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STATUTORY INSTRUMENTS

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**1991 No. 564 (S.49)**

**NATIONAL HEALTH SERVICE, SCOTLAND**

**The Common Services Agency (Membership  
and Procedure) Regulations 1991**

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| <i>Made</i>                   | - - - - | <i>8th March 1991</i>  |
| <i>Laid before Parliament</i> |         | <i>12th March 1991</i> |
| <i>Coming into force</i>      | - -     | <i>1st April 1991</i>  |

The Secretary of State, in exercise of the powers conferred on him by sections 10(2), 105(7) and 108(1) of, and by paragraphs 3A and 8 of Schedule 5 to the National Health Service (Scotland) Act 1978(1), and of all other powers enabling him in that behalf, hereby makes the following Regulations:

**PART I**  
**GENERAL**

**Citation, commencement and interpretation**

1.—(1) These Regulations may be cited as the Common Services Agency (Membership and Procedure) Regulations 1991 and shall come into force on 1st April 1991.

(2) In these Regulations, unless the context otherwise requires—

- (a) “the Act” means the National Health Service (Scotland) Act 1978;
- (b) “Board” means a Health Board and includes a Special Health Board;
- (c) “the Committee” means the management committee constituted in accordance with paragraph 3 of Schedule 5 of the Act(2);

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(1) 1978 c. 29; section 105(7), which was amended by the Health Services Act 1980 (c. 53) (“the 1980 Act”), Schedule 6, paragraph 5 and Schedule 7 and by the Health and Social Services and Social Security Adjudications Act 1983 (c. 41) (“the 1983 Act”), Schedule 9, paragraph 24, contains provisions relevant to the exercise of the statutory powers under which these Regulations are made; section 108(1) contains definitions of “prescribed” and “regulations” relevant to the exercise of the statutory powers under which these Regulations are made; paragraph 3A of Schedule 5 was inserted by the 1980 Act, Schedule 6, paragraph 8(2) and amended by the National Health Service and Community Care Act 1990 (c. 19) (“the 1990 Act”), Schedule 5, paragraph 10.

(2) Paragraph 3 of Schedule 5 to the Act was amended by the 1990 Act, Schedule 5, paragraph 9.

- (d) “member” means a member of the committee and includes the chairman and “members” shall be construed accordingly;
- (e) “contract” includes any arrangement including an NHS contract;
- (f) “officer” includes employee.

(3) Unless the context otherwise requires, a reference in these Regulations to a numbered regulation is to the regulation bearing that number in these Regulations and a reference in a regulation to a numbered paragraph is to the paragraph bearing that number in that regulation.

## PART II

### MEMBERSHIP

#### **Term of office and remuneration of membership**

2.—(1) Subject to the following provisions of these Regulations, the term of office of the members of the Committee shall be for such period not exceeding four years as the Secretary of State shall specify on making the appointment.

(2) At the expiration of his term of office a member shall, subject to regulations 3 and 4 be eligible for re-appointment.

(3) The members to whom remuneration may be paid under paragraph 3A of Schedule 5 to the Act are those members who are not also officers of the Agency, a Board or the Secretary of State.

#### **Resignation and removal of members**

3.—(1) A member who desires to resign his membership shall give written intimation of his resignation to the Secretary of State.

(2) If a member has not attended any meeting of the Committee or of any sub-committee of the committee throughout a period of six consecutive months, the Secretary of State shall, unless satisfied that his absence was due to illness or other reasonable cause, declare that his seat on the committee has become vacant and that person shall forthwith cease to be a member.

(3) A member of the Committee being either—

- (a) a person who holds any paid appointment or office or other place of profit under a Board or the Secretary of State or the Agency and who is dismissed, removed or resigns from such appointment, office, or other place of profit; or
- (b) a person whose name is included in any list prepared under Part II of the Act, and whose name is withdrawn from the list on his own application,

shall, if the Secretary of State so directs, forthwith cease to be a member.

(4) If a member of the Committee, who was at the time of his appointment also a member or officer of the Agency, of any Board or an officer of the Secretary of State, ceases to be such a member or officer he shall forthwith cease to be a member of the Committee.

