SCOTTISH STATUTORY INSTRUMENTS

2025 No. 387

NATIONAL HEALTH SERVICE

The Common Services Agency (Membership and Procedure) Amendment (Scotland) Regulations 2025

Made - - - -	*4th December 2025*
Laid before the Scottish Parliament	*8th December 2025*
Coming into force - -	*2nd February 2026*

The Scottish Ministers make the following Regulations in exercise of the powers conferred by sections 10(2) and 105(7), and paragraph 8 of schedule 5, of the National Health Service (Scotland) Act 1978(**a**), and all other powers enabling them to do so.

Citation, commencement and interpretation

1.—(1) These Regulations may be cited as the Common Services Agency (Membership and Procedure) Amendment (Scotland) Regulations 2025 and come into force on 2 February 2026.

(2) In these Regulations "the 1991 Regulations" means the Common Services Agency (Membership and Procedure) Regulations 1991(**b**).

Amendment of the Common Services Agency (Membership and Procedure) Regulations 1991

2.—(1) The 1991 Regulations are amended in accordance with paragraphs (2) to (9).

(2) In regulation 1(2) (citation, commencement and interpretation)—

(a) in sub-paragraph (d) for "chairman" substitute "chairing member", and

(b) omit sub-paragraph (f).

(3) In regulation 2(3) (term of office and remuneration of membership), for "chairman" substitute "chairing member".

(4) For regulation 3 (resignation and removal of members) substitute—

"Resignation, removal and suspension of members

3.—(1) A member may resign office at any time during the period of appointment by giving notice in writing to the Scottish Ministers to this effect.

(**a**) 1978 c. 29; section 105(7) was amended by the Health Services Act 1980 (c. 53), schedule 6, paragraph 5(1), and schedule 7, the Social Security Adjudications Act 1983 (c. 41), section 29(1) and schedule 9, paragraph 24, and the Health Act 1999 (c. 8), schedule 4, paragraph 60. Section 108(1) contains definitions of "prescribed" and "regulations" relevant to the exercise of statutory powers under which these regulations are made. The functions of the Secretary of State were transferred to the Scottish Ministers by section 53 of the Scotland Act 1998 (c. 46).

(**b**) S.I. 1991/564, amended by S.S.I. 2004/212, S.S.I. 2005/550 and S.S.I. 2011/211.

(2) If the Scottish Ministers consider that it is not in the interests of the health service that a member should continue to hold that office they may forthwith terminate that person's appointment.

(3) If a member has not attended any meeting of the Committee, or of any sub-committee of which they are a member, for a period of six consecutive months, the Scottish Ministers must forthwith terminate that person's appointment unless the Scottish Ministers are satisfied that—

(a) the absence was due to illness or other reasonable cause, and

(b) the member will be able to attend meetings within such period as the Scottish Ministers consider reasonable.

(4) Where any member becomes disqualified in terms of regulation 4 that member forthwith ceases to be a member.

(5) The Scottish Ministers may by determination suspend a member from taking part in the business (including meetings) of the Committee.

(6) The suspension referred to in paragraph (5) ends if—

(a) the Scottish Ministers determine that the suspension ends, or

(b) the person's appointment as a member is not terminated within a period of 12 months beginning with the date the person is suspended.".

(5) For regulation 4 (disqualification) substitute—

"Disqualification from being a member

4.—(1) A person is disqualified from being a member if the person—

(a) within a period of 5 years before the proposed date of appointment or after appointment (as the case may be) commits an offence in the British Islands for which the person is sentenced to imprisonment (whether suspended or not) for 3 months or longer,

(b) is or has been dismissed from employment in a health service body, except by redundancy,

(c) is or has been removed from office in a health service body before the term of office expires,

(d) is a member of another health service body,

(e) is disqualified by the Tribunal for inclusion in a list prepared under or by virtue of Parts I or II of the Act,

(f) is or has been removed, for reasons of impairment or loss of fitness to practise, from a list prepared under or by virtue of—

(i) Parts I or II of the Act,

(ii) the National Health Service Act 2006(**a**),

(iii) the National Health Service (Wales) Act 2006(**b**), or

(iv) the Health and Personal Social Services (Northern Ireland) Order 1972(**c**),

(g) is, or has been removed, for reasons of impairment or loss of fitness to practise, from a statutory register maintained by a regulatory body,

(h) is an undischarged bankrupt,

(i) has had a judicial factor appointed to their estate and the judicial factor has not been discharged by the court,

---

(**a**) 2006 c. 41.
(**b**) 2006 c. 42.
(**c**) S.I. 1972/1265 (N.I. 14).

