WELSH STATUTORY INSTRUMENTS

2009 No. 779 (W.67)

NATIONAL HEALTH SERVICE, WALES

The Local Health Boards (Constitution, Membership and Procedures) (Wales) Regulations 2009

Made - - - -	*24 March 2009*
Laid before the National Assembly for Wales - -	*25 March 2009*
Coming into force - -	*1 June 2009*

The Welsh Ministers in exercise of the powers conferred on them by sections 12(3) and 13(2) and (4) of and paragraphs 4(1), (2) and 7(3) of Schedule 2 to the National Health Service (Wales) Act 2006 [F1] and after consultation in accordance with paragraph 7(4) of Schedule 2 to that Act make the following Regulations.

F1 2006 c. 42.

PART 1

Introduction

Title, commencement and application

1. The title of these Regulations is the Local Health Boards (Constitution, Membership and Procedures) (Wales) Regulations 2009 and they come into force on 1 June 2009.

Interpretation

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

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

"associate member" ("*aelod cyswllt*") means a person who is appointed in accordance with regulation 4(3) or 4(4).

"Board" ("*Bwrdd*") means a Local Health Board;

"Board's area" ("*ardal y Bwrdd*") means the area for which a Board is established as set out—

(a) in the Local Health Boards (Establishment and Dissolution) (Wales) Order 2009 [F2];

(b) in relation to Powys Local Health Board, in the Local Health Boards (Establishment) (Wales) Order 2003 [F3],

as such area may be varied from time to time;

[[F4]"former health service body" ("*cyn gorff gwasanaeth iechyd*") means a Strategic Health Authority or Primary Care Trust;**]**

"health service body" ("*corff gwasanaeth iechyd*") **[**[F5]means the National Health Service Commissioning Board, **[**[F6]the National Institute for Health and Care Excellence, **[**[F7]Health Education England, the Health Research Authority,**]** the Health and Social Care Information Centre,**]** a clinical commissioning group,**]**[F8]..., Strategic Health Authority, Local Health Board, NHS Trust, **[**[F9]NHS Foundation Trust**]**;

"local authority" ("*awdurdod lleol*") means a county or county borough council in Wales;

"member" ("*aelod*") means a chair, vice-chair, officer or non-officer member of a Board;

"non-officer member" ("*aelod nad yw'n swyddog*") means a member of a Board who holds any office set out in regulation 3(4);

"officer member" ("*swyddog-aelod*") means a member of a Board who holds any office set out in regulation 3(2);

"shadow period" ("*cyfnod cysgodol*") means the period between the date of the coming into force of these Regulations and 1 October 2009;

"trade union" ("*undeb llafur*") has the meaning assigned to it in section 1 of the Trade Union and Labour Relations (Consolidation) Act 1992 [F10] and which is registered on the list of trade unions held by the Certification Officer in accordance with section 2 of that Act;

"voluntary organisations" ("*sefydliadau gwirfoddol*") has the meaning assigned to it in section 206(1) of the Act.

F2 S.I. 2009 No. 778 (W.66).
F3 S.I. 2003 No.148 (W.18) as amended by S.I. 2009/778 (W.66).
F4 Words in reg. 2 inserted (1.4.2013) by The National Treatment Agency (Abolition) and the Health and Social Care Act 2012 (Consequential, Transitional and Saving Provisions) Order 2013 (S.I. 2013/235), art. 1(2), **Sch. 2 para. 126(2)(a)**
F5 Words in reg. 2 substituted (1.10.2012) by The NHS Commissioning Board Authority (Abolition and Transfer of Staff, Property and Liabilities) and the Health and Social Care Act 2012 (Consequential Amendments) Order 2012 (S.I. 2012/1641), art. 1(2)(b), **Sch. 3 para. 14(2)**
F6 Words in reg. 2 inserted (1.4.2013) by The National Treatment Agency (Abolition) and the Health and Social Care Act 2012 (Consequential, Transitional and Saving Provisions) Order 2013 (S.I. 2013/235), art. 1(2), **Sch. 2 para. 126(2)(b)(i)**
F7 Words in reg. 2 inserted (1.4.2015) by The Care Act 2014 (Health Education England and the Health Research Authority) (Consequential Amendments and Revocations) Order 2015 (S.I. 2015/137), art. 1, **Sch. 2 para. 6(2)**
F8 Words in reg. 2 omitted (1.4.2013) by virtue of The National Treatment Agency (Abolition) and the Health and Social Care Act 2012 (Consequential, Transitional and Saving Provisions) Order 2013 (S.I. 2013/235), art. 1(2), **Sch. 2 para. 126(2)(b)(ii)**
F9 Words in reg. 2 substituted (1.4.2013) by The National Treatment Agency (Abolition) and the Health and Social Care Act 2012 (Consequential, Transitional and Saving Provisions) Order 2013 (S.I. 2013/235), art. 1(2), **Sch. 2 para. 126(2)(b)(iii)**
F10 1992 c. 52.

PART 2

Membership

Membership of Local Health Boards

3.—(1) The members of the Board consist of—

(a) a chair;

(b) a vice-chair;

(c) officer members; and

(d) non-officer members.

(2) The officer members consist of—

(a) a chief officer;

(b) a medical officer;

(c) a finance officer;

(d) a nurse officer;

(e) an officer who has responsibility for provision of the following—

(i) primary care services;

(ii) community health services; and

(iii) mental health services.

(f) an officer who has responsibility for workforce and organisational development;

(g) an officer who has responsibility for public health;

(h) an officer who has responsibility for the strategic and operational planning of the provision of health services;

(i) an officer who has responsibility for therapies and health science.

(3) Officer members in paragraph (2) will have such other responsibilities as may be prescribed by the Board.

