Changes to legislation: *There are outstanding changes not yet made by the legislation.gov.uk editorial team to The Public Health Wales National Health Service Trust (Membership and Procedure) Regulations 2009. Any changes that have already been made by the team appear in the content and are referenced with annotations. (See end of Document for details) View outstanding changes*

WELSH STATUTORY INSTRUMENTS

2009 No. 1385 (W.141)

NATIONAL HEALTH SERVICE, WALES

The Public Health Wales National Health Service Trust (Membership and Procedure) Regulations 2009

Made - - - -	*9 June 2009*
Laid before the National Assembly for Wales - -	*9 June 2009*
Coming into force - -	*1 August 2009*

The Welsh Ministers make the following Regulations in exercise of the powers conferred on them by sections 203(9) and (10) of and paragraph 4 of Schedule 3 to the National Health Service (Wales) Act 2006 [F1].

F1 2006 c. 42.

PART I

General

Citation, commencement and interpretation

1.—(1) The title of these Regulations is the Public Health Wales National Health Service Trust (Membership and Procedure) Regulations 2009 and come into force on 1 August 2009.

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

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

"appointee" ("*penodai*") means the chair or a non-executive director of the Trust;

"director" ("*cyfarwyddwr*") in relation to the Trust includes its chair;

"establishment date" ("*dyddiad sefydlu*") means 1 August 2009;

"executive director" ("*cyfarwyddwr gweithredol*") and "non-executive director" ("cyfarwyddwr anweithredol") have the meaning assigned to them in paragraph 3(3) of Schedule 3 to the Act;

"health service body" ("*corff gwasanaeth iechyd*") means—

(a) a Strategic Health Authority, a Special Health Authority, a Primary Care Trust, an NHS trust, an NHS foundation trust, a Local Health Board or a PHS body as defined in

section 139(6) of the National Health Service Act 2006 [F2]and section 97(6) of the Act or a contractor which is treated as a health service body pursuant to regulation 10 of the National Health Service (Local Pharmaceutical Services etc) Regulations 2006 [F3];

(b) a Health Board, a Special Health Board or the Common Services Agency for the Scottish Health Service, respectively constituted under section 2, 10 and 12A of the National Health Service (Scotland) Act 1978 [F4];

(c) the Scottish Dental Practice Board constituted by Regulations having effect under section 4 of the National Health Service (Scotland) Act 1978;

(d) the Independent Regulator of NHS Foundation Trusts;

"Independent Regulator of NHS Foundation Trusts" ("*Rheoleiddiwr Annibynnol Ymddiriedolaethau Sefydledig GIG*") means the body corporate continued in existence by section 31(1) of the National Health Service Act 2006;

"operational date" ("*dyddiad gweithredol*") has the meaning assigned to it in paragraph 5(5) of Schedule 3 to the Act;

"the 1990 Regulations" ("*Rheoliadau 1990*") means the National Health Service Trusts (Membership and Procedure) Regulations 1990 [F5]

"the relevant committee" ("*y pwyllgor perthnasol*") means a committee of an NHS trust appointed under either regulation 21 or regulation 22 whichever is appropriate;

"the Trust" ("*yr Ymddiriedolaeth*") means the Public Health Wales National Health Service Trust established by the Public Health Wales National Health Service Trust (Establishment) Order 2009 [F6];

"trade union" ("*undeb llafur*") has the meaning assigned to it in section 1 of the Trade Union and Labour Relations (Consolidation) Act 1992 [F7].

(3) In regulation 24—

"public body" ("*corff cyhoeddus*") includes—

(a) any body established for the purposes of carrying on, under national ownership, any industry or part of any industry or undertaking; and

(b) the governing body of any university, university college or college, school or hall of a university;

"securities" "(*gwarannau*") means—

(a) shares or debentures, whether constituting a charge on the assets of the company or other body or not, or rights or interests in any shares or such debentures, or

(b) rights (whether actual or contingent) in respect of money lent to or deposited with any industrial and provident society or building society;

"shares" ("*cyfranddaliadau*") means shares in the share capital of a company or other body or the stock of a company or other body.

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

F2 2006 c. 41.
F3 S.I. 2006/552.
F4 1978 c. 29.
F5 S.I. 1990/2024.
F6 S.I. 2009/2058 (W.177).

F7 1992 c. 52.

PART II

Membership

Maximum number of directors

2.—(1) The maximum number of directors of the Trust will be 11 excluding the chair.

(2) The Trust may have no more than 6 non-executive directors (excluding the chair), and no more than 5 executive directors.

Appointment of directors

3.—(1) The non-executive directors of the Trust will be appointed by the Welsh Ministers in accordance with the provisions of Schedule 1.

(2) The executive directors will be appointed by the relevant committee.

Executive Directors

4. The executive directors of the Trust will be—

(a) the chief officer;

(b) the chief finance officer;

(c) three other directors appointed by the Trust.

Non-Executive Directors

5.—(1) The non-executive directors of the Trust will include—

(a) a person nominated by a university in Wales with teaching or research specialism in public health;

(b) a person nominated by a local authority or local authorities in Wales;

(c) a person who is an employee or member of a voluntary sector organisation in Wales;

(d) a person who is an officer of a trade union or other employee representative body representing staff of the Trust.

(2) The Welsh Ministers may determine the nominating local authority or local authorities for the purposes of regulation 5(1)(b).