(j) is or has been subject to a disqualification order or disqualification undertaking under the Company Directors Disqualification Act 1986(**a**) or the Company Directors Disqualification (Northern Ireland) Order 2002(**b**),

(k) is or has been removed or prevented from being a trustee of, or otherwise acting for or on behalf of, a charity (or a body controlled by a charity) by—

(i) a charity regulator, or

(ii) a court or tribunal in the British Islands, or

(l) is or has been subject to a sanction under section 19(1)(b) to (e) (action on finding of contravention) of the Ethical Standards in Public Life etc. (Scotland) Act 2000(**c**).

(2) In this regulation—

(a) "charity regulator" means the Office of the Scottish Charity Regulator, the Charity Commission for England and Wales or the Charity Commission for Northern Ireland,

(b) "health service body" means a person or body specified in section 17A(2) of the Act(**d**),

(c) "regulatory body" means—

(i) the General Chiropractic Council,

(ii) the General Dental Council,

(iii) the General Medical Council,

(iv) the General Optical Council,

(v) the General Osteopathic Council,

(vi) the General Pharmaceutical Council,

(vii) the Health and Care Professions Council,

(viii) the Northern Ireland Social Care Council,

(ix) the Nursing and Midwifery Council,

(x) the Pharmaceutical Society of Northern Ireland,

(xi) the Scottish Social Services Council,

(xii) Social Care Wales, and

(d) "undischarged bankrupt" means a person—

(i) whose estate has been sequestrated without recall of that sequestration and who has not been discharged (or against whom a bankruptcy order has been made and is still in force),

(ii) who has granted a trust deed for, or made a composition or arrangement with, creditors and has not been discharged in respect of it,

---

(**a**) 1986 c. 46.
(**b**) S.I. 2002/3150 (N.I. 4).
(**c**) 2000 asp 7.
(**d**) Section 17A was inserted by the National Health Service and Community Care Act 1990 (c. 19), section 30, and was relevantly amended by the National Health Service (Primary Care) Act 1997 (c. 46), schedule 2, paragraph 36, the Health Act 1999 (c. 8), schedule 4, paragraph 46(a)(i) and schedule 5, the Health and Social Care (Community Health Standards) Act 2003 (c. 43), schedule 14(4), paragraph 1, the Public Services Reform (Scotland) Act 2010 (asp 8) schedule 17, paragraph 8, the Health and Social Care Act 2012 (c. 7) schedule 21, paragraph 2(3)(a) to (e) and (g) to (j), the Health and Care Act 2022 (c. 31), schedule 1, paragraph 1(1) and schedule 4, paragraph 13, S.I. 2022/1174 and by S.I. 2023/98.

(iii) who is the subject of a bankruptcy restrictions order, or an interim bankruptcy restrictions order, made under the Bankruptcy (Scotland) Act 2016(**a**) or the Insolvency Act 1986(**b**),

(iv) who is the subject of a bankruptcy restrictions undertaking entered into under the Bankruptcy (Scotland) Act 1985(**c**) or the Insolvency Act 1986,

(v) who has been adjudged bankrupt and has not been discharged, or

(vi) who is subject to any other kind of order, arrangement or undertaking, anywhere in the world, which is analogous to those described in paragraph (1)(i) or heads (i) to (iv) of this sub-paragraph.".

(6) In Part III (appointment of vice-chairman and sub-committees) and regulation 5 (vice-chairman)—

(a) in each place where it occurs, including the headings, for "vice-chairman" substitute "vice-chairing member",

(b) for "officer" substitute "employee", and

(c) for "he" substitute "that person".

(7) In regulation 7(1) and (2) (meetings and minutes)—

(a) in each place where it occurs for "chairman" substitute "chairing member",

(b) in each place where it occurs for "vice-chairman" substitute "vice-chairing member", and

(c) for "officer" substitute "employee".

(8) In regulation 8 (conflict of interest)—

(a) in paragraph (1) for "he" substitute "that person",

(b) in paragraph (3) for "chairman" substitute "chairing member".

(9) In regulation 9 (power to make standing orders)—

(a) in paragraph (c) for "chairman" substitute "chairing member",

(b) in paragraphs (c) and (h) for "officers" substitute "employees".

