

2010 No. 2538

**NATIONAL HEALTH SERVICE, ENGLAND AND
WALES**

**The National Health Service Bodies (Membership and
Procedure) Amendment Regulations 2010**

<i>Made</i> - - - -	<i>14th October 2010</i>
<i>Laid before Parliament</i>	<i>21st October 2010</i>
<i>Coming into force</i> - -	<i>1st December 2010</i>

The Secretary of State for Health makes the following Regulations in exercise of the powers conferred by sections 272(7) of, and paragraphs 3(b) and 9 of Schedule 2 and paragraph 5 of Schedule 6 to the National Health Service Act 2006(a), and by section 203(9) of and paragraph 5 of Schedule 5 to the National Health Service (Wales) Act 2006(b).

Citation, commencement and extent

1.—(1) These Regulations may be cited as the National Health Service Bodies (Membership and Procedure) Amendment Regulations 2010 and shall come into force on 1st December 2010.

(2) These Regulations apply in relation to England only, except for regulations 3, 4, 8, and 9, which relate to cross-border bodies as defined in section 158(1) of the Government of Wales Act 2006(c).

Amendments of the Health Authorities (Membership and Procedure) Regulations 1996

2.—(1) The Health Authorities (Membership and Procedure) Regulations 1996(d) are amended as follows.

(2) In regulation 1 (citation, commencement and interpretation), in paragraph (2), after the definition of “appointed officer member” insert—

““appointee” means a chairman or non-officer member of a Strategic Health Authority;”.

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- (a) 2006 c. 41. Paragraph 9(d) of Schedule 2 and paragraph 5(d) of Schedule 6 were substituted by paragraphs 10 and 11 of Schedule 3 to the Health Act 2009 (c. 21); by virtue of section 271 of the National Health Service Act 2006, the powers of the Secretary of State under that Act, as exercised in making these Regulations, are exercisable only in relation to England.
- (b) 2006 c. 42. Paragraph 5 of Schedule 5 was amended by paragraph 15 of Schedule 3 to the Health Act 2009. The powers under the National Health Service (Wales) Act 2006 and the National Health Service Act 2006 exercised in these Regulations are exercisable by the Secretary of State in relation to cross-border bodies concurrently with the Welsh Ministers, by virtue of paragraph 18(1)(b) of the Health Act 2009 and of article 2(c) of the National Assembly for Wales (Transfer of Functions) Order 1999 (S.I. 1999/672) as continued in effect by paragraph 8 of Schedule 2 to the National Health Service (Consequential Provisions) Act 2006 (c.43) and paragraph 26 of Schedule 11 to the Government of Wales Act 2006 (c.32). See section 158(1) of the Government of Wales Act 2006 for the definition of “cross-border body”.
- (c) 2006 c.32.
- (d) S.I.1996/707. The definition of “Authority” in S.I. 1996/707 was amended by S.I. 2002/2469. “Authority” means a Strategic Health Authority or Health Authority. The amendments made by these Regulations apply only to Strategic Health Authorities.

(3) After regulation 8 (termination of tenure of office) insert—

“Suspension of appointee

8A.—(1) The Secretary of State may suspend an appointee from office while the Secretary of State considers whether—

- (a) to remove the person from office under regulation 8(4) or (7); or
- (b) the person has become disqualified for appointment under regulation 10, or was so disqualified at the time of appointment.

(2) The Secretary of State must give notice to the appointee of the decision to suspend and the suspension takes effect on receipt of the notification.

(3) A notice under paragraph (2) may be—

- (a) delivered in person, in which case the appointee is treated as receiving it when it is delivered; or
- (b) sent by first class post to the appointee’s last known address, in which case the appointee is treated as receiving it on the third day after the day on which it was posted.

(4) The initial period of suspension must not exceed 6 months.

(5) The Secretary of State may review the appointee’s suspension at any time.

(6) The Secretary of State must review the appointee’s suspension if requested in writing by the appointee to do so, but need not carry out a review less than 3 months after the beginning of the initial period of suspension.

(7) Following a review, the Secretary of State may—

- (a) revoke the suspension; or
- (b) suspend the appointee for another period of not more than 6 months from the expiry of the current period.

(8) The Secretary of State must revoke the suspension if at any time the Secretary of State decides that—

- (a) there are no grounds to remove the chairman or non-executive member from office under regulation 8(4) or (7);
- (b) there are such grounds but does not remove that person from office as chairman or non-executive member under these provisions; or
- (c) the person is not disqualified for appointment under regulation 10.

Suspension: effect on maximum number of members and on meetings

8B.—(1) This regulation applies in relation to a Strategic Health Authority where an appointee is suspended under regulation 8A(1).

(2) Where this regulation applies—

- (a) the reference in regulation 2(1) (membership of Authorities) to the prescribed maximum number of non-officer members to be appointed shall have effect as if the number were increased by the number of appointees suspended;
- (b) “members” in paragraph 2(2) and (3) of Schedule 3 (rules as to meetings and proceedings of Authorities) means members other than any appointee who is suspended under regulation 8A; and
- (c) “the whole membership of the Authority” in paragraph 6(a) of that Schedule means the whole membership of the Authority less any appointee who is suspended under regulation 8A.

Suspension of chairman: appointment of vice-chairman

8C.—(1) This regulation applies in relation to a Strategic Health Authority where the chairman is suspended under regulation 8A(1).

(2) If a vice-chairman has been appointed under regulation 12(1) (appointment of vice-chairman), that appointment shall cease to have effect.

(3) The Secretary of State may re-appoint the person mentioned in paragraph (2) or appoint another non-officer member to be the vice-chairman.

