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STATUTORY RULES OF NORTHERN IRELAND

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**2009 No. 98**

**The Patient and Client Council (Membership and Procedure) Regulations (Northern Ireland) 2009**

**PART 2**

**MEMBERSHIP**

**Membership**

**2.—(1)** The number of members appointed by the Department for the purposes of paragraph 5(a) of Schedule 4 to the Act shall be 16.

(2) The members appointed under paragraph (1) shall include—

- (a) five members of district councils;
- (b) five representatives of voluntary organisations with an interest in health and social care; and
- (c) one representative of a trade union.

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**Commencement Information**

**II** Reg. 2 in operation at 1.4.2009, see [reg. 1\(1\)](#)

**Disqualification for appointment**

**3.—(1)** Subject to regulation 4, a person shall be disqualified for appointment as a Chair or as a member of the Council if that person—

- (a) has within five years of the day the appointment would otherwise have taken effect been convicted, whether in the United Kingdom or elsewhere, of any offence and has been given a sentence of imprisonment (whether suspended or not) for a period of not less than three months without the option of a fine;
- (b) has been dismissed, other than by reason of redundancy, from any paid employment with the Department, a health and social care body [<sup>F1</sup>, a health service body or a former health service body];
- (c) is the subject of a bankruptcy restrictions order [<sup>F2</sup>or he is the subject of a debt relief restrictions order];
- (d) is subject to a disqualification under the Company Directors Disqualification (Northern Ireland) Order 2002(1), the Company Directors Disqualification Act 1986(2) or to an order

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

(2) 1986 c.46

made under section 429(2)(b) of the Insolvency Act 1986<sup>(3)</sup> (failure to pay under county court administration order);

- (e) has been—
- (i) removed from the office of charity trustee or trustee for a charity in Northern Ireland or by an order made by the Charity Commissioners or the High Court in England and Wales on the grounds of any misconduct or mismanagement in the administration of the charity for which that person was responsible or to which that person was privy, or which that person's conduct contributed to or facilitated; or
  - (ii) removed under section 7 of the Law Reform (Miscellaneous Provisions) (Scotland) Act 1990<sup>(4)</sup> (powers of the Court of Session to deal with management of charities), from being concerned in the management or control of any body;
- (f) is a Chair, chairman, member or non-executive director of any health and social care body or health service body [<sup>F3</sup>(other than a clinical commissioning group)];
- [<sup>F4</sup>(fa) is the chair or a member of the governing body of a clinical commissioning group; ]
- (g) holds any paid employment or office with the Department, a health and social care body or a health service body;
- (h) is a person who has been removed from office as the Chair, chairman, member or non-executive director of a health and social care body [<sup>F5</sup>, a health service body (other than a clinical commissioning group) or a former health service body;]
- [<sup>F6</sup>(i) is a person who has been removed from office as the chair or a member of the governing body of a clinical commissioning group.]
- (2) For the purposes of paragraph 1(a)—
- (a) the date of conviction shall be deemed to be the date on which the ordinary period allowed for making an appeal or application with respect to the conviction expires or, if such an appeal or application is made, the date on which the appeal or application is finally disposed of or abandoned or fails by reason of its not being prosecuted; and
  - (b) there shall be disregarded—
    - (i) any conviction by or before a court outside the United Kingdom for an offence in respect of conduct which, if it had taken place in any part of the United Kingdom, would not have constituted an offence under the law in force in that part of the United Kingdom;
    - (ii) any sentence of imprisonment passed by such a court on a person who at the time the sentence was passed was under 21 years of age.
- (3) For the purposes of paragraph 1(b)—
- (a) a person shall not be treated as having been in paid employment by reason only of his being [<sup>F7</sup>(i)] a Chair, chairman, member or non-executive director of a health service body or a health and social care body [<sup>F8</sup>(other than a clinical commissioning group), a former health service body,]<sup>F9</sup>or
    - (ii) the chair or a member of the governing body of a clinical commissioning group;]; and
  - (b) “dismissed” excludes dismissal which was established to have been unfair in industrial tribunal proceedings.

