WELSH STATUTORY INSTRUMENTS

2004 No. 905 (W.89)

NATIONAL HEALTH SERVICE, WALES

Community Health Councils Regulations 2004

Made - - - -	*24th March 2004*
Coming into force - -	*1st April 2004*

The National Assembly for Wales in exercise of powers conferred upon it by sections 16BB(4), 17 and 126(4) and paragraphs 2, 3 and 4 of Schedule 7A to the National Health Service Act 1977(**1**) hereby makes the following Regulations:

PART I

General

Citation, commencement and interpretation

1.—(1) These Regulations may be cited as the Community Health Councils Regulations 2004 and shall come into force on 1st April 2004.

(2) In these Regulations —

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

"the 2001 Act" ("*Deddf 2001*") means the Health and Social Care Act 2001(**2**)

"the Assembly" ("*y Cynulliad*") means the National Assembly for Wales;

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

"Chief Officer"("*Prif Swyddog*") means the person appointed under regulation 14 to act as Chief Officer of a Council;

"Council" ("*Cyngor*") means a Community Health Council;

(**1**) 1977 c. 49. Section 126(4) was amended by section 65(2) of the National Health Service and Community Care Act 1990 (c. 19) and by paragraph 37(6) of the Health Act 1999 (c. 8) and by section 1 of the Health (Wales) Act 2003 (c. 4) ("the 2003 Act"). Section 16BB(4) was inserted by section 6 of the National Health Service Reform and Health Care Professions Act 2002 (c. 17). Schedule 7A was inserted by section 1 of the 2003 Act. The functions of the Secretary of State under section 126(4) of the National Health Service Act 1977 were transferred to the National Assembly for Wales by the National Assembly for Wales (Transfer of Functions) Order 1999 S.I. 1999/672.

(**2**) 2001 c. 15.

"CHC Board"("*Bwrdd CIC*") means the Board of Community Health Councils in Wales established by regulation 23 of these Regulations;

"Director" ("*Cyfarwyddwr*") means the person appointed under regulation 24 to act as Director of the Board of Community Health Councils in Wales;

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

"member" ("*aelod*") means, where the context so admits a member of a Council or a member of the CHC Board as the case may be;

"relevant local authority" ("*awdurdod lleol perthnasol*") means, in relation to a Council, any county council or county borough council whose area or part of whose area, is included in the district of the Council;

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

"relevant NHS Trust" ("*Ymddiriedolaeth GIC perthnasol*") means, in relation to a Council, any NHS Trust established in relation to a hospital, or other establishment or facility which provides services to persons resident within the district of the 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 in the district of the Council;

"relevant Strategic Health Authority" ("*Awdurdod Iechyd Strategol perthnasol*") means, in relation to a Council, any Strategic Health Authority which makes decisions affecting persons resident in the district of the Council.

PART II

Establishment and Membership of Councils

Composition of Councils

2.—(1) The members of a Council shall be appointed —

(a) in the case of certain members, by the relevant local authorities in accordance with regulation 5;

(b) in the case of certain other members, by the voluntary organisations determined in accordance with regulation 6; and

(c) in the case of the remaining members, by the Assembly,

and for this purpose the Assembly shall determine the number of members to be appointed by each of the categories of the appointing authorities mentioned in sub-paragraphs (a) and (b) above.

(2) The Assembly shall exercise its powers of determination under paragraph (1) so as to secure that no later than April 2006—

(a) at least one member is appointed by each of the relevant local authorities and one quarter of the total membership of a Council are appointed by the relevant local authorities; and

(b) one quarter of the members are appointed by the voluntary organisations.

(3) In addition to the members appointed in accordance with paragraphs (1) and (2), a Council may from time to time appoint such co-opted members as appear to the Council to be necessary or expedient for the performance by a Council of its duties.

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

Term of office of members

3.—(1) Subject to the following provisions of this regulation and to regulations 9 and 10 (disqualification for, and termination of, membership), the term of office of any member shall be—

(a) in the case of an existing Council, four years;

(b) in the case of a Council established under section 20A(2)(b)(**3**) of the Act, a period not exceeding four years as the appointing body shall specify on appointment;

(c) in the case of appointment as a first member to a Council established under section 20A(2)(b) of the Act, the term of office of a member who, immediately prior to appointment as a first member to a new Council was a member of an existing Council or of a Council abolished or of a Council in respect of which the district for which it was established was altered under section 20A(2)(b) of the Act, shall be the unexpired period of that member's term of office as a member of a Council referred to in this paragraph.

(2) Where a new Council is to be established for the district or part of a district of an existing Council, the Assembly may determine that the term of office of any member of the existing Council shall cease immediately before the establishment of the new Council and if a member whose term of office is terminated pursuant to this paragraph is appointed as a first member of the new Council, the term of office of that member shall be the unexpired period of that member's term of office as a member of the existing Council.

Period of appointment of co-opted members.

