WELSH STATUTORY INSTRUMENTS

2003 No. 149 (W.19)

NATIONAL HEALTH SERVICE, WALES

The Local Health Boards (Constitution, Membership and Procedures) (Wales) Regulations 2003

Made - - - -	*29th January 2003*
Coming into force - -	*10th February 2003*

The National Assembly for Wales, in exercise of the powers conferred by section 16BC(2) and (3) of, and paragraphs 6(1) and (2) of Schedule 5B to the National Health Service Act 1977(**1**) which are exercisable by the National Assembly(**2**) in relation to Wales, makes the following Regulations —

Citation, commencement and application

1. These Regulations may be cited as the Local Health Boards (Constitution, Membership and Procedures) (Wales) Regulations 2003 and shall come into force on 10th February 2003.

Interpretation

2. The following words and phrases shall bear the following meanings —

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

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

"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 in the Local Health Boards (Establishment) (Wales) Order 2003 (**3**), as such area may be varied from time to time;

"carer" ("*gofalwr*") means a person aged 16 or over who provides or has provided a substantial amount of care on a regular basis for another person, other than by virtue of a contract of employment or other contract with any person, or as a volunteer for a voluntary organisation;

"Community Health Council" ("*Cyngor Iechyd Cymuned*") means a Community Health Council established in Wales pursuant to section 20 of the National Health Service Act 1977;

"first members" ("*aelodau cyntaf*") means those persons who are the first to be appointed as members of a Board immediately following its establishment;

(**1**) 1977 c. 49.
(**2**) Functions under section 16BC and Schedule 5B of the National Health Service Act 1977 are vested directly in the Assembly.
(**3**) S.I. 2003 No.148. W. 18.

"general medical practitioner" ("*ymarferydd meddygol cyffredinol*") means a medical practitioner who provides general medical services under Part II of the 1977 Act or personal medical services in connection with a pilot scheme under the National Health Service (Primary Care) Act 1997(**4**);

"health care profession" ("*proffesiwn gofal iechyd*") shall have the meaning given in section 25(12) of the National Health Service Reform and Healthcare Professions Act 2002;

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

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

"local authority member" ("*aelod awdurdod lleol*") means a member of a Board who is nominated by the local authority for that Board's area;

"member" ("*aelod*") includes the chair and vice-chair, officer and non-officer members, associate members and co-opted members of a Board;

"officer member" ("*aelod sy'n swyddog*") means a member who is the holder of any office set out in regulation 3(3);

"non-officer member" ("*aelod nad yw'n swyddog*") means a member of a Board who does not hold any office set out in regulation 3(3); and

"shadow member" ("*aelod cysgodol*") means a person identified to be one of the first members of a Board as at the date of the coming into force of these Regulations.

PART I

Membership

Membership of Local Health Boards

3.—(1) A Board shall be comprised of the members described in this Regulation..

(2) The officer members shall be —

(a) the chief officer;

(b) the medical officer;

(c) the finance officer; and

(d) the nurse officer.

(3) The non-officer members shall be —

(a) the chair;

(b) the vice-chair;

(c) up to four local authority members, a minimum of one of whom must be an elected member of the council of that local authority, and one of whom must be a senior social services officer of that local authority;

(d) a public health specialist;

(e) up to three general medical practitioner members;

(f) a pharmacist member;

(g) a dental practitioner member;

(h) an optometrist member;

(**4**) 1997 c. 46.

(i) a nursing, midwifery or health visiting member;

(j) a therapy member;

(k) up to two voluntary sector members;

(l) up to two community lay members, one of whom shall be a carer; and

(m) four associate members.

(4) In addition to the number of members referred to in paragraph (1) above, the Board may from time to time appoint such co-opted members as appear to it to be necessary or expedient for the performance by the Board of its functions.

Appointment of Local Health Board members

4.—(1) This regulation does not apply to the appointment of the first members.

(2) The Assembly shall appoint the chair and, if it thinks fit, the vice chair of a Board.

(3) All members (other than the chair, vice chair and co-opted members) will be appointed by the Board subject to the approval of the Assembly.

(4) Co-opted members will be appointed by the Board, which shall have regard to any guidance issued by the Assembly from time to time concerning appointments.

(5) The person or persons responsible for making any appointment under paragraph (3) shall, before making any such appointment, ensure that the provisions of Schedule 1 to these Regulations are complied with, and shall have regard to any guidance issued by the Assembly from time to time concerning appointments.

Transitional arrangements for the appointment of the first members of a Local Health Board

5.—(1) This regulation applies to the appointment of the first members of a Board only.

(2) The first chair of a Board (and vice-chair if one is to be appointed by the Assembly) shall be the person or persons identified by the Assembly to hold such office or offices at the date when these Regulations come into force.

(3) The first chief officer of a Board shall be the person identified by the Assembly to hold such office at the date when these Regulations come into force.

(4) The first members of a Board (other than the chair, vice-chair or chief officer) shall be those persons identified by the Assembly to hold the posts of members at the date when these Regulations come into force.