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(3) 1986 c.45

(4) 1990 c.40

### Textual Amendments

- F1** Words in [reg. 3\(1\)\(b\)](#) substituted (1.4.2013) by [The National Treatment Agency \(Abolition\) and the Health and Social Care Act 2012 \(Consequential, Transitional and Saving Provisions\) Order 2013 \(S.I. 2013/235\)](#), art. 1(2), [Sch. 2 para. 139\(3\)\(a\)](#)
- F2** Words in [reg. 3\(1\)\(c\)](#) inserted (7.3.2016) by [The Debt Relief Act \(Northern Ireland\) 2010 \(Consequential Amendments\) Order \(Northern Ireland\) 2016 \(S.R. 2016/108\)](#), art. 1, [Sch. para. 55\(3\)](#)
- F3** Words in [reg. 3\(1\)\(f\)](#) inserted (1.4.2013) by [The National Treatment Agency \(Abolition\) and the Health and Social Care Act 2012 \(Consequential, Transitional and Saving Provisions\) Order 2013 \(S.I. 2013/235\)](#), art. 1(2), [Sch. 2 para. 139\(3\)\(b\)](#)
- F4** [Reg. 3\(1\)\(fa\)](#) inserted (1.4.2013) by [The National Treatment Agency \(Abolition\) and the Health and Social Care Act 2012 \(Consequential, Transitional and Saving Provisions\) Order 2013 \(S.I. 2013/235\)](#), art. 1(2), [Sch. 2 para. 139\(3\)\(c\)](#)
- F5** Words in [reg. 3\(1\)\(h\)](#) substituted (1.4.2013) by [The National Treatment Agency \(Abolition\) and the Health and Social Care Act 2012 \(Consequential, Transitional and Saving Provisions\) Order 2013 \(S.I. 2013/235\)](#), art. 1(2), [Sch. 2 para. 139\(3\)\(d\)](#)
- F6** [Reg. 3\(1\)\(i\)](#) inserted (1.4.2013) by [The National Treatment Agency \(Abolition\) and the Health and Social Care Act 2012 \(Consequential, Transitional and Saving Provisions\) Order 2013 \(S.I. 2013/235\)](#), art. 1(2), [Sch. 2 para. 139\(3\)\(e\)](#)
- F7** Words in [reg. 3\(3\)\(a\)](#) renumbered as [reg. 3\(3\)\(a\)\(i\)](#) (1.4.2013) by [The National Treatment Agency \(Abolition\) and the Health and Social Care Act 2012 \(Consequential, Transitional and Saving Provisions\) Order 2013 \(S.I. 2013/235\)](#), art. 1(2), [Sch. 2 para. 139\(3\)\(f\)\(i\)](#)
- F8** Words in [reg. 3\(3\)\(a\)\(i\)](#) inserted (1.4.2013) by [The National Treatment Agency \(Abolition\) and the Health and Social Care Act 2012 \(Consequential, Transitional and Saving Provisions\) Order 2013 \(S.I. 2013/235\)](#), art. 1(2), [Sch. 2 para. 139\(3\)\(f\)\(ii\)](#)
- F9** [Reg. 3\(3\)\(a\)\(ii\)](#) and word inserted (1.4.2013) by [The National Treatment Agency \(Abolition\) and the Health and Social Care Act 2012 \(Consequential, Transitional and Saving Provisions\) Order 2013 \(S.I. 2013/235\)](#), art. 1(2), [Sch. 2 para. 139\(3\)\(f\)\(iii\)](#)

### Commencement Information

- I2** [Reg. 3](#) in operation at 1.4.2009, see [reg. 1\(1\)](#)

### Cessation of disqualification

4.—(1) Subject to paragraph (2), where a person is disqualified under regulation 3(1)(b) (dismissed employees) that person may, after the expiry of a period of not less than two years, apply in writing to the Department to remove the disqualification and the Department may direct that the disqualification shall cease.

