Changes to legislation: *National Health Service Act 2006, Cross Heading: Council of Governors is up to date with all changes known to be in force on or before 27 June 2024. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details) View outstanding changes*

SCHEDULES

SCHEDULE 7

CONSTITUTION OF PUBLIC BENEFIT CORPORATIONS

[F1 Council of Governors]

Textual Amendments

F1 Sch. 7 para. 7 cross-heading substituted (1.10.2012) by Health and Social Care Act 2012 (c. 7), **ss. 151(9)(c)**, 306(4); S.I. 2012/1831, art. 2(2)

7 (1) A public benefit corporation has **[**F2a council of governors**]**.

(2) Only members of the corporation and persons appointed under the following provisions may become or continue as members of **[**F3the council**]** .

(3) The members of **[**F3the council**]** other than the appointed members must be chosen by election.

(4) Members of a constituency or, where there are classes within it, members of each class may elect any of their number to be a member of **[**F3the council**]**.

Textual Amendments

F2 Words in Sch. 7 para. 7(1) substituted (1.10.2012) by Health and Social Care Act 2012 (c. 7), **ss. 151(1)(a)**, 306(4); S.I. 2012/1831, art. 2(2)

F3 Words in Sch. 7 para. 7(2)(3)(4) substituted (1.10.2012) by Health and Social Care Act 2012 (c. 7), **ss. 151(1)(b)**, 306(4); S.I. 2012/1831, art. 2(2)

8 (1) The following may not become or continue as members of **[**F4the council**]** of governors—

(a) a person who has been **[**F5made**]** bankrupt or whose estate has been sequestrated and (in either case) has not been discharged,

[F6(aa) a person in relation to whom a moratorium period under a debt relief order applies (under Part 7A of the Insolvency Act 1986),**]**

(b) a person who has made a composition or arrangement with, or granted a trust deed for, his creditors and has not been discharged in respect of it,

(c) a person who within the preceding five years has been convicted in the British Islands of any offence if a sentence of imprisonment (whether suspended or not) for a period of not less than three months (without the option of a fine) was imposed on him.

(2) The constitution may make further provision as to the circumstances in which a person may not become or continue as a member of **[**F4the council**]**.

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Textual Amendments

F4 Words in Sch. 7 paras. 8-14 substituted (1.10.2012) by Health and Social Care Act 2012 (c. 7), **ss. 151(9)(b)**, 306(4); S.I. 2012/1831, art. 2(2)

F5 Word in Sch. 7 para. 8(1)(a) substituted (6.4.2016) by The Enterprise and Regulatory Reform Act 2013 (Consequential Amendments) (Bankruptcy) and the Small Business, Enterprise and Employment Act 2015 (Consequential Amendments) Regulations 2016 (S.I. 2016/481), reg. 1, **Sch. 1 para. 18**

F6 Sch. 7 para. 8(1)(aa) inserted (1.10.2012) by The Tribunals, Courts and Enforcement Act 2007 (Consequential Amendments) Order 2012 (S.I. 2012/2404), art. 1, **Sch. 2 para. 57** (with art. 5)

9 (1) More than half of the members of **[**[F4]the council**]** of governors must be elected by members of the corporation other than those who come within paragraph 3(1)(b).

(2) At least three members of **[**[F4]the council**]** must be elected by the staff constituency or, where there are classes within it, at least one member of **[**[F4]the council**]** must be elected by each class and at least three members must be elected altogether.

[F7](3) . . . . . .

(4) At least one member of **[**[F4]the council**]** must be appointed by one or more qualifying local authorities.

(5) A qualifying local authority is a local authority for an area which includes the whole or part of an area specified in the constitution as the area for a public constituency.

(6) If any of the corporation's hospitals includes a medical or dental school provided by a university, at least one member of **[**[F4]the council**]** must be appointed by that university.