(5) If there exists any vacancy (other than in relation to the position of chair or vice-chair) in the membership of a Board at the date when these Regulations come into force, the Board may appoint members to fill any such vacancy in accordance with the provisions of regulation 4.

Eligibility requirements for membership of a Local Health Board

6. Any person who applies to be a member of a Board must fulfil the relevant requirements for eligibility set out in Schedule 2 to these Regulations before such person may be appointed as a member.

Period of appointment of co-opted members

7. 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 Board decides that such reappointment is necessary or expedient for the performance by the Board of its functions.

Termination of appointment and suspension of officer members

8.—(1) If the chair and non-officer members 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 such a member, they may immediately terminate that person's tenure of office.

(2) If the officer members (other than an officer member who is the subject of a notification to the chair under this paragraph) notify the chair that they are of the opinion that a person who is an officer member should not continue to hold office as such a member, the chair and non-officer members of the Board may terminate that person's tenure of office if they are of the opinion that it is not in the interests of the Board for that person to continue to hold office.

(3) Where under paragraph (2) the chair and non-officer members terminate the tenure of office of an officer member or determine that such a person should continue to hold office, they shall forthwith notify the Assembly in writing, stating the reasons for their decision.

(4) Where a person has been appointed to be an officer member —

(a) if it comes to the notice of the chair and the non-officer members that the person has become ineligible for appointment under Schedule 2 to these Regulations, they shall forthwith notify the person and the Assembly in writing of such ineligibility; or

(b) if it comes to the notice of the chair and the non-officer members that at the time of appointment the person was so ineligible, they shall forthwith notify the person and the Assembly in writing of their view that the person was not duly appointed;

and, following such notification, the chair and the non-officer members may terminate the person's tenure of office and that person shall cease to act as an officer member.

(5) If it appears to the chair and the non-officer members that an officer member has failed to comply with regulation 15, they may terminate that person's tenure of office and that person shall cease to act as an officer member.

(6) If a person who is an officer member has failed to attend a meeting of the Board for a period of three months, the chair and non-officer members shall terminate that person's tenure of 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 and non-officer members consider reasonable.

(7) Before making their final decision upon whether to terminate the tenure of office of an officer member, the chair and the non-officer members may, if they consider it appropriate to do so, suspend the tenure of office of an officer member for such period as they consider reasonable before making their final decision.

(8) If the chair and non-officer members decide to suspend the tenure of office of an officer member, they shall immediately notify the Assembly in writing, stating the reasons for their decision.

(9) An officer member whose tenure of office is suspended shall also be suspended from performing the functions of a member, and an officer member whose tenure of office is terminated shall cease to be a member.

Termination of appointment and suspension of non-officer members

9.—(1) If the Board determines that —

(a) it is not in the interests of the health service in the area for which a Board acts; or

(b) it is not conducive to the good management of a Board,

for a person who has been appointed as a non-officer member of that Board to continue to hold that office, the Board may, with the Assembly's prior consent, forthwith terminate that person's membership.

(2) Where a person has been appointed to be a non-officer member —

(a) if it comes to the notice of the Board that the person has become ineligible for appointment under Part I of Schedule 2 to these Regulations, the Board shall forthwith notify the person and the Assembly in writing of such ineligibility; or

(b) if it comes to the notice of the Board that at the time of appointment the person was so ineligible, the Board shall forthwith notify the person and the Assembly in writing of such ineligibility,

the Board may, with the Assembly's prior consent, forthwith terminate that person's membership and that person shall cease to act as the chair, vice-chair or other non-officer member.

(3) If it appears to the Board that a non-officer member has failed to comply with regulation 15, the Board may, with the Assembly's prior consent, forthwith terminate that person's membership.

(4) If a non-officer member has failed to attend a meeting of the Board for a period of three months, the Board shall terminate that person's membership unless 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 Board considers reasonable.

(5) Before making a final decision upon whether to terminate the membership of a non-officer member, the Board may, if they consider it appropriate to do so, suspend the tenure of office of a non-officer member for such period as they consider reasonable before making their final decision.

(6) If the Board decides to suspend the membership of a non-officer member, they shall immediately notify the Assembly in writing, stating the reasons for their decision.

(7) A non-officer member whose membership is suspended shall be suspended from performing the functions of a member.

PART II

Proceedings and administrative arrangements of Boards

Appointment of vice-chair

10.—(1) If no vice-chair has been appointed by the Assembly, then subject to paragraph (2), the chair and non-officer members of a Board may appoint one of their number, who is not an officer member of the Board, to be vice-chair for such period, not exceeding the remainder of his term as a member of the Board, as they may specify.

(2) Any member so appointed may at any time resign from the office of vice-chair by giving notice in writing to the chair.

(3) The date on which a resignation by notice given pursuant to paragraph (2) shall take effect shall be —

(a) where a date is specified in the notice as being that on which the resignation is to take effect, that date; and

(b) In any other case, the date on which the notice is received by the chair.