Transitional and saving provision

3.—(1) This regulation applies where a member of the Committee has been appointed in terms of paragraph 3 of schedule 5 of the National Health Service (Scotland) Act 1978(**d**) before 2 February 2026.

(2) Despite regulation 2(5), regulation 4 of the 1991 Regulations continues to have effect on and after 2 February 2026 as it did immediately before that date.

NEIL GRAY
A member of the Scottish Government

St Andrew's House,
Edinburgh
4th December 2025

(**a**) 2016 asp 21.
(**b**) 1986 c. 45.
(**c**) 1985 c. 66.
(**d**) 1978 c. 29; paragraph 3 of schedule 5 was amended by the National Health Service and Community Care Act 1990 (c. 19), s. 27(3), schedule 5, paragraph 9.

EXPLANATORY NOTE

(This note is not part of the Regulations)

These Regulations amend the Common Services Agency (Membership and Procedure) Regulations 1991 ("the 1991 Regulations") which make provision with respect to the Common Services Agency for the Scottish Health Service ("the Agency").

By virtue of section 10 of the National Health Service (Scotland) Act 1978 the Agency discharges such functions of Health Boards constituted under section 2 of that Act as the Scottish Ministers refer to it. These Regulations update the 1991 Regulations in order to achieve consistency with the legislation relating to membership and procedure of Health Boards. The updates are as set out in the following paragraphs.

Regulation 2(2), (3) and (6) to (9) amends regulations 1, 2, 5, and 7 to 9 respectively of the 1991 Regulations to update the wording of the regulations amended into gender neutral and modern usage.

Regulation 2(4) substitutes a new regulation 3 into the 1991 Regulations to make provision about membership of the management Committee of the Agency as follows:

- regulation 3(1) makes provision allowing members to resign from office.
- regulation 3(2) gives the Scottish Ministers the ability to terminate the appointment of a member if the Scottish Ministers are of the view that it is not in the interests of the Scottish Health Service that a member should continue to hold that appointment.
- regulation 3(3) makes provision allowing the Scottish Ministers to end a person's membership where that member has not attended meetings of the Committee, or any sub-committee the member was due to attend, for six months.
- regulation 3(4) ensures that in the event that a member becomes disqualified, in terms of new regulation 4, their membership of the Committee immediately ends.
- regulation 3(5) gives the Scottish Ministers the ability to suspend members by determination.
- regulation 3(6) sets out the circumstances in which a suspension under regulation 3(5) will end.

Regulation 2(5) substitutes a new regulation 4 into the 1991 Regulations to make provision about the circumstances in which persons are disqualified from membership of the management committee of the Agency.

In terms of the new regulation 4(1) those circumstances are:

- by reason of having committed an offence in the British Islands,
- dismissal from employment in a health service body, except by redundancy,
- removal from office in a health service body before the expiry of the term of that office,
- membership of another health service body,
- the NHS Tribunal has disqualified the person from inclusion in a list under Parts I or II of the National Health Service (Scotland) Act 1978,
- removal, for reasons of impairment or loss of fitness to practise, from a list under the legislation referred to in regulation 4(1)(e),
- removal, for reasons of impairment or loss of fitness to practise, from a statutory register maintained by a listed regulatory body,
- the person is an undischarged bankrupt,
- a judicial factor has been appointed in relation to the person's estate and the judicial factor has not been discharged by the court,

- the person is or has been subject to a disqualification order or disqualification undertaking under the Company Directors Disqualification legislation referred to in regulation 4(1)(j),
- the person is prevented from being the trustee of a charity, or from acting on behalf of a charity, by a decision of a charity regulator or a court or tribunal in the British Islands,
- the person has been sanctioned in consequence of a finding of a contravention of a code of conduct prepared under the terms of the Ethical Standards in Public Life etc. (Scotland) Act 2000.

The new regulation 4(2) sets out definitions for the purposes of the regulation, including "charity regulator", "health service body", "regulatory body" and "undischarged bankrupt".

Regulation 3 ensures that where a person has been appointed as a member of the management committee of the Agency before these Regulations come into force then the version of regulation 4 which had effect prior to these Regulations coming into force continues to have effect as regards that person.

© Crown copyright 2025

Printed and published in the UK by The Stationery Office Limited under the authority and superintendence of Saul Nassé, the King's Printer for Scotland.

£8.90

http://www.legislation.gov.uk/id/ssi/2025/387

ISBN 978-0-11-106453-5

9 780111 064535