Persons to be regarded as executive directors

6.—(1) A person who is not an employee of the Trust but who—

(a) holds a post in a university with a medical or dental school, and also works for the Trust; or

(b) is seconded from his or her employers to work for the Trust;

is nevertheless, on appointment as a director, to be regarded as an executive director of the Trust appointed under regulation 4(c) rather than a non-executive director of the Trust.

(2) Paragraph (1) does not apply to the non-executive director referred to in paragraph (a) of regulation 5(1).

Joint directors

7. Where more than one person is appointed jointly to a post in the Trust which qualifies the holder for executive directorship or in relation to which an executive director is to be appointed, those persons will become or be appointed an executive director jointly, and will count for the purposes of regulation 2 as one person.

Tenure of office of chair and directors

8.—(1) Subject to regulation 10, the chair and non-executive directors of the Trust are appointed for such period not exceeding four years as the Welsh Ministers may specify on making the appointment.

(2) Subject to regulation 9, the tenure of office of executive directors, other than the chief officer and chief finance officer, will be for such period as the relevant committee may specify on making the appointment.

Tenure and suspension of tenure of office of executive directors

9.—(1) Subject to regulation 8(2), an executive director of the Trust will hold office—

(a) if that director is not the chief officer or the chief finance officer, for as long as he or she holds a post in the Trust;

(b) if that director is the chief officer or the chief finance officer, for as long as he or she holds that post in the Trust.

(2) If the relevant committee is of the opinion that it is not in the interests of the Trust that an executive director of the Trust other than the chief officer or chief finance officer should continue to hold office as director the relevant committee will immediately terminate his or her tenure of office.

(3) If an executive director of the Trust is suspended from his or her post in the Trust that director will be suspended from performing his or her functions as director for the period of his or her suspension.

(4) An executive director other than the chief officer or chief finance officer of the Trust may resign his or her office at any time during the period for which he or she was appointed by giving notice in writing to the relevant committee.

Termination of tenure of office of chair and non-executive directors

10.—(1) The chair or a non-executive director of the Trust may resign his or her office at any time during the period for which he or she was appointed by giving notice in writing to the Welsh Ministers.

(2) Where during his or her period of directorship a non-executive director of the Trust is appointed chair of the Trust, his or her tenure of office as non-executive director will terminate when his or her appointment as chair takes effect.

(3) If the Welsh Ministers are of the opinion that it is not in the interests of the health service for a person appointed as a chair or non-executive director of the Trust to continue to hold that office, the Welsh Ministers may immediately terminate that person's tenure of office.

(4) If a chair or non-executive director of the Trust has not attended a meeting of the Trust for a period of six months the Welsh Ministers will immediately terminate his or her tenure of office unless the Welsh Ministers are satisfied that—

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

(b) the chair or non-executive director will be able to attend meetings of the Trust within such period as the Welsh Ministers consider reasonable.

(5) Where a person has been appointed the chair or non-executive director of the Trust—

(a) if that person becomes disqualified for appointment under regulation 15 the Welsh Ministers will immediately notify him or her in writing of such disqualification; or

(b) if it comes to the notice of the Welsh Ministers that at the time of that person's appointment he or she was so disqualified, they will immediately declare that the person was not duly appointed and so notify him or her in writing,

and upon receipt of any such notification, his or her tenure of office, if any, will be terminated and that person will cease to act as chair or non-executive director.

(6) A person appointed as chair or non-executive director of the Trust must immediately notify the Trust if that person becomes disqualified for appointment under regulation 15.

(7) If it appears to the Welsh Ministers that the chair or non-executive director of the Trust has failed to comply with regulation 24 (disclosure etc on account of pecuniary interest) they may immediately terminate that person's tenure of office.

(8) Where any one of the non-executive directors referred to respectively in—

(a) paragraph (c) of regulation 5(1) cease to be a member or employee of the voluntary organisation in Wales;

(b) paragraph (d) of regulation 5(1) cease to be an officer of the trade union or employee representative body

the Welsh Ministers will terminate his or her appointment as non-executive director.

Suspension of chair and non-executive directors

11.—(1) The Welsh Ministers may suspend an appointee from performing the appointee's functions as chair or director while the Welsh Ministers consider whether—

(a) to remove the person from office under regulation 10(3) or (7); or

(b) the person is disqualified for appointment under regulation 15, or was so disqualified at the time of appointment.

(2) The Welsh Ministers will notify a person suspended under paragraph (1) of the decision to suspend, and the decision will take effect upon receipt of such notification.

(3) Subject to paragraphs (4) and (5), a period of suspension under paragraph (1) will not exceed six months.

(4) The Welsh Ministers may at any time review a suspension and will review a suspension after three months if so requested in writing by the person who has been suspended.

(5) On reviewing a suspension, the Welsh Ministers may—

(a) revoke the suspension, in which case it ceases to have effect; or

(b) suspend the appointee from performing the appointee's functions as chair or director for a period of not more than six months from the expiry of the current period of suspension.

Suspension: effect on maximum number of directors and on meetings

12.—(1) This regulation applies where an appointee is suspended under regulation 11.

(2) Where this regulation applies —

(a) references in paragraphs 2(2) and 3(5)) of Schedule 2 to the whole number of directors mean the whole number of directors excluding any directors who are suspended under regulation 11;