

SCHEDULES

SCHEDULE 16

Section 232

THE NATIONAL INSTITUTE FOR HEALTH AND CARE EXCELLENCE

Membership, appointment, etc.

- 1 (1) NICE consists of—
 - (a) at least six members appointed by the Secretary of State (referred to in this Schedule as the “non-executive members”), and
 - (b) at least three but not more than five other members appointed by the non-executive members (referred to in this Schedule as the “executive members”).
- (2) One of the non-executive members must be appointed as the chair.
- (3) One of the executive members must be appointed as the chief executive; but the appointment may not be made without the approval of the Secretary of State.
- (4) The executive members are employees of NICE.
- (5) Regulations may—
 - (a) prescribe the number of executive members (subject to sub-paragraph (1)(b)), and
 - (b) provide that all or any of the executive members (other than the chief executive) must hold posts of descriptions specified in the regulations.

Tenure of non-executive office

- 2 (1) The chair and other non-executive members—
 - (a) hold and vacate office in accordance with the terms of their appointments, but
 - (b) may resign office by giving notice to the Secretary of State.
- (2) The Secretary of State may remove a person from office as the chair or other non-executive member on any of the following grounds—
 - (a) incapacity,
 - (b) misbehaviour, or
 - (c) failure to carry out his or her duties as a non-executive member.
- (3) The Secretary of State may suspend a person from office as the chair or other non-executive member if it appears to the Secretary of State that there are or may be grounds to remove the person from office under sub-paragraph (2).
- (4) A non-executive member may not be appointed for a period of more than four years.
- (5) A person who ceases to be the chair or another non-executive member is eligible for re-appointment.

Status: This is the original version (as it was originally enacted).

Suspension from non-executive office

- 3 (1) This paragraph applies where a person is suspended under paragraph 2(3).
- (2) The Secretary of State must give notice of the decision to the person; and the suspension takes effect on receipt by the person of the notice.
- (3) 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).
- (4) The initial period of suspension must not exceed six months.
- (5) The Secretary of State may at any time review the suspension.
- (6) 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.
- (7) Following a review during a period of suspension, the Secretary of State may—
- (a) revoke the suspension, or
 - (b) suspend the person for another period of not more than six months from the expiry of the current period.
- (8) 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 2(2), or
 - (b) decides that there are grounds to do so but does not remove the person from office under that provision.
- 4 (1) This paragraph applies where a person is suspended from office as the chair under paragraph 2(3).
- (2) The Secretary of State may appoint a non-executive member as the interim chair to exercise the chair’s functions.
- (3) The interim chair—
- (a) holds and vacates office in accordance with the terms of the appointment, but
 - (b) may resign office by giving notice in writing to the Secretary of State.
- (4) 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.
- (5) A person who ceases to be the interim chair is eligible for re-appointment.

Remuneration etc. of non-executive members

- 5
- (1) NICE must pay to the non-executive members such remuneration and allowances as the Secretary of State may determine.
 - (2) NICE must pay or make provision for the payment of such pensions, allowances or gratuities as the Secretary of State may determine to or in respect of any person who is or has been a non-executive member.
 - (3) If a person ceases to be a non-executive member and the Secretary of State decides that there are exceptional circumstances which mean that the person should be compensated, NICE must pay compensation to the person of such amount as the Secretary of State may determine.

Staff

- 6
- (1) NICE may appoint such persons to be employees of NICE as it considers appropriate.
 - (2) Employees of NICE are to be paid such remuneration and allowances as NICE may determine.
 - (3) Employees of NICE are to be appointed on such other terms and conditions as NICE may determine.
 - (4) NICE may pay or make provision for the payment of such pensions, allowances or gratuities as it may determine to or in respect of any person who is or has been an employee of NICE.
 - (5) Before making a determination as to remuneration, pensions, allowances or gratuities for the purposes of sub-paragraph (2) or (4), NICE must obtain the approval of the Secretary of State to its policy on that matter.

Committees

- 7
- (1) NICE may appoint such committees and sub-committees as it considers appropriate.
 - (2) A committee or sub-committee may consist of or include persons who are not members or employees of NICE.
 - (3) NICE may pay such remuneration and allowances as it may determine to any person who—
 - (a) is a member of a committee or sub-committee, but
 - (b) is not an employee of NICE,whether or not that person is a non-executive member of NICE.