(2) Where the Department refuses an application to remove a disqualification no further application may be made by that person until the expiration of two years from the date of the application.

(3) Where a person is disqualified under regulation 3(1)(h) (certain Chairs, chairmen, members or non-executive directors whose appointments have been terminated), the disqualification shall cease on the expiry of a period of two years or such longer period as the Department specifies when terminating the period of office but the Department may on application being made to it by that person reduce the period of disqualification.

### Commencement Information

- I3** [Reg. 4](#) in operation at 1.4.2009, see [reg. 1\(1\)](#)

### Tenure of office

- 5.—(1) The Chair of the Council shall be appointed for a period not exceeding 4 years.
- (2) The other members of the Council shall be appointed for a period not exceeding 4 years.
- (3) Members of the Council may be appointed for periods of different duration.
- (4) The period of appointment of the Chair and of any particular member of the Council shall be determined by the Department.
- (5) Subject to regulation 3, the Chair or a member of the Council may, on the termination of the period of tenure of office, be eligible for re-appointment for such further period, not exceeding 4 years as the Department may in any particular case determine.
- (6) The Department may, instead of re-appointing the Chair or a member of the Council on the expiration of his term of office, extend his appointment for such further period as may appear reasonable in the particular circumstances; but the period by which an appointment is extended must not exceed 4 years.
- (7) A Chair or any member of the Council specified in regulation 2(2)(a), (b) or (c)—
- (a) who ceases to be a—
    - (i) member of a district council;
    - (ii) representative of a voluntary organisation with an interest in health and social care; or
    - (iii) representative of a trade union;
 shall cease to be a Chair or a member of the Council;
  - (b) who is suspended from being a—
    - (i) member of a district council;
    - (ii) representative of a voluntary organisation with an interest in health and social care; or
    - (iii) representative of a trade union;
 shall be suspended from being a Chair or a member of the Council while so suspended.

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#### Commencement Information

**I4** Reg. 5 in operation at 1.4.2009, see [reg. 1\(1\)](#)

### Resignations

- 6.—(1) The Chair or a member of the Council may resign his office at any time during his term of office by giving not less than 30 days notice in writing to the Department of his intention to do so.
- (2) A person who resigns as Chair of the Council may, if the Department consents, continue to serve as a member of the Council for any part of the period of his appointment which remains when his resignation as Chair takes effect.
- (3) A person who, on his resignation as Chair of the Council seeks to continue to serve as a member of the Council, shall inform the Department in writing of his wish to do so when submitting his resignation as Chair.
- (4) A person who fails to comply with the requirement of paragraph (3) shall cease to be a member of the Council when his term of office as Chair terminates.
- (5) In the case of a member of the Council who during his term of office is appointed Chair of the Council, the terms on which he was appointed a member shall cease to apply on the day on which his appointment as Chair takes effect.

**Commencement Information**

**I5** Reg. 6 in operation at 1.4.2009, see [reg. 1\(1\)](#)

**Removal**

7.—(1) Where a Chair or a member of the Council—

- (a) is absent from meetings of the Council for more than 6 months consecutively, except for an approved reason;
- (b) is convicted of an indictable offence;
- (c) becomes disqualified for appointment under regulation 3;
- (d) is incapable of carrying out his functions for reasons of ill health; or
- (e) has failed to comply with regulation 9 (exclusion on account of pecuniary interest);

the Council shall forthwith, by resolution, declare the office to be vacant and shall notify that fact in such manner as it thinks fit, and thereupon the office shall become vacant.

(2) In paragraph 1(a) “approved reason” means a reason approved by the Department.

(3) Where the place of the Chair or a member of the Council becomes vacant before the expiration of the Chair or the member’s term of office, whether by death, resignation or otherwise, the vacancy shall be filled by appointment by the Department and any person so appointed shall hold office for the remainder of the term of office of the former Chair or member.

