WELSH STATUTORY INSTRUMENTS

2010 No. 288 (W.37)

NATIONAL HEALTH SERVICE, WALES

The Community Health Councils (Constitution, Membership and Procedures) (Wales) Regulations 2010

Made - - - -	*9 February 2010*
Laid before the National Assembly for Wales - -	*10 February 2010*
Coming into force - -	*1 April 2010*

The Welsh Ministers make the following Regulations in exercise of the powers conferred on them by sections 12, 19, 187 and 203(9) and (10) of, paragraph 7(3) of Schedule 2 to, paragraph 25(3) of Schedule 3 to, and paragraphs 2, 3 and 4 of Schedule 10 to, the National Health Service (Wales) Act 2006(**1**).

PART 1

Introduction

Title, commencement and application

1.—(1) The title of these Regulations is the Community Health Councils (Constitution, Membership and Procedures) (Wales) Regulations 2010 and they come into force on 1 April 2010.

(2) These Regulations apply in relation to Wales.

Interpretation

2. The following words and phrases have the following meanings—

"the Act" ("*y Ddeddf*") means the National Health Service (Wales) Act 2006;

"the 2004 Regulations" ("*Rheoliadau 2004*") means the Community Health Councils Regulations 2004(**2**)

"appointing body" ("*corff sy'n penodi*") means, in relation to the appointment of a Council member, the Welsh Ministers, a relevant local authority or a relevant voluntary organisation;

(**1**) 2006 c. 42.
(**2**) S.I.2004/905 (W.89) as amended by S.I. 2004/1771, S.I. 2005/603 (W.51) and S.I. 2006/562 .

"Board member" ("*aelod o'r Bwrdd*") means a member of the CHC Board;

"CHC Board" ("*Bwrdd CIC*") means the Board of Community Health Councils established under regulation 23 of the 2004 Regulations which continues in existence under regulation 32;

"Chief Officer" ("*Prif Swyddog*") means the person employed under regulation 23 to act as Chief Officer of a Council;

"committee" ("*pwyllgor*") means a committee of a Council formed under regulations 17, 18,19,20 or 21;

"the Community Health Councils Establishment Order 2010" ("*Gorchymyn Sefydlu Cynghorau Iechyd Cymuned 2010*") means the Community Health Councils (Establishment, Transfer of Functions and Abolition) (Wales) Order 2010(**3**);

"continued Council" ("*Cyngor sy'n parhau*") means a Council continued in existence by article 10 of the Community Health Councils Establishment Order 2010;

"Council" ("*Cyngor*") means a Community Health Council established by article 3 of the Community Health Councils Establishment Order 2010 and, except where expressly excluded by a provision in these Regulations, such as regulation 16, a Community Health Council continued in existence by article 10 of that Order;

"Director" ("*Cyfarwyddwr*") means the person employed under regulation 36 to act as director of the CHC Board;

"district of a Council" ("*dosbarth Cyngor*") means that geographical area of Wales for which a Council is established under article 4 of the Community Health Councils Establishment Order 2010 or for which a Council is continued by article 10 and Schedule 3 to that Order;

"executive committee" ("*pwyllgor gweithredol*") means a committee of a new Council appointed under regulation 19;

"financial year" ("*blwyddyn ariannol*") means the period of 12 months ending on 31 March in any year;

"former Council" ("*Cyngor blaenorol*") means a Council which is abolished by article 9 of the Community Health Councils Establishment Order 2010;

"health services" ("*gwasanaethau iechyd*") means services in connection with the prevention, diagnosis or treatment of illness provided by or for relevant health service bodies;

"health service body" ("*corff gwasanaeth iechyd*") means a Strategic Health Authority, Local Health Board, NHS Trust or Primary Care Trust;

"local authority area" ("*ardal awdurdod lleol*") means that geographical area of Wales for which a local authority has responsibility;

"local authority member" ("*aelod awdurdod lleol*") means a member of a Council who is appointed by a relevant local authority;

"local committee" ("*pwyllgor lleol*") means a committee of a new Council established under regulation 17;

"local committee district" ("*dosbarth pwyllgor lleol*") means that local authority area or part thereof for which a local committee is appointed under regulation 17(1);

"member" ("*aelod*") means, where the context so admits, a member of a Council;

"new Council" ("*Cyngor newydd*") means, except in regulation 4(3), a Community Health Council established under article 3 of the Community Health Councils Establishment Order 2010;

(**3**) S.I. 2010/289 (W.38).