(4) The appointment of a vice-chairman under paragraph (3) shall be for a period not exceeding the shorter of—

- (a) the period for which the chairman is suspended; and
- (b) the remainder of the non-officer member's term as a member of the Strategic Health Authority.

(5) When the period for which a person is appointed as vice-chairman expires the Secretary of State may re-appoint that person, or appoint another non-officer member as vice-chairman.

(6) Any person appointed under paragraph (3) or (5) may at any time resign from the office of vice-chairman by giving notice in writing to the Secretary of State.

(7) A notice given under paragraph (6) shall take effect—

- (a) where a date is specified in the notice as that on which the resignation is to take effect, on that date; or
- (b) in any other case, on the date that the notice is received by the Secretary of State.

(8) The Secretary of State may terminate a person's appointment as vice-chairman under paragraph (3) or (5) if the Secretary of State is of the opinion that it would be in the best interests of the Authority for another non-officer member of the Authority to be vice-chairman.

(9) If—

- (a) a person resigns from the office of vice-chairman under paragraph (6); or
- (b) the Secretary of State terminates a person's appointment as vice-chairman under paragraph (8),

the Secretary of State may appoint another non-officer member as vice-chairman.”.

(4) In regulation 12 (appointment of vice-chairman), after paragraph (3) add—

“(4) This regulation does not apply in relation to any Strategic Health Authority to which regulation 8C applies.”.

(5) For regulation 13 (powers of vice-chairman), substitute—

“Powers of vice-chairman

13.—(1) This regulation applies where—

- (a) the chairman of a Strategic Health Authority is suspended under regulation 8A and a member of the Strategic Health Authority is appointed to be vice-chairman under regulation 8C; or
- (b) a member of an Authority is appointed to be vice-chairman under regulation 12, and the chairman of the Authority—
 - (i) has died or has ceased to hold office; or
 - (ii) is unable to perform the chairman's duties owing to illness, absence from England and Wales or any other cause.

(2) Where this regulation applies—

- (a) the vice-chairman shall act as chairman until a new chairman is appointed or the existing chairman resumes the chairman's duties, as the case may be; and

- (b) the references to the chairman in Schedule 3 shall, so long as there is no chairman able to perform the chairman's duties, be taken to include references to the vice chairman.”.

Amendments of the National Health Service Litigation Authority Regulations 1995

3.—(1) The National Health Service Litigation Authority Regulations 1995^(a) are amended as follows.

(2) In regulation 1 (citation, commencement and interpretation), in paragraph (2), after the definition of “the Act” insert—

““appointee” means the chairman or a non-officer member of the Authority;”.

(3) After regulation 5 (termination of tenure of office) insert—

“Suspension of appointee

5A.—(1) The Secretary of State may suspend an appointee from office while the Secretary of State considers whether—

- (a) to remove the person from office under regulation 5(3) or (6); or
- (b) the person has become disqualified for appointment under regulation 7, or was so disqualified at the time of appointment.

(2) The Secretary of State must give notice in writing to the appointee of the decision to suspend and the suspension takes effect on receipt of such notification.

(3) A notice under paragraph (2) may be—

- (a) delivered in person, in which case the appointee is treated as receiving it when it is delivered; or
- (b) sent by first class post to the appointee's last known address, in which case the appointee is treated as receiving it on the third day after the day on which it was posted.

(4) The initial period of suspension must not exceed 6 months.

(5) The Secretary of State may review the appointee's suspension at any time.

(6) The Secretary of State must review the appointee's suspension if requested in writing by the appointee to do so, but need not carry out a review less than 3 months after the beginning of the initial period of suspension.

(7) Following a review, the Secretary of State may—

- (a) revoke the suspension; or
- (b) suspend the appointee for another period of not more than 6 months from the expiry of the current period.

(8) The Secretary of State must revoke the suspension if at any time the Secretary of State decides that—

- (a) there are no grounds to remove the chairman or non-executive member from office under regulation 5(3) or (6);
- (b) there are such grounds but does not remove that person from office as chairman or non-executive member under these provisions; or
- (c) the person is not disqualified for appointment under regulation 7.

Suspension of chairman: appointment of vice-chairman

5.—(1) This regulation applies where the chairman is suspended under regulation 5A.

^(a) SI 1995/2801 to which there are no relevant amendments.

(2) If a vice-chairman has been appointed under regulation 9(1) (appointment of vice-chairman) that appointment shall cease to have effect.

(3) The Secretary of State may re-appoint the person mentioned in paragraph (2) or appoint another non-officer member to be the vice-chairman.

(4) The appointment of a vice-chairman under paragraph (3) shall be for a period, not exceeding the shorter of—

- (a) the period for which the chairman is suspended; and
- (b) the remainder of the non-officer member's term as a member of the Authority.

(5) When the period for which a person is appointed as vice-chairman expires, the Secretary of State may re-appoint the person, or appoint another non-officer member as vice-chairman.

(6) Any person appointed under paragraph (3) or (5) may at any time resign from the office of vice-chairman by giving notice in writing to the Secretary of State.

(7) A notice given under paragraph (6) shall take effect—

- (a) where a date is specified in the notice as that on which the resignation is to take effect, on that date; or
- (b) in any other case, on the date that the notice is received by the Secretary of State.

(8) The Secretary of State may terminate a person's appointment as vice-chairman under paragraph (3) or (5) if the Secretary of State is of the opinion that it would be in the best interests of the Authority for another non-officer member of the Authority to be vice-chairman.

(9) If—

- (a) a person resigns from the office of vice-chairman under paragraph (6); or
- (b) the Secretary of State terminates a person's appointment as vice-chairman under paragraph (8),

the Secretary of State may appoint another non-officer member as vice-chairman.”.