#### **Disqualification**

4.—(1) A person shall be disqualified for being a member of the Committee, if—

- (a) he is chairman or a director of an NHS trust; or
- (b) he holds any paid appointment or office with a trade union which represents the interests of members who are employed by a health service body; or

- (c) he is a member of a fund-holding practice recognised under section 87A of the Act(3); or
- (d) he is a person who within the preceding five years has been convicted in the United Kingdom, the Channel Islands, the Isle of Man or the Irish Republic of any offence and has had passed on him a sentence of imprisonment (whether suspended or not) for a period of not less than three months without the option of a fine; or
- (e) he is a person who has held any paid appointment or office or other place of profit under a Board under the Agency or under the Secretary of State and has been dismissed from such appointment, office, or other place of profit otherwise than by reason of redundancy; or
- (f) he is disqualified under section 29 of the Act(4) for inclusion in any list prepared under Part II of the Act; or
- (g) he is a person whose estate has been sequestrated in Scotland or who has been adjudged bankrupt elsewhere than in Scotland, in relation to whose estate a judicial factor has been appointed or who has granted a trust deed for the benefit of his creditors:

Provided that—

- (i) the disqualification attaching to a person whose estate has been sequestrated shall cease if and when—
  - (a) the sequestration of his estate is recalled or reduced; or
  - (b) the sequestration is discharged;
- (ii) the disqualification attaching to a person by reason of his having been adjudged bankrupt shall cease if and when—
  - (a) the bankruptcy is annulled; or
  - (b) he is discharged;
- (iii) the disqualification attaching to a person in relation to whose estate a judicial factor has been appointed shall cease if and when—
  - (a) that appointment is recalled; or
  - (b) the judicial factor is discharged;
- (iv) the disqualification attaching to a person who has granted a trust deed shall cease if and when he pays his creditors in full or on the expiry of five years from the date of his granting the deed.

(2) The Secretary of State may direct that in relation to any individual person, Health Board or Special Health Board any disqualification so directed shall not apply in relation thereto.

(3) In this regulation “health service body” is any one of the persons and bodies specified in section 17A(2) of the Act(5) and “trade union” has the meaning given in section 28(1) of the Trade Union and Labour Relations Act 1974(6).

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(3) Section 87A was inserted by the 1990 Act, section 34.

(4) Section 29 was amended by the Health and Social Security Act 1984 (c. 48), Schedule 8.

(5) Section 17A was inserted by the 1990 Act, section 30.

(6) 1974 c. 52.

## PART III

### APPOINTMENT OF VICE-CHAIRMAN AND SUB-COMMITTEES

#### **Vice-Chairman**

5. The Committee shall appoint a member who is not also an officer of the Agency to be vice-chairman and any person so appointed shall, so long as he remains a member of the Committee, hold office for such period as the Committee may decide.

#### **Sub-Committees**

6.—(1) Subject to paragraph (2), the Committee may, and if so directed by the Secretary of State shall, appoint sub-committees for such purposes as the Committee may determine, subject to such restrictions or conditions as the Committee may think fit, or as the Secretary of State may direct.

(2) Any sub-committee of the Committee appointed under this regulation shall include at least one member and may include any persons who are co-opted.

## PART IV

### PROCEDURE OF MANAGEMENT COMMITTEE

#### **Meetings and minutes**

7.—(1) At every meeting of the Committee, the chairman, if present, shall preside.

(2) If the chairman is absent from any meeting, the vice-chairman, if present, shall preside, and if the chairman and vice-chairman are both absent, the members present at the meeting shall elect from among themselves a person to act as chairman for that meeting who is not also an officer of the Agency, a Health Board or the Secretary of State.

(3) All acts of, and all questions coming and arising before the Committee shall be done and decided by a majority of the members of the Committee present and voting at a meeting of the Committee and, in the case of an equality of votes, the person presiding at the meeting shall have a second or casting vote.

(4) Minutes of every meeting of the Committee shall be forwarded to the Secretary of State not later than one week before the date of the next meeting of the Committee after that to which they relate.