"relevant Council" ("*Cyngor perthnasol*") means, in relation to a local committee or local authority (or part thereof), the Council within whose district the local committee or local authority lies, and in relation to a voluntary organisation the Council to which a voluntary organisation has been invited to make appointments under regulation 7(1);

"relevant health service body" ("*corff gwasanaeth iechyd perthnasol*") means, in relation to a Council, any health service body which makes decisions affecting persons resident in the district of a Council;

"relevant local authority" ("*awdurdod lleol perthnasol*") means, in relation to a Council, any county council or county borough council whose area (or part thereof) lies within the district of the Council, and in relation to a local committee, the local authority whose area corresponds with the district of that local committee;

"relevant local authority area" ("*ardal awdurdod lleol perthnasol*") means, in relation to a Council, a local authority area (or part thereof) which lies within the district of a Council, and in relation to a local committee, the local authority area which corresponds with the district of a local committee;

"relevant local committee" ("*pwyllgor lleol perthnasol*") means in relation to a new Council, any local committee whose district lies within the district of a new Council;

"relevant Local Health Board" ("*Bwrdd Iechyd Lleol perthnasol*") means, in relation to a Council, any Local Health Board whose area (or part thereof) corresponds with the district of a Council;

"relevant NHS Trust" ("*Ymddiriedolaeth GIG berthnasol*") means, in relation to a Council, any NHS Trust which provides services to persons resident within the district of a Council

"relevant Primary Care Trust" ("*Ymddiriedolaeth Gofal Sylfaenol berthnasol*") means, in relation to a Council, any Primary Care Trust which provides services to persons resident within the district of a Council;

"relevant Strategic Health Authority" ("*Awdurdod Iechyd Strategol perthnasol*") means, in relation to a Council, any Strategic Health Authority which provides services to persons resident within the district of a Council;

"relevant voluntary organisation" ("*sefydliad gwirfoddol perthnasol*") means, in relation to a Council, any voluntary organisation which has been invited to appoint members to that Council under regulation 7(1);

"services planning committee" ("*pwyllgor cynllunio gwasanaethau*") means a committee of a new Council appointed under regulation 18;

"voluntary organisations" ("*sefydliadau gwirfoddol*") mean bodies (other than local authorities or other public bodies) whose activities are carried on otherwise than for profit;

"voluntary organisation member" ("*aelod sefydliad gwirfoddol*") means a member appointed by a voluntary organisation; and

"Welsh NHS Trust" ("*Ymddiriedolaeth GIG yng Nghymru*") means an NHS Trust all or most of whose hospitals, establishments and facilities are based in Wales.

PART II

Establishment and Membership of Councils

Composition of Councils

3.—(1) The members of a Council are appointed—

(a) by local authorities in accordance with the provisions for each relevant local authority to make appointments set out in regulation 6,

(b) by voluntary organisations in accordance with the provisions for appointments to be made on the basis of relevant local authority areas set out in regulation 7, such voluntary organisations being determined in accordance with that same regulation; and

(c) by the Welsh Ministers in accordance with the provisions for appointments to be made on the basis of relevant local authority areas set out in regulation 8;

and the total number of members appointed to each Council by the appointing bodies under this regulation is set out in Schedule 1.

(2) In addition to the members appointed in accordance with paragraph (1), a Council may from time to time co-opt such members as appear to the Council to be necessary for the performance by that Council of its functions, and such members may be appointed to sit on any committee of a new Council constituted under regulations 17, 18 or 19 or of a Council under regulations 20 or 21.