(4) In regulation 9 (appointment of vice-chairman), add at the end—

“(3) This regulation does not apply where regulation 5B applies.”.

(5) For regulation 10 (powers of vice-chairman), substitute—

“10 Powers of vice-chairman

(1) This regulation applies where—

- (a) the chairman of the Authority is suspended under regulation 5A and a non-officer member of the Authority is appointed to be vice-chairman under regulation 5B; or
- (b) a non-officer member of the Authority is appointed to be vice-chairman under regulation 9, and the chairman of the Authority –
 - (i) has died or has ceased to hold office; or
 - (ii) is unable to perform the chairman's duties owing to illness, absence from England and Wales or any other cause.

(2) Where this regulation applies—

- (a) the vice-chairman shall act as chairman until a new chairman is appointed or the existing chairman resumes the chairman's duties, as the case may be; and
- (b) the references to the chairman in the Schedule shall, so long as there is no chairman able to perform the chairman's duties, be taken to include references to the vice-chairman.”.

Amendments of the National Institute for Clinical Excellence Regulations 1999

4.—(1) The National Institute for Clinical Excellence Regulations 1999(a) are amended as follows.

(2) In regulation 1 (citation, commencement and interpretation), in paragraph (2), after the definition of “the Act” insert—

““appointee” means the chairman or a non-officer member of the Institute;”.

(3) After regulation 8 (termination of tenure of office of chairman and non-officer members) insert—

“Suspension of appointee

8A.—(1) The Secretary of State may suspend an appointee from office while the Secretary of State considers whether—

- (a) to remove the person from office under regulation 8(3) or (6); or
- (b) the person has become disqualified for appointment under regulation 5, or was so disqualified at the time of appointment.

(2) The Secretary of State must give notice in writing to the appointee of the decision to suspend and the suspension takes effect on receipt of such notification.

(3) A notice under paragraph (2) may be—

- (a) delivered in person, in which case the appointee is treated as receiving it when it is delivered; or
- (b) sent by first class post to the appointee’s last known address, in which case the appointee is treated as receiving it on the third day after the day on which it was posted.

(4) The initial period of suspension must not exceed 6 months.

(5) The Secretary of State may review the appointee’s suspension at any time.

(6) The Secretary of State must review the appointee’s suspension if requested in writing by the appointee to do so, but need not carry out a review less than 3 months after the beginning of the initial period of suspension.

(7) Following a review, the Secretary of State may—

- (a) revoke the suspension; or
- (b) suspend the appointee for another period of not more than 6 months from the expiry of the current period.

(8) The Secretary of State must revoke the suspension if at any time the Secretary of State decides that—

- (a) there are no grounds to remove the chairman or non-executive member from office under regulation 8(3) or (6);
- (b) there are such grounds but does not remove that person from office as chairman or non-executive member under these provisions; or
- (c) the person is not disqualified for appointment under regulation 5.

Suspension of chairman: appointment of vice-chairman

8B.—(1) This regulation applies where the chairman is suspended under regulation 8A.

(2) If a vice-chairman has been appointed under regulation 3(1) (appointment of vice-chairman) that appointment shall cease to have effect.

(3) The Secretary of State may re-appoint the person mentioned in paragraph (2) or appoint another non-officer member to be the vice-chairman.

(a) S.I. 1999/260; relevant amending instruments are S.I. 2004/696 and S.I. 2005/498.

(4) The appointment of a vice-chairman under paragraph (3) shall be for a period, not exceeding the shorter of—

- (a) the period for which the chairman is suspended; and
- (b) the remainder of the non-officer member’s term as a member of the Institute.

(5) When the period for which a person is appointed as vice-chairman expires, the Secretary of State may re-appoint the person, or appoint another non-officer member as vice-chairman.

(6) Any person appointed under paragraph (3) or (5) may at any time resign from the office of vice-chairman by giving notice in writing to the Secretary of State.

(7) A notice given under paragraph (6) shall take effect—

- (a) where a date is specified in the notice as that on which the resignation is to take effect, on that date; or
- (b) in any other case, on the date that the notice is received by the Secretary of State.

(8) The Secretary of State may terminate a person’s appointment as vice-chairman under paragraph (3) or (5) if the Secretary of State is of the opinion that it would be in the best interests of the Institute for another non-officer member of the Institute to be vice-chairman.

(9) If—

- (a) a person resigns from the office of vice-chairman under paragraph (6); or
- (b) the Secretary of State terminates a person’s appointment as vice-chairman under paragraph (8),

the Secretary of State may appoint another non-officer member as vice-chairman.”.

(4) In regulation 3 (appointment of vice-chairman)—

(a) insert after paragraph (2)—

“(2A) This regulation does not apply where regulation 8B applies.”; and

(b) omit paragraph (3).

(5) After regulation 3 insert—

“Powers of vice-chairman

3A.—(1) This regulation applies where—

- (a) the chairman of the Institute is suspended under regulation 8A and a non-officer member of the Institute is appointed to be vice-chairman under regulation 8B; or
- (b) a non-officer member of the Institute is appointed to be vice-chairman under regulation 3, and the chairman of the Institute—
 - (i) has died or has ceased to hold office; or
 - (ii) is unable to perform the chairman’s duties owing to illness, absence from England and Wales or any other cause.

(2) Where this regulation applies—

- (a) the vice-chairman shall act as chairman until a new chairman is appointed or the existing chairman resumes the chairman’s duties, as the case may be; and
- (b) the references to the chairman in the Schedule shall, so long as there is no chairman able to perform the chairman’s duties, be taken to include references to the vice-chairman.”.