[[F8](7) Any organisation specified in the constitution for the purposes of this sub-paragraph may appoint one or more members of the council (but no more than the number specified for those purposes in the constitution).**]**

Textual Amendments

F4 Words in Sch. 7 paras. 8-14 substituted (1.10.2012) by Health and Social Care Act 2012 (c. 7), **ss. 151(9)(b)**, 306(4); S.I. 2012/1831, art. 2(2)

F7 Sch. 7 para. 9(3) omitted (1.4.2013) by virtue of Health and Social Care Act 2012 (c. 7), **ss. 151(2)**, 306(4); S.I. 2013/160, art. 2(2) (with arts. 7-9)

F8 Sch. 7 para. 9(7) substituted (1.4.2013) by Health and Social Care Act 2012 (c. 7), **ss. 151(3)**, 306(4); S.I. 2013/160, art. 2(2) (with arts. 7-9)

10 (1) An elected member of **[**[F4]the council**]** of governors may hold office for a period of three years.

(2) Such a member is eligible for re-election at the end of that period.

(3) But such a member ceases to hold office if he ceases to be a member of the corporation.

***Changes to legislation:** National Health Service Act 2006, Cross Heading: Council of Governors is up to date with all changes known to be in force on or before 27 June 2024. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details) View outstanding changes*

Textual Amendments

F4 Words in Sch. 7 paras. 8-14 substituted (1.10.2012) by Health and Social Care Act 2012 (c. 7), **ss. 151(9)(b)**, 306(4); S.I. 2012/1831, art. 2(2)

[F9 10A The general duties of the council of governors are—

(a) to hold the non-executive directors individually and collectively to account for the performance of the board of directors, and

(b) to represent the interests of the members of the corporation as a whole and the interests of the public.]

Textual Amendments

F9 Sch. 7 para. 10A inserted (1.4.2013) by Health and Social Care Act 2012 (c. 7), **ss. 151(4)**, 306(4); S.I. 2013/160, art. 2(2) (with arts. 7-9)

[F10 10B A public benefit corporation must take steps to secure that the governors are equipped with the skills and knowledge they require in their capacity as such.]

Textual Amendments

F10 Sch. 7 para. 10B inserted (1.4.2013) by Health and Social Care Act 2012 (c. 7), **ss. 151(5)**, 306(4); S.I. 2013/160, art. 2(2) (with arts. 7-9)

[F11 10C For the purpose of obtaining information about the corporation's performance of its functions or the directors' performance of their duties (and deciding whether to propose a vote on the corporation's or directors' performance), the council of governors may require one or more of the directors to attend a meeting.]

Textual Amendments

F11 Sch. 7 para. 10C inserted (1.4.2013) by Health and Social Care Act 2012 (c. 7), **ss. 151(6)**, 306(4); S.I. 2013/160, art. 2(2) (with arts. 7-9)

11 The corporation may pay travelling and other expenses to members of [F4 the council] of governors at rates decided by the corporation.

Textual Amendments

F4 Words in Sch. 7 paras. 8-14 substituted (1.10.2012) by Health and Social Care Act 2012 (c. 7), **ss. 151(9)(b)**, 306(4); S.I. 2012/1831, art. 2(2)

12 The constitution must provide for the chairman of the corporation or (in his absence) another person to preside at meetings of [F4 the council] of governors.

Textual Amendments

F4 Words in Sch. 7 paras. 8-14 substituted (1.10.2012) by Health and Social Care Act 2012 (c. 7), **ss. 151(9)(b)**, 306(4); S.I. 2012/1831, art. 2(2)

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13 (1) The constitution must provide for meetings of **[**[F4]the council**]** of governors to be open to members of the public.

(2) But the constitution may provide for members of the public to be excluded from a meeting for special reasons.

Textual Amendments

F4 Words in Sch. 7 paras. 8-14 substituted (1.10.2012) by Health and Social Care Act 2012 (c. 7), **ss. 151(9)(b)**, 306(4); S.I. 2012/1831, art. 2(2)

14 (1) The constitution must make provision as to—

(a) the conduct of elections for membership of **[**[F4]the council**]**,

(b) the appointment of persons to membership,

(c) the practice and procedure of **[**[F4]the council**]**,

(d) the removal of a member from office.