Procedure

- 8
- (1) NICE may regulate its own procedure.
 - (2) But regulations may make provision about procedures to be adopted by NICE for dealing with conflicts of interest of members of NICE or members of a committee or sub-committee.
 - (3) The validity of any act of NICE is not affected by any vacancy among the members or by any defect in the appointment of a member.

Status: This is the original version (as it was originally enacted).

Exercise of functions

- 9 NICE may arrange for the exercise of its functions on its behalf by—
- (a) a non-executive member;
 - (b) an employee (including an executive member);
 - (c) a committee or sub-committee.

General powers

- 10 (1) NICE may do anything which appears to it to be necessary or expedient for the purposes of, or in connection with, the exercise of its functions.
- (2) But, except as provided by paragraph 11(3), NICE has no power to borrow money.
- (3) NICE may do any of the following only with the approval of the Secretary of State—
- (a) form, or participate in the forming of, companies,
 - (b) invest in companies (whether by acquiring assets, securities or rights or otherwise), and
 - (c) provide loans and guarantees and make other kinds of financial provision to or in respect of companies.
- (4) The approval of the Secretary of State may be given for the purposes of sub-paragraph (3) subject to such conditions as the Secretary of State thinks appropriate.
- (5) In this paragraph “company” has the same meaning as in the Companies Acts (see section 1(1) of the Companies Act 2006).

Finance

- 11 (1) The Secretary of State may make payments to NICE out of money provided by Parliament of such amounts as the Secretary of State thinks appropriate.
- (2) Payments made under sub-paragraph (1) may be made at such times and on such conditions (if any) as the Secretary of State thinks appropriate.
- (3) The Secretary of State may lend money to NICE on such terms (including as to repayment and interest) as the Secretary of State may determine.

Reports

- 12 (1) As soon as practicable after the end of each financial year, NICE must prepare an annual report on how it has exercised its functions during the year.
- (2) NICE must—
- (a) lay a copy of the report before Parliament, and
 - (b) once it has done so, send a copy of it to the Secretary of State.
- (3) NICE must provide the Secretary of State with such other reports and information relating to the exercise of NICE’s functions as the Secretary of State may require.
- (4) In this paragraph and paragraph 14 “financial year” means—
- (a) the period beginning on the day on which section 232 comes into force and ending on the following 31 March;
 - (b) each successive period of 12 months.

Accounts

- 13 (1) NICE must keep proper accounts and proper records in relation to the accounts.
- (2) The Secretary of State may, with the approval of the Treasury, give directions to NICE as to—
- (a) the content and form of its accounts, and
 - (b) the methods and principles to be applied in the preparation of its accounts.
- (3) In sub-paragraph (2) a reference to accounts includes NICE’s annual accounts prepared under paragraph 14 and any interim accounts prepared by virtue of paragraph 15.
- 14 (1) NICE must prepare annual accounts in respect of each financial year.
- (2) NICE must send copies of the annual accounts to the Secretary of State and the Comptroller and Auditor General within such period after the end of the financial year to which the accounts relate as the Secretary of State may direct.
- (3) The Comptroller and Auditor General must—
- (a) examine, certify and report on the annual accounts, and
 - (b) lay copies of them and the report before Parliament.
- 15 (1) The Secretary of State may, with the approval of the Treasury, direct NICE to prepare accounts in respect of such period or periods as may be specified in the direction (“interim accounts”).
- (2) NICE must send copies of any interim accounts to the Secretary of State and the Comptroller and Auditor General within such period as the Secretary of State may direct.
- (3) The Comptroller and Auditor General must—
- (a) examine, certify and report on any interim accounts sent by virtue of sub-paragraph (2), and
 - (b) if the Secretary of State so directs—
 - (i) send a copy of the report on the accounts to the Secretary of State, and
 - (ii) lay copies of them and the report before Parliament.

Seal and evidence

- 16 (1) The application of NICE’s seal must be authenticated by the signature of the chair or of any employee who has been authorised (generally or specifically) for that purpose.
- (2) A document purporting to be duly executed under NICE’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.

Status

- 17 (1) NICE must not be regarded as the servant or agent of the Crown or as enjoying any status, immunity or privilege of the Crown.
- (2) NICE’s property must not be regarded as property of, or property held on behalf of, the Crown.