Amendments of the National Patient Safety Agency Regulations 2001

5.—(1) The National Patient Safety Agency Regulations 2001(a) are amended as follows.

(a) S.I. 2001/1742 to which there are no relevant amendments.

(2) In regulation 1 (citation, commencement, extent and interpretation), in paragraph (3), after the definition of “the Agency” insert—

““appointee” means the chairman or a non-officer member of the Agency;”.

(3) After regulation 5 (termination of tenure of office of chairman and non-officer members) insert—

“Suspension of appointee

5A.—(1) The Secretary of State may suspend an appointee from office while the Secretary of State considers whether—

- (a) to remove the person from office under regulation 5(2) or (5); or
- (b) the person has become disqualified for appointment under regulation 3, or was so disqualified at the time of appointment.

(2) The Secretary of State must give notice in writing to the appointee of the decision to suspend and the suspension takes effect on receipt of such notification.

(3) A notice under paragraph (2) may be—

- (a) delivered in person, in which case the appointee is treated as receiving it when it is delivered; or
- (b) sent by first class post to the appointee’s last known address, in which case the appointee is treated as receiving it on the third day after the day on which it was posted.

(4) The initial period of suspension must not exceed 6 months.

(5) The Secretary of State may review the appointee’s suspension at any time.

(6) The Secretary of State must review the appointee’s suspension if requested in writing by the appointee to do so, but need not carry out a review less than 3 months after the beginning of the initial period of suspension.

(7) Following a review, the Secretary of State may—

- (a) revoke the suspension; or
- (b) suspend the appointee for another period of not more than 6 months from the expiry of the current period.

(8) The Secretary of State must revoke the suspension if at any time the Secretary of State decides that—

- (a) there are no grounds to remove the chairman or non-executive member from office under regulation 5(2) or (5);
- (b) there are such grounds but does not remove that person from office as chairman or non-executive member under these provisions; or
- (c) the person is not disqualified for appointment under regulation 3.

Suspension of chairman: appointment of vice-chairman

5B.—(1) This regulation applies where the chairman is suspended under regulation 5A.

(2) If a vice-chairman has been appointed under regulation 6(1) (appointment of vice-chairman) that appointment shall cease to have effect.

(3) The Secretary of State may re-appoint the person mentioned in paragraph (2) or appoint another non-officer member to be the vice-chairman.

(4) The appointment of a vice-chairman under paragraph (3) shall be for a period, not exceeding the shorter of—

- (a) the period for which the chairman is suspended; and
- (b) the remainder of the non-officer member’s term as a member of the Agency.

(5) When the period for which a person is appointed as vice-chairman expires, the Secretary of State may re-appoint the person, or appoint another non-officer member as vice-chairman.

(6) Any person appointed under paragraph (3) or (5) may at any time resign from the office of vice-chairman by giving notice in writing to the Secretary of State.

(7) A notice given under paragraph (6) shall take effect—

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

(b) in any other case, on the date that the notice is received by the Secretary of State.

(8) The Secretary of State may terminate a person's appointment as vice-chairman under paragraph (3) or (5) if the Secretary of State is of the opinion that it would be in the best interests of the Agency for another non-officer member of the Agency to be vice-chairman.

(9) If—

(a) a person resigns from the office of vice-chairman under paragraph (6); or

(b) the Secretary of State terminates a person's appointment as vice-chairman under paragraph (8),

the Secretary of State may appoint another non-officer member as vice-chairman.”.

(4) In regulation 6 (appointment of vice-chairman)—

(a) insert after paragraph (2)—

“(2A) This regulation does not apply where regulation 5B applies.”; and

(b) omit paragraph (3).

(5) After regulation 6 insert—

“Powers of vice-chairman

6A.—(1) This regulation applies where—

(a) the chairman of the Agency is suspended under regulation 5A and a non-officer member of the Agency is appointed to be vice-chairman under regulation 5B; or

(b) a non-officer member of the Agency is appointed to be vice-chairman under regulation 6, and the chairman of the Agency—

(i) has died or has ceased to hold office; or

(ii) is unable to perform the chairman's duties owing to illness, absence from England or any other cause.

(2) Where this regulation applies—

(a) the vice-chairman shall act as chairman until a new chairman is appointed or the existing chairman resumes the chairman's duties, as the case may be; and

(b) the references to the chairman in the Schedule shall, so long as there is no chairman able to perform the chairman's duties, be taken to include references to the vice-chairman.”.

Amendments of the National Treatment Agency Regulations 2001

6.—(1) The National Treatment Agency Regulations 2001(a) are amended as follows.

(2) In regulation 1 (citation, commencement, interpretation and extent), in paragraph (2),

(a) after the definition of “the Agency” insert—

““appointee” means the chairman or a non-officer member of the Agency;”; and

(b) after the definition of “member” insert—

(a) S.I. 2001/715 to which there are no relevant amendments.

““non-officer member” means a member who is not an officer of the Agency;”.

(3) After regulation 5 (termination of tenure of office of chairman and non-officer members) insert—

“Suspension of appointee

5A.—(1) The Secretary of State may suspend an appointee from office while the Secretary of State considers whether—

- (a) to remove the person from office under regulation 5(2) or (5); or
- (b) the person has become disqualified for appointment under regulation 3, or was so disqualified at the time of appointment.

(2) The Secretary of State must give notice in writing to the appointee of the decision to suspend and the suspension takes effect on receipt of such notification.

(3) A notice under paragraph (2) may be—

- (a) delivered in person, in which case the appointee is treated as receiving it when it is delivered; or
- (b) sent by first class post to the appointee’s last known address, in which case the appointee is treated as receiving it on the third day after the day on which it was posted.

(4) The initial period of suspension must not exceed 6 months.