(2) The constitution may make further provision about **[**[F4]the council**]**.

Textual Amendments

F4 Words in Sch. 7 paras. 8-14 substituted (1.10.2012) by Health and Social Care Act 2012 (c. 7), **ss. 151(9)(b)**, 306(4); S.I. 2012/1831, art. 2(2)

Changes to legislation:
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Changes and effects yet to be applied to the whole Act associated Parts and Chapters:
Whole provisions yet to be inserted into this Act (including any effects on those provisions):

- s. 3B(1)(aa) inserted by 2022 c. 31 Sch. 3 para. 2(b)
- s. 3B(1)(za) inserted by 2022 c. 31 Sch. 3 para. 2(a)
- s. 13G(4) words omitted by virtue of 2012 c. 7, Sch. 14 para. 4A (as inserted) by 2014 c. 23 s. 120(18)(a)
- s. 35(3A)(3B) inserted by 2012 c. 7 s. 159(4)
- s. 35(3A) words substituted by 2022 c. 31 Sch. 5 para. 12(4) (This amendment not applied to legislation.gov.uk. The insertion of s. 35(3A) by 2012 c. 7 s.159(4) not yet in force.)
- s. 40(4)-(4B) substituted for s. 40(4) by 2012 c. 7 Sch. 14 para. 5
- s. 42(1A) inserted by 2012 c. 7 Sch. 14 para. 6
- s. 65F(2A)-(2F) inserted by 2012 c. 7 Sch. 14 para. 15(4) (This amendment is itself amended before it comes into force by 2014 c. 23, ss. 85(15), 120(18)(b)(c), 127(1); S.I. 2014/1714, art. 3(2)(b)(c))
- s. 65H(10A) inserted by 2012 c. 7 Sch. 14 para. 17(4)
- s. 65H(10A) omitted by 2022 c. 31 Sch. 8 para. 7(7) (This amendment not applied to legislation.gov.uk. 2012 c. 7 Sch. 14 revoked at 1.7.2022 by 2022 c. 31, s. 186(6), Sch. 7 para. 13 before the insertion of s. 65H(10A) could come into effect.)
- s. 82A-83A and cross-heading substituted for s. 83 and cross-heading by 2022 c. 31 Sch. 3 para. 3
- s. 84(4)-(4B) substituted for s. 84(4) by 2022 c. 31 Sch. 3 para. 4(4)
- s. 92(5A) inserted by 2022 c. 31 Sch. 3 para. 9(4)
- s. 94(3)(ca)(cb) substituted for s. 94(3)(ca) by 2022 c. 31 Sch. 3 para. 11(3)
- s. 98A98B substituted for s. 98A by 2022 c. 31 Sch. 3 para. 14
- s. 98BC-99B and cross-heading substituted for s. 99 and cross-heading by 2022 c. 31 Sch. 3 para. 15
- s. 100(3A)(3B) inserted by 2022 c. 31 Sch. 3 para. 16(4)
- s. 109(3)(ca)(cb) substituted for s. 109(3)(ca) by 2022 c. 31 Sch. 3 para. 23(3)
- s. 112(1)(za) inserted by 2022 c. 31 Sch. 3 para. 24(2)(b)
- s. 114A114B substituted for s. 114A by 2022 c. 31 Sch. 3 para. 26
- s. 114C and cross-heading inserted by 2022 c. 31 Sch. 3 para. 27
- s. 116A116B and cross-heading inserted by 2022 c. 31 Sch. 3 para. 30
- s. 117(4)(4A) substituted for s. 117(4) by 2022 c. 31 Sch. 3 para. 31(4)
- s. 125A125B substituted for s. 125A by 2022 c. 31 Sch. 3 para. 39
- s. 223C(1)(c)(d) inserted by 2022 c. 31 s. 28
- s. 223LA inserted by 2022 c. 31 s. 30(3)
- Sch. 15 para. 4(1)(b) and word omitted by 2012 c. 7 Sch. 14 para. 39(3)