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

Appointment of members by local authorities

5.—(1) Where the number of members to be appointed by each relevant local authority allows for more than one member to be appointed by each relevant local authority, any further members shall be appointed by such of the relevant local authorities as those local authorities may by agreement determine, or, in default of agreement by such date as the Assembly may specify for the purpose, as the Assembly may determine.

(2) A person appointed in accordance with this regulation may, but need not, be a member of the local authority which appoints him or her.

(3) Subject to paragraph (4), where a member appointed by a local authority is a member of the appointing local authority, he or she shall, on ceasing to be a member of the appointing local authority, cease also 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.

(4) In a case to which paragraph (3) applies the local authority may, during the period referred to in that paragraph, give notice in writing to the Chief Officer and to the Assembly that the person appointed is to continue as a member of the Council.

(**3**) Section 20A was inserted by section 1 of the 2003 Act.

Appointment of members by voluntary organisations

6.—(1) The Assembly shall invite such voluntary organisations as it may determine as having sufficient interest in the health service in the district of a Council, to take part in the appointment of persons to a Council.

(2) Subject to paragraph (3), the voluntary organisations invited to take part in making appointments to a Council shall, by agreement between them, determine which of them, acting either alone or jointly shall make the appointment.

(3) In default of agreement for the purposes of paragraph (2) by such date as the Assembly may specify for the purpose the Assembly shall determine which of the voluntary organisations shall make any appointment and whether the appointments should be made by one or more such organisations acting alone or jointly with one or more other such organisations.

(4) A member appointed in accordance with this regulation may, but need not, be a member of the voluntary organisation which appoints him or her.

Procedures for appointment of members

7. The appointing bodies shall 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(**4**)) and in the Assembly's Code of Practice for Ministerial Appointments to Public Bodies(**5**);

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

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

Eligibility of members for reappointment

8.—(1) Subject to paragraph (2) and to regulation 9, a member shall, on the expiration of his or her term of office, be eligible for reappointment.

(2) A person who has been a member for eight or more consecutive years shall not be eligible for reappointment, unless a period of at least four years has elapsed since he or she was last a member save that, where a Council and the Assembly agree that it is necessary or expedient for the performance by a Council of its duties, a member may be re-appointed for a further period not exceeding one year.

Disqualification for membership

9.—(1) A person shall be disqualified for appointment as a member, and from being a member, if —

(a) he or she is a chair, director or a member of a relevant Local Health Board, relevant NHS Trust, relevant Strategic Health Authority, or relevant Primary Care Trust;

(b) he or she is employed by a relevant Local Health Board, relevant NHS Trust, relevant Strategic Health Authority or Primary Care Trust;

(**4**) Copies of this document may be obtained by writing to the NHS (Human Resources) Division, the National Assembly for Wales, Cathays Park, Cardiff CF10 3NQ.

(**5**) Copies of this document may be obtained by writing to the NHS (Human Resources) Division, the National Assembly for Wales, Cathays park, Cardiff, CN10 3NQ.

(c) he or she provides, or is employed by a person or body not being a voluntary organisation providing, services under the Act in accordance with a contract made between that person or body and the relevant Local Health Board or a relevant NHS Trust;

(d) he or she is a member of another Council; or

(e) he or she is a

(i) medical practitioner,

(ii) dental practitioner,

(iii) registered pharmacist,

(iv) registered ophthalmic optician or registered dispensing optician within the meaning of the Opticians Act 1989(**6**),

(v) registered nurse, registered midwife or registered health visitor or, on the coming into force of the Nursing and Midwifery Order 2001(**7**) is registered in the register maintained by the Nursing and Midwifery Council under article 5 of the 2001 Order,

providing services as such within the district of the Council, save that the provisions of paragraph (a) shall not apply to a member who is to serve as an Associate Member of a Local Health Board in accordance with the provisions of the Local Health Board (Constitution, Membership and Procedures) (Wales) Regulations 2003(**8**).

(2) Subject to paragraph (3), a person shall be disqualified for appointment, and from being a member if he or she has been dismissed, otherwise than by reason of redundancy, from any paid employment with any of the following bodies —

(a) a Local Health Board;

(b) a Health Authority;

(c) a Special Health Authority;

(d) the National Radiological Protection Board established by section 1 of the Radiological Protection Act 1970(**9**);

(e) the Public Health Laboratory Service Board;

(f) the Commission for Health Improvement;

(g) a NHS Trust;

(h) the Dental Practice Board;

(i) the Health Protection Agency(**10**);

(j) a Strategic Health Authority, or

(k) a Primary Care Trust.

(3) Subject to paragraph (4), where a person is disqualified under paragraph (2) he or she may, after the expiry of not less than two years commencing with the date of the dismissal, apply in writing to the Assembly for the removal of the disqualification, and the Assembly may direct that the disqualification shall cease.

(4) Where the Assembly refuses a person's application for the removal of a disqualification, no further application may be made by that person within two years of the date of that application.

(**6**) 1989 c. 44
(**7**) S.I. 2002/253.
(**8**) SI 2003/149(W.19), regulation 3(4)(m) and Schedule 2 , paragraph 17(a).
(**9**) 1970 c. 46
(**10**) Established by SI 2003/505