(5) The Secretary of State may review the appointee’s suspension at any time.

(6) The Secretary of State must review the appointee’s suspension if requested in writing by the appointee to do so, but need not carry out a review less than 3 months after the beginning of the initial period of suspension.

(7) Following a review, the Secretary of State may—

- (a) revoke the suspension; or
- (b) suspend the appointee for another period of not more than 6 months from the expiry of the current period.

(8) The Secretary of State must revoke the suspension if at any time the Secretary of State decides that—

- (a) there are no grounds to remove the chairman or non-executive member from office under regulation 5(2) or (5);
- (b) there are such grounds but does not remove that person from office as chairman or non-executive member under these provisions; or
- (c) the person is not disqualified for appointment under regulation 3.

Suspension of chairman: appointment of vice-chairman

5B.—(1) This regulation applies where the chairman is suspended under regulation 5A.

(2) If a vice-chairman has been appointed under regulation 6(1) (appointment of vice-chairman) that appointment shall cease to have effect.

(3) The Secretary of State may re-appoint the person mentioned in paragraph (2) or appoint another non-officer member to be the vice-chairman.

(4) The appointment of a vice-chairman under paragraph (3) shall be for a period, not exceeding the shorter of—

- (a) the period for which the chairman is suspended; and
- (b) the remainder of the non-officer member’s term as a member of the Agency.

(5) When the period for which a person is appointed as vice-chairman expires, the Secretary of State may re-appoint the person, or appoint another non-officer member as vice-chairman.

(6) Any person appointed under paragraph (3) or (5) may at any time resign from the office of vice-chairman by giving notice in writing to the Secretary of State.

(7) A notice given under paragraph (6) shall take effect—

- (a) where a date is specified in the notice as that on which the resignation is to take effect, on that date; or
- (b) in any other case, on the date that the notice is received by the Secretary of State.

(8) The Secretary of State may terminate a person's appointment as vice-chairman under paragraph (3) or (5) if the Secretary of State is of the opinion that it would be in the best interests of the Agency for another non-officer member of the Agency to be vice-chairman.

(9) If—

- (a) a person resigns from the office of vice-chairman under paragraph (6); or
- (b) the Secretary of State terminates a person's appointment as vice-chairman under paragraph (8),

the Secretary of State may appoint another non-officer member as vice-chairman.”.

(4) In regulation 6 (appointment of vice-chairman)—

(a) insert after paragraph (2)—

“(2A) This regulation does not apply where regulation 5B applies.”; and

(b) omit paragraph (3).

(5) After regulation 6 insert—

“Powers of vice-chairman

6A.—(1) This regulation applies where—

- (a) the chairman of the Agency is suspended under regulation 5A and a non-officer member of the Agency is appointed to be vice-chairman under regulation 5B; or
- (b) a non-officer member of the Agency is appointed to be vice-chairman under regulation 6, and the chairman of the Agency—
 - (i) has died or has ceased to hold office; or
 - (ii) is unable to perform the chairman's duties owing to illness, absence from England or any other cause.

(2) Where this regulation applies—

- (a) the vice-chairman shall act as chairman until a new chairman is appointed or the existing chairman resumes the chairman's duties, as the case may be; and
- (b) the references to the chairman in the Schedule shall, so long as there is no chairman able to perform the chairman's duties, be taken to include references to the vice-chairman.”.

Amendments of the Health and Social Care Information Centre Regulations 2005

7.—(1) The Health and Social Care Information Centre Regulations 2005(a) are amended as follows.

(2) In regulation 1 (citation, commencement, application and interpretation), in paragraph (3), after the definition of “the Authority” insert—

““appointee” means the chairman or a non-officer member of the Authority;”.

(3) After regulation 5 (termination of tenure of office of chairman and non-officer members) insert—

(a) S.I. 2005/500 to which there are no relevant amendments.

“Suspension of appointee

5A.—(1) The Secretary of State may suspend an appointee from office while the Secretary of State considers whether—

- (a) to remove the person from office under regulation 5(2) or (5); or
- (b) the person has become disqualified for appointment under regulation 3, or was so disqualified at the time of appointment.

(2) The Secretary of State must give notice in writing to the appointee of the decision to suspend and the suspension takes effect on receipt of such notification.

(3) A notice under paragraph (2) may be—

- (a) delivered in person, in which case the appointee is treated as receiving it when it is delivered; or
- (b) sent by first class post to the appointee’s last known address, in which case the appointee is treated as receiving it on the third day after the day on which it was posted.

(4) The initial period of suspension must not exceed 6 months.

(5) The Secretary of State may review the appointee’s suspension at any time.

(6) The Secretary of State must review the appointee’s suspension if requested in writing by the appointee to do so, but need not carry out a review less than 3 months after the beginning of the initial period of suspension.

(7) Following a review, the Secretary of State may—

- (a) revoke the suspension; or
- (b) suspend the appointee for another period of not more than 6 months from the expiry of the current period.

(8) The Secretary of State must revoke the suspension if at any time the Secretary of State decides that—

- (a) there are no grounds to remove the chairman or non-executive member from office under regulation 5(2) or (5);
- (b) there are such grounds but does not remove that person from office as chairman or non-executive member under these provisions; or
- (c) the person is not disqualified for appointment under regulation 3.

Suspension of chairman: appointment of vice-chairman

5B.—(1) This regulation applies where the chairman is suspended under regulation 5A.

(2) If a vice-chairman has been appointed under regulation 6(1) (appointment of vice-chairman) that appointment shall cease to have effect.

(3) The Secretary of State may re-appoint the person mentioned in paragraph (2) or appoint another non-officer member to be the vice-chairman.

