SCOTTISH STATUTORY INSTRUMENTS

# 2004 No. 386

# NATIONAL HEALTH SERVICE

## The Community Health Partnerships (Scotland) Regulations 2004

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| *Made - - - -* | *8th September 2004* |
| *Laid before the Scottish Parliament - - - -* | *9th September 2004* |
| *Coming into force - -* | *1st October 2004* |

The Scottish Ministers, in exercise of the powers conferred by sections 2(10), 4B(6), 105(7) of and by paragraphs 6 and 11 of Schedule 1 to the National Health Service (Scotland) Act 1978(**1**), and of all other powers enabling them in that behalf, hereby make the following Regulations(**2**):

### Citation, commencement and interpretation

**1.**—(1) These Regulations may be cited as the Community Health Partnerships (Scotland) Regulations 2004 and shall come into force on 1st October 2004.

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

"the Act" means the National Health Service (Scotland) Act 1978;

"the 1977 Act" means the National Health Service Act 1977(**3**);

"area partnership forum" means a body of persons which represents the interests of officers of the Board and is recognised by the Board as an area partnership forum;

"Board" means a Health Board constituted by order under section 2(1)(a) of the Act;

"community health partnership" means a community health partnership or a joint community health partnership established in accordance with a scheme of establishment approved by the Scottish Ministers under section 4B(3) of the Act;

(**1**) 1978 c. 29 (the "1978 Act"). Section 4B(6) of the 1978 Act was inserted by section 2 of the National Health Service Reform (Scotland) Act 2004 (2004 asp 7). Section 105(7) was relevantly amended by the Health Services Act 1980 (c. 53) (the "1980 Act"), section 25(3) and Schedule 6, paragraph 5 and Schedule 7; the Health and Social Services and Social Security Adjudications Act 1983 (c. 41), section 29(1) and Schedule 9, Part I, paragraph 24 and the Health Act 1999 (c. 8), section 65(1) and Schedule 4, paragraph 60. Schedule 1, paragraph 11 of the 1978 Act was relevantly amended by the 1980 Act, section 29(3) and Schedule 6, paragraph 7(4) and Schedule 7 and the National Health Service and Community Care Act 1990 (c. 19), section 27(3) and Schedule 5, paragraph 7.

(**2**) Under section 108(1) of the 1978 Act, "regulations" means regulations made by the Secretary of State under that Act. The functions of the Secretary of State so far as they are exercisable in Scotland were transferred to the Scottish Ministers by virtue of section 53 of the Scotland Act 1998 (c. 46).

(**3**) 1977 c. 49.

"general manager" has the meaning given to that expression by regulation 5(2);

"health service body" means a health board constituted by order made under section 2(1)(a) of the Act, a special health board constituted by order made under section 2(1)(b) of the Act or the Common Services Agency constituted under section 10(1) of the Act;

"meeting" means a meeting of a community health partnership;

"member" means a member of a community health partnership; and

"public partnership forum" means a body of persons which represents the interests of the public in relation to the functions of a community health partnership relevant to that body of persons and which is recognised by the Board as a public partnership forum.

(3) In these regulations, unless the context otherwise requires–

(a) in the case of a community health partnership which is not a joint community health partnership, a reference to a Board is a reference to the Board establishing it; and

(b) in the case of a joint community health partnership–

(i) a reference to a Board is a reference to each of the Boards establishing it; and

(ii) any function of a Board under these regulations shall be performed by each of the Boards establishing it, acting jointly or by one of the Boards establishing it acting with the agreement of the other Board or Boards establishing it.

(4) In these regulations, references to employing a person include employing a person whether or not for payment and whether under a contract of service, a contract for services or otherwise than under a contract, and allowing a person to work as a volunteer; and references to an employee or to a person being employed shall be construed accordingly.

**Appointment and term of office**

**2.**—(1) All members shall be appointed by the Board.

(2) The term of office of a member shall be for such period as the Board shall specify on making the appointment and shall be for no longer than four years.

(3) After the expiration of a term of office a member shall be eligible for re-appointment.

(4) The acts, meetings or proceedings of a community health partnership shall not be invalidated by any vacancy in its membership or by any defect in the appointment of any member.

