

NATIONAL HEALTH SERVICE ACT 1977

The Primary Care Trust Executive Committees (Membership) Directions 2000

The Secretary of State for Health, in exercise of the powers conferred on him by sections 17 and 126(4) of the National Health Service Act 1977(a) and regulation 9(1) to (3) of the Primary Care Trusts (Membership, Procedure and Administration Arrangements) Regulations 2000(b) hereby makes the following Directions:

Commencement, application and interpretation

1. —(1) These Directions come into force on 11 February 2000 and apply to every Primary Care Trust in England.

(2) In these Directions—

“the 1977 Act” means the National Health Service Act 1977;

“the 1997 Act” means the National Health Service (Primary Care) Act 1997(c);

“Executive Committee” means the committee of a Primary Care Trust appointed under regulation 9(1) of the Regulations;

“health care professional” has the meaning given in regulation 5(5) of the Regulations;

“medical practitioner” means a person providing or assisting in the provision of general medical services under the 1977 Act or performing personal medical services in connection with a pilot scheme under the 1997 Act;

“member” means, unless the context otherwise requires, a member of an Executive Committee;

“nurse” has the meaning given in regulation 1(2) of the Regulations;

“non-officer member” has the meaning given in regulation 1(2) of the Regulations;

“Part II services” means general medical services, general dental services, general ophthalmic services or pharmaceutical services under the 1977 Act;

“professional member” means a member of an Executive Committee who is a health care professional and who provides or performs, or assists in the provision or performance of—

(a) services under the 1977 Act, or

(b) services in connection with a pilot scheme under the 1997 Act,

for the benefit of persons for whom the Trust is responsible;

“the Regulations” means the Primary Care Trusts (Membership, Procedure and Administration Arrangements) Regulations 2000;

“relevant local social services authority” means, in relation to a Primary Care Trust, the local social services authority within whose area falls either the whole or the largest part of the area of the trust;

“the Trust” means, in relation to an Executive Committee, the Primary Care Trust of which it is a committee.

Membership of Executive Committees

2. —(1) Subject to the following paragraphs, the membership of an Executive Committee shall be such as the Secretary of State may from time to time approve in writing in relation to that Committee.

(a) 1977 c. 49. The functions of the Secretary of State under section 17 and 126(4) are, so far as exercisable in relation to Wales, transferred to the National Assembly for Wales by article 2(a) of the National Assembly for Wales (Transfer of Functions) Order 1999, S.I. 1999/672.

(b) S.I. 2000/89.

(c) 1997 c. 46.

- (2) An Executive Committee shall have no more than 15 members.
- (3) Subject to paragraph (5), the members shall comprise—
- (a) the persons who for the time being hold the offices of Chief Executive and Director of Finance of the Trust;
 - (b) not more than 2 persons who are employed by a relevant local social services authority, in each case appointed by the chairman and non-officer members of the Trust following nomination by that authority; and
 - (c) professional members.
- (4) The professional members shall include—
- (a) at least one person with professional qualifications or experience relating to public health or health promotion;
 - (b) a number of medical practitioners, not exceeding 7; and
 - (c) a number of nurses, not exceeding 7.
- (5) If, under the order establishing the Trust, the Trust is permitted to provide services directly to patients in the exercise of functions conferred on it under section 17A(1) of the 1977 Act—
- (a) the members may include officers of the Trust, other than the Chief Executive and Director of Finance, who are not professional members; and
 - (b) the professional members shall include a number of health care professionals who are—
 - (i) in connection with the provision of services under Part I of the 1977 Act or under a pilot scheme under the 1997 Act, employed by the Trust providing those services; or
 - (ii) assisting in the provision of such services by the Trust.
- (6) The number of professional members shall exceed the number of other members and, in the case of a Trust to which paragraph (5) refers, the Executive Committee—
- (a) shall have a majority of members who are not medical practitioners;
 - (b) shall have a majority of members who are not nurses; and
 - (c) shall have a majority of members who are not persons specified in paragraph (5)(b).
- (7) Subject to paragraph (9), the professional members and the members referred to in paragraph (5)(a) shall be appointed by the chairman and at least 2 non-officer members of the Trust.
- (8) During the Trust's preparatory period, the professional members and the members referred to in paragraph (5)(a) may be appointed by the chairman and one non-officer member of the Trust.
- (9) Where more than one person is appointed jointly to a post mentioned in paragraph (3)(a) or in relation to which a member is to be appointed under paragraph (5)(a), those persons shall become or be appointed as a member jointly, and shall count as one member for the purposes of paragraph (2).
- (10) Subject to article 3, a professional member or a member appointed under paragraph (5)(a) shall be appointed for such period, not exceeding 4 years, as the chairman and non-officer members of the Trust appointing that member may specify on appointment and shall be eligible for re-appointment at the end of that period.