(4) The appointment of a vice-chairman under paragraph (3) shall be for a period, not exceeding the shorter of—

- (a) the period for which the chairman is suspended; and
- (b) the remainder of the non-officer member’s term as a member of the Authority.

(5) When the period for which a person is appointed as vice-chairman expires, the Secretary of State may re-appoint the person, or appoint another non-officer member as vice-chairman.

(6) Any person appointed under paragraph (3) or (5) may at any time resign from the office of vice-chairman by giving notice in writing to the Secretary of State.

(7) A notice given under paragraph (6) shall take effect—

- (a) where a date is specified in the notice as that on which the resignation is to take effect, on that date; or
- (b) in any other case, on the date that the notice is received by the Secretary of State.

(8) The Secretary of State may terminate a person’s appointment as vice-chairman under paragraph (3) or (5) if the Secretary of State is of the opinion that it would be in the best interests of the Authority for another non-officer member of the Authority to be vice-chairman.

(9) If—

- (a) a person resigns from the office of vice-chairman under paragraph (6); or
- (b) the Secretary of State terminates a person’s appointment as vice-chairman under paragraph (8),

the Secretary of State may appoint another non-officer member as vice-chairman.”.

(4) In regulation 6 (appointment of vice-chairman)—

(a) insert after paragraph (2)—

“(2A) This regulation does not apply where regulation 5B applies.”; and

(b) omit paragraph (3).

(5) After regulation 6 insert—

“Powers of vice-chairman

6A.—(1) This regulation applies where—

- (a) the chairman of the Authority is suspended under regulation 5A and a non-officer member of the Authority is appointed to be vice-chairman under regulation 5B; or
- (b) a non-officer member of the Authority is appointed to be vice-chairman under regulation 6, and the chairman of the Authority—
 - (i) has died or has ceased to hold office; or
 - (ii) is unable to perform the chairman’s duties owing to illness, absence from England or any other cause.

(2) Where this regulation applies—

- (a) the vice-chairman shall act as chairman until a new chairman is appointed or the existing chairman resumes the chairman’s duties, as the case may be; and
- (b) the references to the chairman in the Schedule shall, so long as there is no chairman able to perform the chairman’s duties, be taken to include references to the vice-chairman.”.

Amendments of the NHS Business Services Authority (Awdurdod Gwasanaethau Busnes y GIG) Regulations 2005

8.—(1) The NHS Business Services Authority (Awdurdod Gwasanaethau Busnes y GIG) Regulations 2005(a) are amended as follows.

(2) In regulation 1 (citation, commencement and interpretation), in paragraph (2), after the definition of “the Act” insert—

““appointee” means the chairman or a non-officer member of the Authority;”.

(3) After regulation 5 (termination of tenure of office of chairman and non-officer members) insert—

(a) S.I. 2005/2415 to which there are no relevant amendments.

“Suspension of appointee

5A.—(1) The Secretary of State may suspend an appointee from office while the Secretary of State considers whether—

- (a) to remove the person from office under regulation 5(2) or (6); or
- (b) the person has become disqualified for appointment under regulation 3, or was so disqualified at the time of appointment.

(2) The Secretary of State must give notice in writing to the appointee of the decision to suspend and the suspension takes effect on receipt of such notification.

(3) A notice under paragraph (2) may be—

- (a) delivered in person, in which case the appointee is treated as receiving it when it is delivered; or
- (b) sent by first class post to the appointee’s last known address, in which case the appointee is treated as receiving it on the third day after the day on which it was posted.

(4) The initial period of suspension must not exceed 6 months.

(5) The Secretary of State may review the appointee’s suspension at any time.

(6) The Secretary of State must review the appointee’s suspension if requested in writing by the appointee to do so, but need not carry out a review less than 3 months after the beginning of the initial period of suspension.

(7) Following a review, the Secretary of State may—

- (a) revoke the suspension; or
- (b) suspend the appointee for another period of not more than 6 months from the expiry of the current period.

(8) The Secretary of State must revoke the suspension if at any time the Secretary of State decides that—

- (a) there are no grounds to remove the chairman or non-executive member from office under regulation 5(2) or (6);
- (b) there are such grounds but does not remove that person from office as chairman or non-executive member under these provisions; or
- (c) the person is not disqualified for appointment under regulation 3.

Suspension of chairman: appointment of vice-chairman

5B.—(1) This regulation applies where the chairman is suspended under regulation 5A.

(2) If a vice-chairman has been appointed under regulation 6(1) (appointment of vice-chairman) that appointment shall cease to have effect.

(3) The Secretary of State may re-appoint the person mentioned in paragraph (2) or appoint another non-officer member to be the vice-chairman.

(4) The appointment of a vice-chairman under paragraph (3) shall be for a period, not exceeding the shorter of—

- (a) the period for which the chairman is suspended; and
- (b) the remainder of the non-officer member’s term as a member of the Authority.

(5) When the period for which a person is appointed as vice-chairman expires, the Secretary of State may re-appoint the person, or appoint another non-officer member as vice-chairman.

(6) Any person appointed under paragraph (3) or (5) may at any time resign from the office of vice-chairman by giving notice in writing to the Secretary of State.

(7) A notice given under paragraph (6) shall take effect—

- (a) where a date is specified in the notice as that on which the resignation is to take effect, on that date; or
- (b) in any other case, on the date that the notice is received by the Secretary of State.

(8) The Secretary of State may terminate a person’s appointment as vice-chairman under paragraph (3) or (5) if the Secretary of State is of the opinion that it would be in the best interests of the Authority for another non-officer member of the Authority to be vice-chairman.

