
STATUTORY INSTRUMENTS

2005 No. 2531

The NHS Blood and Transplant (Gwaed a Thrawsblaniadau'r GIG) Regulations 2005

Disqualification for appointment

3.—(1) Subject to regulation 4 (cessation of disqualification), a person shall be disqualified for appointment as the chairman or as a non-officer member if—

- (a) he has, within the preceding five years, been convicted in the United Kingdom of any offence or convicted elsewhere 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 has been sentenced to a period of imprisonment (whether suspended or not) for a period of not less than three months without the option of a fine, and the conviction not been quashed on appeal;
- (b) he is the subject of a bankruptcy restrictions order or an interim bankruptcy restrictions order⁽¹⁾;
- (c) he has been dismissed within the previous five years, otherwise than by reason of redundancy, from any paid employment with a health service body;
- (d) he is a person whose tenure of office as the chairman, a member, a director or a governor of a health service body has been terminated on the grounds that—
 - (i) it was not in the interests of, or conducive to the good management of, the health service body or of the health service that he should continue to hold that office,
 - (ii) he failed, without reasonable cause, to attend any meeting of that health service body for three successive meetings, or
 - (iii) he failed to declare a pecuniary interest or withdraw from consideration of any matter in respect of which he had a pecuniary interest;
- (e) he—
 - (i) is the subject of a national NHS disqualification,
 - (ii) was refused nomination or approval to fill a vacancy for a medical practitioner pursuant to regulations made under section 29B(2A) of the Act and was not subsequently nominated or approved or included in a primary care list⁽²⁾,
 - (iii) has been refused admission to a primary care list on grounds corresponding to the conditions referred to in section 49F(2), (3) or (4) of the Act⁽³⁾ and has not subsequently been included in a primary care list,
 - (iv) is conditionally included in a primary care list⁽⁴⁾,

(1) See Schedule 4A to the Insolvency Act 1986 (c. 45), inserted by Schedule 20 to the Enterprise Act 2002 (c. 40).

(2) Section 29B is repealed by section 196 of, and Schedule 14 to, the 2003 Act.

(3) Section 49F was inserted by section 25 of the 2001 Act and amended by section 2(5) of, and paragraphs 1 and 21(a) of Schedule 2 to, the 2002 Act; section 49F(1)(a) and 49F(1)(c) are repealed by section 196 of, and Schedule 14 to, the 2003 Act.

(4) See section 43ZA of the Act for conditional inclusion. See also sections 28X(5) and 43D(4) of the Act and section 8ZA(4) of the 1997 Act.

- (v) has been removed from a primary care list on any of the grounds set out in section 49F(2),(3) or (4) of the Act or by a direction of the NHS Tribunal and has not subsequently been included in such a list,
- (vi) is contingently removed from a primary care list⁽⁵⁾, or
- (vii) is suspended from a primary care list⁽⁶⁾ or treated as so suspended by virtue of regulation 6(2) of the Abolition of the National Health Service Tribunal (Consequential Provisions) Regulations 2001 or regulation 6(2) of the Abolition of the National Health Service Tribunal (Consequential Provisions) Regulations 2002, and in this sub-paragraph any reference to a provision in the Act includes a reference to the provision corresponding to that provision in legislation relating to Scotland and Northern Ireland;
- (f) he is subject to a disqualification order under the Company Directors Disqualification Act 1986⁽⁷⁾, the Companies (Northern Ireland) Order 1986⁽⁸⁾ or to an order made under section 429(2)(b) of the Insolvency Act 1986⁽⁹⁾ (disabilities on revocation of administration order against an individual);
- (g) he has been—
 - (i) removed from the office of charity trustee or trustee for a charity by an order made by the Charity Commissioners or the High Court on the grounds of any misconduct or mismanagement in the administration of the charity for which he was responsible or to which he was privy, or which he, by his conduct, contributed to or facilitated, or
 - (ii) removed under section 7 of the Law Reform (Miscellaneous Provisions) (Scotland) Act 1990⁽¹⁰⁾ (powers of Court of Session to deal with management of charities) from being concerned in the management or control of any body;
 - (iii) removed as a director, trustee or committee member of a registered social landlord⁽¹¹⁾
- (h) he is the chairman or another member of the Independent Regulator of NHS foundation trusts.

(2) For the purposes of paragraph (1)(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.

(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 having been the chairman or a non-officer member of, or in the case of an NHS trust, the chairman or a non-executive director of, or in the case of an NHS foundation trust, the chairman, a governor or a non-executive director of, the health service body in question.

⁽⁵⁾ See section 49G of the Act for contingent removal. See also sections 28X(4) and 43D(6) of the Act.

⁽⁶⁾ See section 49I of the Act for suspension. See also sections 28X(4) and 43D(6) of the Act and section 8ZA(7) of the 1997 Act.

⁽⁷⁾ 1986 c. 46.

⁽⁸⁾ S.I. 1986/1032 (N.I.6).

⁽⁹⁾ 1986 c. 45.

⁽¹⁰⁾ 1990 c. 40.

⁽¹¹⁾ See Schedule 1, paragraph 4 to the Housing Act 1996 c. 52.