**Membership**

**3.**—(1) The Board shall ensure that so far as practicable, at least one person falling within each of the following sub-paragraphs is appointed as a member:–

(a) a medical practitioner whose name is included in a list of primary medical services performers prepared in accordance with section 17P of the Act(**4**);

(b) a nurse who is registered on the Nursing and Midwifery Council's professional register and who is employed by the Board or a person or body other than a Board which is party to a general medical services contract;

(c) a registered pharmacist whose name is included in, or who is fully or substantially employed by a person or body whose name is included in, a pharmaceutical list prepared by a Board in accordance with Regulation 5 of the National Health Service (General Pharmaceutical Services) (Scotland) Regulations 1995(**5**);

(**4**) Section 17P of the Act was inserted by section 5(2) of the Primary Medical Services (Scotland) Act 2004 (asp 1). The current regulations are the National Health Service (Primary Medical Services Performers Lists) (Scotland) Regulations 2004 (S.S.I. 2004/114), as amended by S.S.I. 2004/116.

(**5**) S.I.1995/414, as relevantly amended by S.I. 1997/696 and S.S.I. 1999/57.

(d) a dental practitioner who is either included on Part A of the dental list prepared by a Board in accordance with regulation 4(1) of the National Health Service (General Dental Services) (Scotland) Regulations 1996(**6**) or is performing services by virtue of section 39 of the Act;

(e) an ophthalmic optician whose name is included on an ophthalmic list prepared by a Board in accordance with regulation 6(1) of the National Health Service (General Ophthalmic Services) (Scotland) Regulations 1986(**7**);

(f) a person registered as an allied health professional with the Health Professions Council(**8**);

(g) an officer of the Board who is a member of, or is nominated by, the area partnership forum;

(h) a member or officer of a local authority;

(i) a member of the public partnership forum;

(j) a member of a voluntary organisation whose activities include the provision of a service similar or related to a service provided by the Board under or by virtue of the Act;

(k) an officer of the Board; and

(l) a registered medical practitioner not providing primary medical services.

(2) Every person appointed by the Board as a member shall, so far as practicable, be employed or perform services in, or have a substantial connection with, the area of the community health partnership.

(3) Where:

(a) a member ceases to satisfy paragraph (2); or

(b) a member appointed pursuant to paragraph (1) ceases to fulfil the requirements of the sub-paragraph of paragraph (1) under which that person was appointed,

the Board shall, by giving notice in writing, remove that person from office as a member.

(4) Where, in establishing the community health partnership, the Board considers that it is or would be impracticable to appoint a person falling within one or more of the sub-paragraphs in paragraph (1), it shall set out in the scheme of establishment–

(a) the persons which it is or would be impracticable to appoint; and

(b) the reasons for that view.

(5) When determining who to appoint as a member, the Board shall have regard to the need to ensure the membership of the community health partnership reflects a reasonable balance of interest.

**Expenses of members**

**4.**—(1) Subject to paragraph (2), the Board shall pay all reasonable travelling and other expenses properly incurred by members in connection with the performance by them of functions associated with their appointment.

(2) Paragraph (1) does not apply to the general manager.

**Appointment of chairperson and general manager**

**5.**—(1) The Board shall appoint a member to be–

(a) the chairperson; and

(**6**) S.I. 1996/177, as relevantly amended by S.S.I. 1999/51, S.S.I. 2000/188 and S.S.I. 2004/37.
(**7**) S.I. 1986/965, as relevantly amended by S.I. 1988/543, S.I. 1996/843, S.S.I. 1999/55, S.S.I. 2001/62 and S.S.I. 2004/36.
(**8**) The Health Professions Council was established by article 3 of the Health Professions Order 2001 (S.I. 2002/254) made under sections 60 and 62(4) of the Heath Act 1999 (c. 8).

(b) subject to paragraph (2), the general manager.

(2) The general manager shall be a person appointed pursuant to regulation 3(1)(k).

(3) The general manager–

(a) shall, in accordance with the general manager's terms of employment with the Board and any directions made by the community health partnership, manage the business of the community health partnership; and

(b) may, in accordance with the general manager's terms of employment, make arrangements with such persons as the general manager considers fit in connection with the discharge of the general manager's functions under sub-paragraph (a) of this paragraph.