(9) If—

- (a) a person resigns from the office of vice-chairman under paragraph (6); or
- (b) the Secretary of State terminates a person’s appointment as vice-chairman under paragraph (8),

the Secretary of State may appoint another non-officer member as vice-chairman.”.

(4) In regulation 6 (appointment of vice-chairman)—

(a) insert after paragraph (2)—

“(2A) This regulation does not apply where regulation 5B applies.”; and

(b) omit paragraph (3).

(5) After regulation 6 insert—

“Powers of vice-chairman

6A.—(1) This regulation applies where—

- (a) the chairman of the Authority is suspended under regulation 5A and a non-officer member of the Authority is appointed to be vice-chairman under regulation 5B; or
- (b) a non-officer member of the Authority is appointed to be vice-chairman under regulation 6, and the chairman of the Authority—
 - (i) has died or has ceased to hold office; or
 - (ii) is unable to perform the chairman’s duties owing to illness, absence from England and Wales or any other cause.

(2) Where this regulation applies—

- (a) the vice-chairman shall act as chairman until a new chairman is appointed or the existing chairman resumes the chairman’s duties, as the case may be; and
- (b) the references to the chairman in the Schedule shall, so long as there is no chairman able to perform the chairman’s duties, be taken to include references to the vice-chairman.”.

Amendments of the NHS Blood and Transplant (Gwaed a Thrawsblaniadau’r GIG) Regulations 2005

9.—(1) The NHS Blood and Transplant (Gwaed a Thrawsblaniadau’r GIG) Regulations 2005(a) are amended as follows.

(2) In regulation 1 (citation, commencement and interpretation), in paragraph (2), after the definition of “the Act” insert—

““appointee” means the chairman or a non-officer member of the Authority;”.

(3) After regulation 5 (termination of tenure of office of chairman and non-officer members) insert—

(a) S.I. 2005/2531 to which there are no relevant amendments.

“Suspension of appointee

5A.—(1) The Secretary of State may suspend an appointee from office while the Secretary of State considers whether—

- (a) to remove the person from office under regulation 5(2) or (6); or
- (b) the person has become disqualified for appointment under regulation 3, or was so disqualified at the time of appointment.

(2) The Secretary of State must give notice in writing to the appointee of the decision to suspend and the suspension takes effect on receipt of such notification.

(3) A notice under paragraph (2) may be—

- (a) delivered in person, in which case the appointee is treated as receiving it when it is delivered; or
- (b) sent by first class post to the appointee’s last known address, in which case the appointee is treated as receiving it on the third day after the day on which it was posted.

(4) The initial period of suspension must not exceed 6 months.

(5) The Secretary of State may review the appointee’s suspension at any time.

(6) The Secretary of State must review the appointee’s suspension if requested in writing by the appointee to do so, but need not carry out a review less than 3 months after the beginning of the initial period of suspension.

(7) Following a review, the Secretary of State may—

- (a) revoke the suspension; or
- (b) suspend the appointee for another period of not more than 6 months from the expiry of the current period.

(8) The Secretary of State must revoke the suspension if at any time the Secretary of State decides that—

- (a) there are no grounds to remove the chairman or non-executive member from office under regulation 5(2) or (6);
- (b) there are such grounds but does not remove that person from office as chairman or non-executive member under these provisions; or
- (c) the person is not disqualified for appointment under regulation 3.

Suspension of chairman: appointment of vice-chairman

5B.—(1) This regulation applies where the chairman is suspended under regulation 5A.

(2) If a vice-chairman has been appointed under regulation 6(1) (appointment of vice-chairman) that appointment shall cease to have effect.

(3) The Secretary of State may re-appoint the person mentioned in paragraph (2) or appoint another non-officer member to be the vice-chairman.

(4) The appointment of a vice-chairman under paragraph (3) shall be for a period, not exceeding the shorter of—

- (a) the period for which the chairman is suspended; and
- (b) the remainder of the non-officer member’s term as a member of the Authority.

(5) When the period for which a person is appointed as vice-chairman expires, the Secretary of State may re-appoint the person, or appoint another non-officer member as vice-chairman.

(6) Any person appointed under paragraph (3) or (5) may at any time resign from the office of vice-chairman by giving notice in writing to the Secretary of State.

(7) A notice given under paragraph (6) shall take effect—

- (a) where a date is specified in the notice as that on which the resignation is to take effect, on that date; or
- (b) in any other case, on the date that the notice is received by the Secretary of State.

(8) The Secretary of State may terminate a person’s appointment as vice-chairman under paragraph (3) or (5) if the Secretary of State is of the opinion that it would be in the best interests of the Authority for another non-officer member of the Authority to be vice-chairman.

(9) If—

- (a) a person resigns from the office of vice-chairman under paragraph (6); or
- (b) the Secretary of State terminates a person’s appointment as vice-chairman under paragraph (8),

the Secretary of State may appoint another non-officer member as vice-chairman.”.

(4) In regulation 6 (appointment of vice-chairman)—

(a) insert after paragraph (2)—

“(2A) This regulation does not apply where regulation 5B applies.”; and

(b) omit paragraph (3).

(5) After regulation 6 insert—

“Powers of vice-chairman

6A.—(1) This regulation applies where—

- (a) the chairman of the Authority is suspended under regulation 5A and a non-officer member of the Authority is appointed to be vice-chairman under regulation 5B; or
- (b) a non-officer member of the Authority is appointed to be vice-chairman under regulation 6, and the chairman of the Authority—
 - (i) has died or has ceased to hold office; or
 - (ii) is unable to perform the chairman’s duties owing to illness, absence from England and Wales or any other cause.

