
STATUTORY INSTRUMENTS

2002 No. 3038

The Commission for Patient and Public Involvement in Health (Membership and Procedure) Regulations 2002

Disqualification for appointment

5.—(1) Subject to regulation 6 (cessation of disqualification) a person shall be disqualified for appointment as a member if—

- (a) he has within the preceding five years been convicted in the United Kingdom of any offence, or convicted elsewhere for 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 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, and which has not been quashed on appeal;
- (b) he has
 - (i) been adjudged bankrupt or had a sequestration of his estate awarded; or
 - (ii) made a composition or arrangement with, or granted a trust deed for, his creditors;
- (c) he has been dismissed, otherwise than by reason of redundancy, from any paid employment with a health service body or a body specified in paragraph (4);
- (d) he is a person whose tenure of office as the chairman or as a member or director of a health service body or a body specified in paragraph (4) has been terminated on the grounds that—
 - (i) it was not in the interests of, or conducive to the good management of, the body that he should continue to hold office,
 - (ii) it was not in the interests of the health service that he should continue to hold office, or
 - (iii) he failed, without reasonable cause, to attend any meeting of that body for a period of three months or more,
 - (iv) 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 subject to a national disqualification under section 49N of the 1977 Act⁽¹⁾ imposed by the Family Health Services Authority constituted under section 49S⁽²⁾ of the 1977 Act,
 - (ii) is subject to a national disqualification under a decision of the National Health Service Tribunal, which is treated as a national disqualification by virtue of

(1) Section 49N was inserted by the 2001 Act, section 25.

(2) Section 49S was inserted by the 2001 Act, section 27.

regulation 6 (4)(b) of the Abolition of the National Health Service Tribunal (Consequential Provisions) Regulations 2001(3),

- (iii) has been refused nomination or approval to fill a vacancy for a medical practitioner pursuant to regulations made under section 29B(2A) of the 1977 Act(4) or refused admission to a primary care list, on grounds corresponding to the conditions referred to in section 49F(2),(3) or (4) of the 1977 Act(5) (efficiency cases, fraud cases and unsuitability cases) and has not subsequently been approved or, as the case may be, included in a primary care list,
- (iv) is conditionally included in a primary care list under section 43ZA of the 1977 Act(6),
- (v) has been removed from a primary care list under section 49F of the 1977 Act, or by a direction of the National Health Service Tribunal and has not subsequently been included in such a list,
- (vi) is contingently removed from a primary care list under section 49G of the 1977 Act(7), or
- (vii) is suspended from a primary care list under section 49I of the 1977 Act(8) or is treated as so suspended by virtue of regulation 6(2) of the Abolition of the National Health Service Tribunal (Consequential Provisions) Regulations 2001,

and in this sub-paragraph any reference to a provision in the 1977 Act includes a reference to the provision corresponding to that provision in Scotland and Northern Ireland;

- (f) he is subject to a disqualification order under the Company Directors Disqualification Act 1986(9), the Companies (Northern Ireland) Order 1986(10) or to an order made under section 429(2)(b) of the Insolvency Act 1986(11) (failure to pay under county court administration order);
- (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(12) (powers of Court of Session to deal with management or control of any body);
- (h) he is an employee or officer of the Commission;
- (i) he is a member of a Patients' Forum;

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- (3) S.I. 2001/3744. The National Health Service Tribunal was abolished by the 2001 Act, section 16 with effect from 14th December 2001, subject to article 2(5) and (6) of S.I. 2001/3738 which provided for a later commencement date for section 16 in respect of certain types of case before the National Health Service Tribunal.
 - (4) Section 29B was inserted by the 1997 Act, section 32(1) and section 29B(2A) was inserted by the 2001 Act, section 20(1) and (3)(a) and amended by the Act, Schedule 2, Part I, paragraph 5(1) and (2).
 - (5) Section 49F was inserted by the 2001 Act, section 25.
 - (6) Section 43ZA was inserted by the 2001 Act, section 21 and amended by the Act, section 2(5) and Schedule 2, paragraphs 1 and 18.
 - (7) Section 49G was inserted by the 2001 Act, section 25 and amended by the Act, section 2(5) and Schedule 2, Part I, paragraphs 1 and 21(b).
 - (8) Section 49I was inserted by the 2001 Act, section 25 and amended by the Act, section 29(5) and Schedule 2, Part I, paragraphs 1 and 21(c).
 - (9) 1986 c. 46.
 - (10) S.I. 1986/1032 (N.I.6).
 - (11) 1986 c. 45.
 - (12) 1990 c. 40.

- (j) he has previously served as a member of the Commission for two terms of office (whether consecutive or not).
- (2) For the purposes of paragraph (1)(a), the date of conviction shall be deemed to be the date on which the 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 member or director of a health service body.
- (4) The bodies referred to in paragraph (1) as specified are—
- (a) the General Social Care Council(**13**);
 - (b) the Commission for Health Improvement(**14**);
 - (c) the Human Fertilisation and Embryology Authority(**15**);
 - (d) the National Biological Standards Board(**16**);
 - (e) the Public Health Laboratory Service Board(**17**);
 - (f) the National Radiological Protection Board(**18**);
 - (g) the National Care Standards Commission(**19**).

(13) See section 54(1)(a) of the Care Standards Act 2000 (c. 14).

(14) See section 19 of, and Schedule 2 to, the 1999 Act. (Schedule 2 was amended by section 14 of the Act).

(15) See section 5 of the Human Fertilisation and Embryology Act 1990 (c. 37).

(16) See section 1 of the Biological Standards Act 1975 (c. 4).

(17) See section 5(5) and Schedule 3 to the 1977 Act.

(18) See section 1 of the Radiological Protection Act 1970 (c. 46).

(19) See section 6 of the Care Standards Act 2000 (c. 14).