Termination of tenure of office of professional members

- 3.**—(1) A professional member may resign his office at any time during the period for which he was appointed by giving notice in writing to the chairman of the Trust.
- (2) The date on which a resignation by notice given pursuant to paragraph (1) takes effect is—
- (a) where a date is specified in the notice as being that on which the resignation is to take effect, that date; and
 - (b) in any other case, the date on which the notice is received by the chairman.
- (3) A professional member shall cease to hold office if—

- (a) he ceases to be a member of the profession by virtue of which he became a professional member; or
- (b) he is suspended from the register of members admitted to practice maintained by the body responsible for the regulation of the profession of which he is a member.

(4) If the chairman and non-officer members of the Trust are of the opinion that it is not in the interests of the Trust for a professional member to continue to hold office as a member, the chairman and non-officer members of the Trust may with the consent of the Secretary of State forthwith terminate his tenure of office.

(5) If a professional member has failed to attend a meeting of the Executive Committee for a period of three months, the chairman and non-officers of the Trust may forthwith terminate the tenure of office of that member unless they are satisfied that—

- (a) the absence was due to a reasonable cause; and
- (b) the member will be able to attend meetings of that committee within such period as the chairman and non-officer members of the Trust consider reasonable.

(6) Where a person has been appointed to be a professional member—

- (a) if it comes to the notice of the chairman and non-officer members of the Trust that the person has become disqualified for appointment under article 5, the chairman of the Trust shall forthwith notify him in writing of such disqualification; or
- (b) if it comes to the notice of the chairman and non-officer members of the Trust that at the time of his appointment the person was so disqualified, the chairman of the Trust shall forthwith declare that he was not duly appointed and so notify him in writing,

and, upon receipt of any such notification, his tenure of office, if any, shall be terminated and he shall cease to act as such member.

(7) If it appears to the chairman and non-officer members of the Trust that a professional member has failed to comply with regulation 11 of the Regulations, they may forthwith terminate that person's tenure of office.

Termination of tenure of office and suspension of other members

4. —(1) A member other than a professional member shall cease to hold office if—

- (a) he ceases to hold the post in the Trust or local social services authority by virtue of which he became a member;
- (b) in the case of an employee of a relevant local social services authority—
 - (i) the chairman and non-officer members of the Trust, on the grounds that it is not in the interests of the Trust that he should continue to hold office as a member, terminate his appointment as a member; or
 - (ii) that authority notifies the chairman of the Trust that they consider it is not appropriate or not in the interests of the authority for the employee to continue to hold office as a member.

(2) If a member other than a professional member is suspended from his post in the Trust or local social services authority he shall be suspended from performing his functions as a member for the period of his suspension.

(3) If the chairman and non-officer members of the Trust are of the opinion that it is not in the interests of the Trust that a person who is a member under article 2(5)(a) should continue to hold office as such a member, they may forthwith terminate his tenure of office.

Disqualification for appointment as a professional member

5. —(1) Subject to article 6, a person shall be disqualified for appointment as a professional member of an Executive Committee if—

- (a) he has within the preceding five years been convicted in the United Kingdom, the Channel Islands or the Isle of Man 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;

- (b) he has been adjudged bankrupt or has made a composition or arrangement with his creditors;
- (c) he has been dismissed, otherwise than by reason of redundancy, from any paid employment with a health service body;
- (d) he has had his name removed, by a direction under section 46 of the 1977 Act (or any provision in force in Scotland or Northern Ireland corresponding to that provision), from any list prepared under Part II of that Act, and has not subsequently had his name included in such a list;
- (e) he is suspended as respects the provision of Part II services by a direction of the Tribunal constituted under section 46 of that Act made pursuant to section 49A(2) or section 49B(1) of that Act (or any provision in force in Scotland or Northern Ireland corresponding to those provisions);
- (f) he is a person whose tenure of office as the chairman or as a member or director of a health service body or another Executive Committee has been terminated—
 - (i) because it was not—
 - (a) in the interests of the health service or of the body or the committee, or
 - (b) conducive to the good management of the body, that he should continue to hold office;
 - (ii) for non-attendance at meetings of the body or committee;
 - (iii) for non-disclosure of a pecuniary interest in a matter which is the subject of consideration at a meeting of the body or committee, for taking part in the consideration or discussion of that matter or for voting on any question with respect to that matter;
- (g) he is a chairman or member of—
 - (i) another Executive Committee,
 - (ii) a Primary Care Trust other than the Trust of the Executive Committee,
 - (iii) a Primary Care Group, or
 - (iv) a Health Authority or a Special Health Authority, other than one specified in Schedule 1 to the Regulations;
- (h) he is a chairman or director of an NHS trust;
- (i) he holds any paid appointment or office with a Health Authority or a Special Health Authority.