(4) There are nine non-officer members which must include—

(a) a local authority member;

(b) a voluntary organisation member;

(c) a trade union member;

(d) a person who holds a post in a university that is related to health.

(5) In addition there may be associate members appointed in accordance with regulation 4(3) and (4).

Appointment of Local Health Board members

4.—(1) The chair, vice-chair and non-officer members are appointed by the Welsh Ministers.

(2) The officer members are appointed by the Board.

(3) The Welsh Ministers may appoint no more than three associate members.

(4) If it considers it necessary or expedient for the performance by the Board of any of its functions, the Board may appoint one associate member.

(5) Before making an appointment in accordance with paragraph (4) the Board must have written consent from the Welsh Ministers.

(6) Where the Board makes an appointment in accordance with paragraphs (2) or (4) it must have regard to any guidance issued by the Welsh Ministers from time to time concerning appointments.

(7) Appointments made in accordance with paragraphs (1) will be in accordance with the provisions in Schedule 1 (where they apply).

(8) Where a person is appointed in accordance with paragraphs (1), (3) and (4) regard must be had to the need to encourage diversity in the range of persons who may be appointed and to ensure that they are representative of the interests of the community within the Board's area.

(9) Each local authority within the Board's area may nominate two persons and the Welsh Ministers may choose a person from those persons nominated to be the local authority member under regulation 3(4)(a).

(10) The university in column 1 of Schedule 4 may nominate two persons and the Welsh Ministers may choose a person from those persons nominated to be the university member under regulation 3(4)(d) for the Local Health Board assigned to it in column 2 of Schedule 4.

Eligibility requirements for membership of a Local Health Board

5. Any person must fulfil the relevant requirements for eligibility in Schedule 2 before that person may be appointed as a member or associate member and must continue to fulfil the relevant requirements while that person holds office.

Tenure of office of chair, vice-chair, non-officer members and associate members

6.—(1) This regulation applies to any person who is appointed as—

(a) a chair, vice-chair or non-officer member; or

(b) an associate member appointed by Welsh Ministers in accordance with regulation 4(3).

(2) Subject to these Regulations, a member or associate member holds and vacates office in accordance with the terms of that person's appointment.

(3) A member or associate member may be appointed for a period of no longer than four years.

(4) Subject to paragraph (5) a member or associate member may on the expiration of his or her term of office be re-appointed in accordance with regulations 4(1) or 4(3).

(5) A person may not hold office as a member or an associate member for the same Board for a total period of more than eight years.

Modifications etc. (not altering text)

C1 Reg. 6(5) excluded (temp.) (5.7.2020) by The National Health Service (Temporary Disapplication of Tenure of Office) (Wales) (Coronavirus) Regulations 2020 (S.I. 2020/585), regs. 1(2), **2** (with regs. 1(3), 8)

Tenure of office of associate members appointed by the Board

7.—(1) This regulation applies to any person who is appointed by the Board as an associate member in accordance with regulation 4(4).

(2) Subject to these Regulations, an associate member holds and vacates office in accordance with the terms of that person's appointment.

(3) An associate member may be appointed for a period of no longer than one year.

(4) Subject to paragraph (5), an associate member may on the expiration of his or her term of office be re-appointed in accordance with regulation 4(4).

(5) A person may not hold office as an associate member for the same Board for a total period of more than four years.

Modifications etc. (not altering text)

C2 Reg. 7(5) excluded (temp.) (5.7.2020) by The National Health Service (Temporary Disapplication of Tenure of Office) (Wales) (Coronavirus) Regulations 2020 (S.I. 2020/585), regs. 1(2), **2** (with regs. 1(3), 8)

Termination of appointment of officer members

8.—(1) The chair, vice-chair and non-officer members may immediately remove an officer member from office —

(a) if they are of the opinion that it is not in the interests of the Board that a person who is an officer member should continue to hold office as a member; or

(b) having been notified by officer members in accordance with paragraph (2), they are of the opinion that it is not in the interests of the Board that a person who is an officer member should continue to hold office as a member.

(2) If all of the officer members (other than an officer member who is the subject of a notification to the chair under this paragraph) are of the opinion that a person who is an officer member should not continue to hold office as a member, they may notify the Board.

(3) Where the chair, the vice-chair and non-officer members remove a person from office in accordance with paragraph (1) or, having been notified by the officer members in accordance with paragraph (2), determine that a person should continue to hold office, they must immediately notify the Welsh Ministers in writing, stating the reasons for their decision.

(4) Where a person has been appointed to be an officer member, if it comes to the notice of the chair, the vice-chair or any of the non-officer members that the person—

(a) has become ineligible for appointment under Schedule 2, or

(b) was at the time of their appointment ineligible for appointment under Schedule 2,

they must immediately notify the Board and the chair must immediately notify that officer member and the Welsh Ministers in writing of such ineligibility.

(5) An officer member must immediately notify the Board if that member becomes ineligible under Schedule 2.

(6) Where notice has been given in accordance with paragraph (4), the chair, the vice-chair and the non-officer members must remove that person from office and that person ceases to act as an officer member.

(7) If it appears to the chair, the vice-chair and the non-officer members that an officer member has failed to comply with regulation 17, they may remove that person from office and that person ceases to act as an officer member.

(8) Where an officer member has been removed from office in accordance with paragraphs (6) and (7) the chair must immediately notify the Welsh Ministers.

(9) If a person who is an officer member has failed to attend any meeting of the Board for a period of six months or more, the chair, the vice-chair and the non-officer members must remove that person from office unless they are satisfied that —

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

(b) the person will be able to attend such meetings within such period as the chair, the vice-chair and the non-officer members consider reasonable.