(2) Where this regulation applies—

- (a) the vice-chairman shall act as chairman until a new chairman is appointed or the existing chairman resumes the chairman’s duties, as the case may be; and
- (b) the references to the chairman in the Schedule shall, so long as there is no chairman able to perform the chairman’s duties, be taken to include references to the vice-chairman.”.

Amendments of the NHS Institute for Innovation and Improvement Regulations 2005

10.—(1) The NHS Institute for Innovation and Improvement Regulations 2005(a) are amended as follows.

(2) In regulation 1 (citation, commencement, application and interpretation), in paragraph (3), after the definition of “the Act” insert—

““appointee” means the chairman or a non-officer member of the Institute;”.

(3) After regulation 5 (termination of tenure of office of chairman and non-officer members) insert—

“Suspension of appointee

5A.—(1) The Secretary of State may suspend an appointee from office while the Secretary of State considers whether—

(a) S.I. 2005/1447 to which there are no relevant amendments.

- (a) to remove the person from office under regulation 5(2) or (6); or
 - (b) the person has become disqualified for appointment under regulation 3, or was so disqualified at the time of appointment.
- (2) The Secretary of State must give notice in writing to the appointee of the decision to suspend and the suspension takes effect on receipt of such notification.
- (3) A notice under paragraph (2) may be—
- (a) delivered in person, in which case the appointee is treated as receiving it when it is delivered; or
 - (b) sent by first class post to the appointee’s last known address, in which case the appointee is treated as receiving it on the third day after the day on which it was posted.
- (4) The initial period of suspension must not exceed 6 months.
- (5) The Secretary of State may review the appointee’s suspension at any time.
- (6) The Secretary of State must review the appointee’s suspension if requested in writing by the appointee to do so, but need not carry out a review less than 3 months after the beginning of the initial period of suspension.
- (7) Following a review, the Secretary of State may—
- (a) revoke the suspension; or
 - (b) suspend the appointee for another period of not more than 6 months from the expiry of the current period.
- (8) The Secretary of State must revoke the suspension if at any time the Secretary of State decides that—
- (a) there are no grounds to remove the chairman or non-executive member from office under regulation 5(2) or (6);
 - (b) there are such grounds but does not remove that person from office as chairman or non-executive member under these provisions; or
 - (c) the person is not disqualified for appointment under regulation 3.

Suspension of chairman: appointment of vice-chairman

- 5B.**—(1) This regulation applies where the chairman is suspended under regulation 5A.
- (2) If a vice-chairman has been appointed under regulation 6(1) (appointment of vice-chairman) that appointment shall cease to have effect.
- (3) The Secretary of State may re-appoint the person mentioned in paragraph (2) or appoint another non-officer member to be the vice-chairman.
- (4) The appointment of a vice-chairman under paragraph (3) shall be for a period, not exceeding the shorter of—
- (a) the period for which the chairman is suspended; and
 - (b) the remainder of the non-officer member’s term as a member of the Institute.
- (5) When the period for which a person is appointed as vice-chairman expires, the Secretary of State may re-appoint the person, or appoint another non-officer member as vice-chairman.
- (6) Any person appointed under paragraph (3) or (5) may at any time resign from the office of vice-chairman by giving notice in writing to the Secretary of State.
- (7) A notice given under paragraph (6) shall take effect—
- (a) where a date is specified in the notice as that on which the resignation is to take effect, on that date; or
 - (b) in any other case, on the date that the notice is received by the Secretary of State.

(8) The Secretary of State may terminate a person's appointment as vice-chairman under paragraph (3) or (5) if the Secretary of State is of the opinion that it would be in the best interests of the Institute for another non-officer member of the Institute to be vice-chairman.

(9) If—

- (a) a person resigns from the office of vice-chairman under paragraph (6); or
- (b) the Secretary of State terminates a person's appointment as vice-chairman under paragraph (8),

the Secretary of State may appoint another non-officer member as vice-chairman.”.

(4) In regulation 6 (appointment of vice-chairman)—

(a) insert after paragraph (2)—

“(2A) This regulation does not apply where regulation 5B applies.”; and

(b) omit paragraph (3).

(5) After regulation 6 insert—

“Powers of vice-chairman

6A.—(1) This regulation applies where—

- (a) the chairman of the Institute is suspended under regulation 5A and a non-officer member of the Institute is appointed to be vice-chairman under regulation 5B; or
- (b) a non-officer member of the Institute is appointed to be vice-chairman under regulation 6, and the chairman of the Institute—
 - (i) has died or has ceased to hold office; or
 - (ii) is unable to perform the chairman's duties owing to illness, absence from England or any other cause.

(2) Where this regulation applies—

- (a) the vice-chairman shall act as chairman until a new chairman is appointed or the existing chairman resumes the chairman's duties, as the case may be; and
- (b) the references to the chairman in the Schedule shall, so long as there is no chairman able to perform the chairman's duties, be taken to include references to the vice-chairman.”.

Signed by authority of the Secretary of State for Health

14th October 2010

Simon Burns
Minister of State,
Department of Health

EXPLANATORY NOTE

(This note is not part of the Regulations)

These Regulations amend a number of sets of regulations relating to the membership and procedure of Strategic Health Authorities and various Special Health Authorities. They set out the circumstances in which the Secretary of State may suspend from office the chairman and non-officer members of those bodies and the procedures for and duration of such suspensions. They also provide for the appointment of a vice-chairman where the chairman is suspended.

Pursuant to paragraph 19 of Schedule 3 to the Health Act 2009, the powers conferred on the Secretary of State by the amendments made by these Regulations apply in relation to persons appointed at any time, including a time before the amendments came into force.

A full impact assessment has not been produced for this instrument as no impact on the private or voluntary sectors is foreseen.

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