEE**

**14.** HEE must make such reports to the Secretary of State in such manner and at such time as the Secretary of State directs, and must furnish to the Secretary of State such information as the Secretary of State from time to time requires.

### **Public meeting**

**15.** If, under regulation 14, the Secretary of State directs HEE to make an annual report for any particular year or for each year, HEE must present the report at a public meeting held not later than 30 days after the date on which the report is made.

Signed by authority of the Secretary of State for Health.

15th May 2012

*Anne Milton*  
Parliamentary Under-Secretary of State,  
Department of Health

## SCHEDULE

Regulation 12(1)

### RULES AS TO MEETINGS AND PROCEEDINGS OF HEE

1. The first meeting of HEE is to be held on such day and at such place as may be fixed by the chair and the chair is responsible for convening the meeting.

2.—(1) The chair may call a meeting of HEE at any time.

(2) If a requisition for a meeting, signed by at least one third of the total number of members, is presented to the chair and the chair either—

(a) refuses to call a meeting; or

(b) without so refusing, does not within 21 days after the requisition has been presented to him or her call a meeting,

those members may immediately call a meeting.

(3) In sub-paragraph (2), “total number of members” means the total number of members excluding the chair and any member for the time being suspended under regulation 6.

3.—(1) Before each meeting of HEE, other than a meeting called pursuant to paragraph 2(2), a notice of the meeting which—

(a) specifies the principal business proposed to be transacted at it; and

(b) is signed by the chair or by an officer of HEE authorised by the chair to sign on the chair’s behalf,

must be delivered to each member, or sent by post to each member’s last known postal address, at least seven clear days before the date of the meeting.

(2) The proceedings of a meeting are not invalidated by failure to deliver such notice to a member.

(3) Sub-paragraph (1) of this rule does not apply if the chair thinks that it is necessary to call a meeting without notice.

4.—(1) At HEE’s first meeting the chair must preside.

(2) At a meeting of HEE (other than its first meeting) the chair or, in the chair’s absence, the vice-chair (if there is one and they are present), must preside.

(3) If at a meeting of HEE (other than its first meeting) the chair and any vice-chair are absent, such other non-officer member present as the other members present may choose for the purpose must preside.

5. Every question at a meeting must be determined by a majority of votes of the members present and competent to vote on the question and, in the case of an equality of votes, the chair or, in the chair’s absence, the person presiding at the meeting has a second or casting vote.

6.—(1) Subject to sub-paragraph (2), no business may be transacted at a meeting unless at least two members are present.

(2) The chief executive must be present at a meeting of HEE at which other members who are officers of HEE are appointed.

7.—(1) The minutes of the proceedings of a meeting must be drawn up and must be signed at the next ensuing meeting by the person presiding at the next meeting.

(2) The names of the members present at a meeting must be recorded in the minutes.

**Status:** This is the original version (as it was originally made). This item of legislation is currently only available in its original format.

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## EXPLANATORY NOTE

*(This note is not part of the Regulations)*

These Regulations make provision concerning the membership and procedure of Health Education England (“HEE”). HEE is a Special Health Authority established in relation to England under section 28 of the National Health Service Act 2006 by the Health Education England (Establishment and Constitution) Order 2012 ([S.I.2012/1273](#)).

In particular, these Regulations provide for the appointment and term of office of the chief executive, the chair and other members of HEE (regulation 2), for disqualification for appointment (regulations 3 and 4), for the termination of appointment (regulation 5) and for suspension of appointment (regulation 6). Also included is provision relating to the appointment and powers of a vice-chair (regulations 7 to 9) and the appointment of, and exercise of functions by, committees and sub-committees (regulations 10 and 11). Provision is also made in relation to the conduct of proceedings (regulation 12 and the Schedule), disability on account of a pecuniary interest (regulation 13), for requiring HEE to furnish reports and certain other information to the Secretary of State (regulation 14) and for requiring presentation of an annual report at a public meeting (regulation 15).

An impact assessment has not been prepared for this instrument as no impact on the private or voluntary sector is foreseen.