(4) Where the Department is of the opinion that it is not in the interest of, or conducive to the good management of, the Council or any of its committees that the Chair or a member of the Council should continue to hold office, it may forthwith remove the Chair or a member by giving him notice in writing to that effect.

(5) Where a person has been appointed Chair or a member of the Council and it comes to the notice of the Department that at the time of the appointment he was disqualified for appointment under regulation 3, it shall forthwith declare that the person in question was not duly appointed and notify him in writing to that effect; and upon receipt of such notification, he shall be removed and he shall cease to act as such Chair or member of the Council.

**Commencement Information**

**I6** Reg. 7 in operation at 1.4.2009, see [reg. 1\(1\)](#)

**Appointment of deputy Chair**

8.—(1) Subject to paragraph (2), the Chair and members of the Council may appoint one of their number to be deputy Chair for such period, not exceeding the remainder of his term of office as a member, as they may specify on appointing him.

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

(3) Where the Chair is, for whatever reason, unable to perform his duties as Chair, the deputy Chair may perform those duties.

**Commencement Information**

**17** Reg. 8 in operation at 1.4.2009, see [reg. 1\(1\)](#)

**Disclosure of pecuniary interest and exclusion of Chair and members of the Council in proceedings on account of pecuniary interest**

**9.—(1)** Subject to the following provisions of this regulation, if the Chair or any other member of the Council has a pecuniary interest, direct or indirect, in any contract, proposed contract or other matter and is present at any meeting of the Council at which the contract, proposed contract or other matter is the subject of consideration, he shall at the meeting or as soon as practicable after its meeting, disclose his interest and shall 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.

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

(3) Any remuneration, compensation or allowances payable to the Chair or other member of the Council by virtue of paragraph 4 of Schedule 4 to the Act (remuneration and allowances) shall not be treated as a pecuniary interest for the purpose of this regulation.

(4) Subject to paragraphs (2) and (5), the Chair or other member of the Council shall be treated for the purpose of this regulation 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 who has a direct pecuniary interest in the other matter under consideration;

and in the case of [<sup>F10</sup>two people who are spouses, or civil partners, of each other and who are living together, the interest of one of them] shall, if known to the other, be deemed for the purpose of this regulation to be also an interest of the other.

(5) Neither the Chair nor a member of the Council shall be treated as having a pecuniary interest in any contract, proposed contract or other matter by reason only—

- (a) of 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) of an interest in any company, body or person with which he is connected as mentioned in paragraph (4) which is so remote or insignificant that it cannot reasonably be regarded as likely to influence him in consideration or discussion of, or in voting on, any question with respect to that contract, proposed contract or other matter.
- (6) Where the Chair or other member of the Council—
- (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 shares of any one class in which he has a beneficial interest does not exceed one-hundredth of the total issued capital of that class;

this regulation shall not prohibit him 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, without prejudice however to his duty to disclose his interest.

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

(8) In this regulation—

“public body” includes—

- (a) any body established for the purpose of carrying on under national ownership, any industry or undertaking or part of any industry or undertaking;
- (b) the governing body of any university, university college or college school or hall of a university; and
- (c) the National Trust for Places of Historic Interest or Natural Beauty incorporated by the National Trust Act 1907(5);

“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 share 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.

#### Textual Amendments

- F10** Words in [reg. 9\(4\)](#) substituted (13.1.2020) by [The Marriage \(Same-sex Couples\) and Civil Partnership \(Opposite-sex Couples\) \(Northern Ireland\) Regulations 2019 \(S.I. 2019/1514\)](#), [regs. 1\(2\)](#), [165](#) (with [regs. 6-9](#))

#### Commencement Information

- I8** Reg. 9 in operation at 1.4.2009, see [reg. 1\(1\)](#)

**Changes to legislation:**

There are currently no known outstanding effects for the The Patient and Client Council (Membership and Procedure) Regulations (Northern Ireland) 2009, PART 2.