(3) Co-opted members may not vote in any meetings or proceedings of a Council or its committees.

(4) The number of co-opted members must not be taken into account for the purposes of determining the total membership of a Council under paragraph (1).

Term of appointment of members

4.—(1) Subject to regulation 10 (eligibility of members for re-appointment), the term of office of any member appointed on or after 1 April 2010 or re-appointed after 1 April 2010 is between one and four years as specified by the appointing body on appointment.

(2) Where a Council is abolished under section 182 of the Act, the office of any member of the abolished Council ceases immediately on abolition of that Council.

(3) Where a new Council is established under section 182 of the Act for the district or part of a district of an existing Council, the Welsh Ministers may determine that the office of any member of the existing Council must cease immediately before the establishment of the new Council.

Term of appointment of co-opted members

5. Co-opted members may not be appointed for a period exceeding one year and must not be re-appointed at the expiry of their term unless the Council decides that such re-appointment is necessary for the performance by the Council of its functions.

Appointment of members by local authorities

6.—(1) Each relevant local authority whose area (or part thereof) is set out in column 2 of Schedule 2 must make three appointments to the relevant Council set out in column 1 of that Schedule.

(2) A person appointed in accordance with this regulation must be a member of the local authority which appoints him or her.

(3) A member appointed by a local authority must, on ceasing to be a member of the appointing local authority, cease to be a member of the Council at the end of the period of two months beginning with the date on which he or she ceased to be a member of the appointing local authority.

Appointment of members by voluntary organisations

7.—(1) The Welsh Ministers may invite such voluntary organisations as they determine as having sufficient interest in the health service within the district of a Council, to take part in the appointment of persons to a Council under regulation 3(1)(b).

(2) The voluntary organisations chosen under paragraph (1) must between them make a total of three appointments to the relevant Council set out in column 1 of Schedule 2 for each relevant local authority area (or part thereof) set out in column 2 of that Schedule.

(3) Subject to paragraph (4), each voluntary organisation must appoint an equal number of members to the Council.

(4) Where the number of members to be appointed does not allow for an equal number of members to be appointed by each voluntary organisation, and further members are needed in order to fulfil the requirements of this regulation, those further members are appointed by such of the voluntary organisations as those organisations may be agreement determine, or, in default of agreement by such date as the Welsh Ministers may specify for the purpose, as the Welsh Ministers may determine.

(5) A member appointed in accordance with this regulation must be a member of or connected with the voluntary organisation which appoints him or her.

(6) A member appointed by a voluntary organisation must, on ceasing to be a member of or connected with the appointing voluntary organisation, cease to be a member of the Council at the end of the period of two months beginning with the date on which he or she ceased to be a member of or connected with the appointing voluntary organisation.

Appointment of members by the Welsh Ministers

8. The number of appointments made by the Welsh Ministers to the relevant Councils set out in column 1 of Schedule 2 for each relevant local authority area (or part thereof) set out in column 2 of that Schedule is six.

Procedures for appointment of members

9. The appointing bodies must ensure that appropriate arrangements are in place for the selection and appointment of persons as members and that those arrangements take into account—

(a) the principles from time to time laid down by the Commissioner for Public Appointments.;

(b) the requirement that the selection and appointment of members be open and transparent;

(c) where applicable, the requirement of fair and open competition in the selection and appointment of members;

(d) the need to ensure that the successful candidates meet the relevant selection criteria and such standards of competence as may be set out in guidance by the Welsh Ministers, and are not disqualified from membership under regulation 12.

Eligibility of members for reappointment

10.—(1) Subject to paragraphs (2) and (3), a member may, on the expiration of his or her term of office, be eligible for reappointment.

(2) A person may serve a maximum of eight years as a member of a Council.

(3) When calculating the eight year period referred to in paragraph (2), all periods of service as a member of any Council must be aggregated, including, but not limited to, service in a former Council, a Council that has had its district altered, a Council that has taken over the whole or part of the district of another Council, and in a Council that has been abolished.