(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 chairmanship, membership or directorship of a health service body.

(4) A person shall not be disqualified by paragraph (1)(g) or (h) from being a professional member of an Executive Committee during the Trust's preparatory period by virtue of being—

- (a) a member of another Executive Committee;
- (b) the chairman or a non-officer member of another trust or a Health Authority;
- (c) the chairman or a member of a Primary Care Group;
- (d) the chairman or a non-executive director an NHS trust.

(5) A person shall not be disqualified by paragraph (1)(i) where the paid appointment or office is a part-time appointment or office, other than as chairman or as a member, with a Health Authority.

Cessation of disqualification

6.—(1) Where a person is disqualified under article 5(1)(b) by reason of having been adjudged bankrupt—

- (a) if the bankruptcy is annulled on the ground that he ought not to have been adjudged bankrupt or on the ground that his debts have been paid in full, the disqualification shall cease on the date of the annulment;
- (b) if he is discharged the disqualification shall cease on the date of his discharge.

(2) Where a person is disqualified under article 5(1)(b) by reason of his having made a composition or arrangement with his creditors, if he pays his debts in full the disqualification shall cease on the date on which the payment is completed and in any other case it shall cease on the expiry of five years from the date on which the terms of the deed of composition or arrangement are fulfilled.

(3) Subject to paragraph (4), where a person is disqualified under article 5(1)(c) he may, after the expiry of the period of two years beginning with the date on which he was dismissed, apply in writing to the Secretary of State to remove the disqualification, and the Secretary of State may direct that the disqualification shall cease.

(4) Where the Secretary of State refuses an application to remove a disqualification no further application may be made by that person until the expiry of the period of two years beginning with the date of the application and this paragraph shall apply to any subsequent application.

(5) Where a person is disqualified under article 5(1)(f), the disqualification shall cease on the expiry of the period of two years beginning with the date of the termination of his tenure of office or such longer period as the Secretary of State specifies when terminating his period of office but the Secretary of State may, on application being made to him by that person, reduce the period of disqualification.

Chairman and vice-chairman

7.—(1) The chairman of the Trust shall appoint one of the members of the Executive Committee, other than the Chief Executive and the Director of Finance of the Trust or a member under article 2(5)(a), as chairman of the Committee following nomination by that Committee.

(2) The chairman of the Trust shall appoint one of the members of the Executive Committee, other than the Chief Executive and the Director of Finance of the Trust or a member under article 2(5)(a), as vice-chairman of the Committee following nomination by that Committee.

(3) A person appointed under paragraph (1) or (2) shall be appointed for such period as the chairman of the Trust may determine on making the appointment, not exceeding the remainder of the person's term of office as a member of the Executive Committee

(4) A chairman may at any time resign that office by giving notice in writing to the chairman of the Trust.

(5) A vice-chairman may at any time resign that office by giving notice in writing to the chairman of the Executive Committee.

(6) The date on which a resignation by notice given pursuant to paragraph (4) or (5) takes effect is—

- (a) where a date is specified in the notice as being that on which the resignation is to take effect, that date; and
- (b) in any other case, the date on which the notice is received by the chairman.

(7) If the chairman and non-officer members of the Trust are of the opinion that it is not in the interests of the Trust for the person appointed as chairman or vice-chairman of the Executive Committee to continue to hold that office, they may forthwith terminate his tenure of office as chairman or vice-chairman.

(8) If a chairman of an Executive Committee has failed to attend a meeting of the Trust for a period of three months, the chairman and non-officers of the Trust may forthwith terminate his tenure of office as the chairman unless they are satisfied that—

- (a) the absence was due to a reasonable cause; and
- (b) the member will be able to attend meetings of the Trust within such period as the chairman and non-officer members of the Trust consider reasonable.

(9) If the chairman of the trust has died or has ceased to hold office, or is unable to perform his duties as chairman owing to illness, absence from England and Wales or any other cause, the vice-chairman shall act as chairman until a new chairman is appointed or the existing chairman resumes his duties, as the case may be.

Signed by authority of the Secretary of State

10 February 2000

Mike Farrar
Member of the Senior Civil Service
Department of Health