(4) A person appointed pursuant to paragraph (1) may at any time resign from such office by giving notice in writing to the Board.

(5) Where a person resigns under paragraph (4), that person shall cease to be a member.

**Resignation and removal of members**

**6.**—(1) A person may resign their membership at any time during their term of office by giving notice in writing to the Board and that person shall thereupon cease to be a member.

(2) If the Board, having consulted with the community health partnership (where it is practicable to do so) considers that it is not in the interests of the community health partnership or the Board that a person should continue to hold office as a member, it shall by giving notice in writing to the person, remove that person from office.

(3) If a member has not attended three consecutive meetings of the community health partnership, the Board shall, by giving notice in writing to the person, remove that person from office unless the Board is satisfied that–

(a) the absence was due to illness or other reasonable cause; and

(b) the member will be able to attend future meetings within such period as the Board considers reasonable.

(4) Where a member becomes disqualified under regulation 7, the Board shall by giving notice in writing to the person , remove that person from office.

**Disqualification**

**7.**—(1) A person to whom paragraph (2) applies is disqualified from being a member.

(2) The persons to whom this paragraph applies are–

(a) a person who has , within the period of five years immediately preceding the proposed date of appointment, been convicted in the United Kingdom, the Channel Islands, the Isle of Man or the Irish Republic of any offence in respect of which they have received a sentence of imprisonment (whether suspended or not) for a period of not less than three months without the option of a fine;

(b) a person whose estate has been sequestrated in Scotland or who has otherwise been adjudged bankrupt elsewhere than in Scotland, who has granted a trust deed for the benefit of their creditors, or a curator bonis or judicial factor has been appointed over their affairs;

(c) a person who has been removed or dismissed, otherwise than by reason of redundancy, from any paid employment or office with a health service body;

(d) a person whose appointment as the chairperson, member or director of a health service body has been terminated other than by their resignation or by the expiration of their term of office;

(e) a person who has had their name removed, by a direction under section 29 of the Act from any list prepared under Part I or Part II of the Act and have not subsequently had their name included in such a list;

(f) a person whose name has been included in any list prepared under Part I or Part II of the Act, and whose name has been withdrawn from the list on their own application;

(g) a person who has had their name removed, by a direction under section 46 of the 1977 Act from any list prepared under Part I or Part II of the 1977 Act and have not subsequently had their name included in such a list;

(h) a person whose name has been included in any list prepared under Part I or Part II of the 1977 Act, and whose name has been withdrawn from the list on their own application;

(i) a person who is subject to a disqualification order under the Company Directors Disqualification Act 1986(**9**); or

(j) a person who has been removed from the position of trustee of a charity, whether by the court or by the Charity Commissioner.

(3) For the purposes of paragraph (1)(a), the date of conviction shall be deemed to be on the date on which the days of appeal expire without any appeal having been lodged, or if an appeal has been made, the date on which the appeal is finally disposed of or treated as having been abandoned.

(4) For the purpose of paragraph (2)(b)–

(a) the disqualification attaching to a person whose estate has been sequestrated shall cease if and when–

(i) the sequestration of their estate is recalled or reduced; or

(ii) the sequestration is discharged;

(b) the disqualification attaching to a person by reason of their having been adjudged bankrupt shall cease if and when–

(i) the bankruptcy is annulled; or

(ii) they are discharged;

(c) the disqualification attaching to a person in relation to whose estate a judicial factor has been appointed shall cease if and when–

(i) the appointment is recalled; or

(ii) the judicial factor is discharged; or

(d) the disqualification attaching to a person who has granted a trust deed or entered into an arrangement with their creditors shall cease if and when that person pays their creditors in full or on the expiry of five years from the date of their granting the deed or entering into the arrangement.

**Proceedings**

**8.**—(1) The Board shall make standing orders for the regulation of the procedure and business of the community health partnership and all meetings and proceedings of the community health partnership shall be conducted in accordance with them.

(2) Each standing order made pursuant to paragraph (1) shall include, but is not restricted to, the matters set out in the Schedule.

(**9**) 1986 c. 46.