#### **Conflict of interest**

8.—(1) Subject to such exceptions and qualifications as may, with the approval of the Secretary of State, be specified in standing orders, if a member has any pecuniary or other interest, direct or indirect, in any contract or proposed contract (not being a contract for the provision of any of the services mentioned in Part 11 of the Act) or other matter, and is present at a meeting of the Committee or of a sub-committee of the Committee at which the contract or other matter is the subject of consideration, he shall at the meeting, as soon as practicable after the commencement thereof, disclose the fact, and shall not take part in the consideration and discussion of, or vote on any question with respect to, the contract or other matter.

(2) The Secretary of State may, subject to such conditions as he may think fit to impose, remove any disability imposed by this regulation in any case in which it appears to him in the interests of the national health service that the disability should be removed.

(3) Any remuneration, compensation or allowances payable to a chairman or other member by virtue of paragraphs 3A, 5 or 7 of Schedule 5 to the Act shall not be treated as a pecuniary interest for the purpose of this regulation.

### **Power to make standing orders**

**9.** Subject to such directions as may be given by the Secretary of State, the Committee shall make, and may vary and revoke, standing orders for the regulation of the procedure and business of the Committee and of any sub-Committee of the Committee and in particular—

- (a) for the times and places of the meetings of the Committee or sub-committee which, in the case of the Committee, shall be held not less often than once in every three months;
- (b) for due notice of the time and place of each meeting of the Committee or of a subcommittee of the Committee and, subject to any exceptions which may be mentioned in the standing orders, of the business to be transacted thereat, to be given to members;
- (c) for the chairman of the Committee to call a meeting of the Committee at any time or on being required so to do on receiving a requisition in writing for that purpose specifying the business proposed to be transacted at the meeting and signed by one third of the whole number of members of the Committee including at least two members who are not also officers of the Agency, a Health Board or of the Secretary of State, and for such a meeting to be held within fourteen days of receipt of the requisition, and to provide that no business shall be transacted at the meeting other than that specified in the requisition;
- (d) for recording the names of members present at a meeting of the Committee or of a sub-committee of the Committee;
- (e) for the drawing up, signing, approval and circulation of minutes recording the proceedings of meetings of the Committee or of a sub-committee of the Committee including any decision or resolution of the Committee;
- (f) for specifying the exceptions and qualifications referred to in regulation 8 (conflict of interest);
- (g) for the constitutional procedures of sub-committees of the Committee including the power of the Committee to co-opt persons to sub-committees;
- (h) for providing that no business shall be transacted at a meeting of the Committee unless at least one-third of the whole number of members of the Committee, of whom at least two should be members who are not also officers, of the Agency, a Health Board or of the Secretary of State, are present thereat;
- (i) for the adjournment of a meeting of the Committee or of a sub-committee of the Committee to any other day, hour and place;
- (j) for the circumstances in which any member of the committee may be suspended from the Committee or disqualified for taking any part in any business of the Committee on reasonable cause shown.

### **Revocation**

**10.** The National Health Service (Common Services Agency: Membership and Procedure) (Scotland) Regulations 1975(7), are hereby revoked.

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**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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St. Andrew's House,  
Edinburgh  
8th March 1991

*Michael B. Forsyth*  
Minister of State, Scottish Office

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## EXPLANATORY NOTE

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

These Regulations, which come into effect on 1st April 1991, make provision in relation to the Common Services Agency for the Scottish Health Service (“the Agency”) which is established under section 10 of the National Health Service (Scotland) Act 1978 and in particular for the membership and procedure of the Management Committee of the Agency (“the Committee”) which is constituted in terms of schedule 5 to the 1978 Act.

Regulation 2 provides that the term of office of members of the Committee should not exceed 4 years as determined by the Secretary of State and makes provision with regard to the remuneration of members.

Regulation 3 deals with resignation and removal of members and regulation 4 provides for the circumstances in which a person may be disqualified for being a member.

Regulation 5 deals with the appointment of a vice-chairman and the regulation 6 makes provision for sub-committees of the Committee to be appointed and as to their composition.

Regulation 7 makes provision for the meetings of the Committee and for its voting arrangements as well as for the submission of minutes to the Secretary of State.

Regulation 8 makes provision with regard to the circumstances where there may be a conflict of interest involving a member of the Committee or of a sub-committee.

Regulation 9 gives power to make standing orders regulating the establishment of sub-committees and for various other formal matters in the conduct of the business of the Committee and regulation 10 revokes the previous Regulations which made provision for the membership and procedure of the Committee.