2002 No. 2376

HEALTH CARE AND ASSOCIATED PROFESSIONS

The Council for the Regulation of Health Care Professionals (Appointment etc.) Regulations 2002

Made - - - - -	*17th September 2002*
Laid before Parliament	*18th September 2002*
Coming into force - -	*10th October 2002*

The Secretary of State for Health, in exercise of powers conferred on him by paragraph 6 of Schedule 7 to, and section 38(5) of, the National Health Service Reform and Health Care Professions Act 2002(**a**), and of all other powers enabling him in that behalf, hereby makes the following Regulations:

Citation, commencement and interpretation

1.—(1) These Regulations may be cited as the Council for the Regulation of Health Care Professionals (Appointment etc.) Regulations 2002 and shall come into force on 10th October 2002.

(2) In these Regulations—

"the Act" means the National Health Service Reform and Health Care Professions Act 2002;

"chairman" means, unless the context otherwise requires, the chairman of the Council;

"licensing body" means any body that licenses or regulates any profession;

"member" in relation to the Council includes the chairman; and

"public body" means a body established by or under any enactment including an enactment comprised in, or in an instrument made under, an Act of the Scottish Parliament.

Disqualification for appointment

2. A person shall be disqualified for appointment as a member of the Council if he—

(a) has been convicted in the United Kingdom of any offence, or convicted elsewhere for an offence which, if committed in any part of the United Kingdom would constitute a criminal offence in that part, and in either case has had passed on him a sentence of imprisonment (whether suspended or not) for a period of not less than three months without the option of a fine, and which has not been quashed on appeal;

(b) has—

(i) been adjudged bankrupt or had sequestration of his estate awarded unless (in either case) he has been discharged or the bankruptcy order has been annulled or rescinded; or

(ii) made a composition or arrangement with, or granted a trust deed for, his creditors unless he has been discharged in respect of it;

(**a**) 2002 c. 17.

(c) is a person whose tenure of office as the chairman, convener, member or director of any public body has been terminated on the grounds that it was not in the interests, or conducive to the good management, of that body that he should continue to hold that office;

(d) has been subject to any investigation or proceedings concerning his professional conduct by any licensing body anywhere in the world, where the outcome was adverse;

(e) is currently subject to any investigation or proceedings concerning his professional conduct by any licensing body anywhere in the world;

(f) is subject to a disqualification order under the Company Directors Disqualification Act 1986(**a**), the Companies (Northern Ireland) Order 1986(**b**) or to an order made under section 429(2)(b) of the Insolvency Act 1986(**c**) (failure to pay under county court administration order);

(g) has been—

(i) removed from the office of charity trustee or trustee for a charity by an order made by the Charity Commissioners or the High Court on the grounds of any misconduct or mismanagement in the administration of the charity for which he was responsible or to which he was privy, or which he by his conduct contributed to or facilitated; or

(ii) removed under section 7 of the Law Reform (Miscellaneous Provisions) (Scotland) Act 1990(**d**) (powers of Court of Session to deal with management of charities), from being concerned in the management or control of any body; or

(h) has previously served as a member of the Council for two consecutive terms of office.

Condition for appointment applicable to all appointments

3. It is a condition for appointment as a member of the Council that the member shall live or work wholly or mainly in the United Kingdom.

Condition of appointment applicable to certain appointments

4.—(1) Any member of the Council to be appointed under paragraph 4(1)(a) to (c) or (e) of Schedule 7 to the Act shall be a lay person.

(2) For the purposes of paragraph (1) a person is a lay person if he—

(a) is not a chairman or member of a regulatory body mentioned in section 25(3) of the Act; or

(b) is not and never has been a member of the professions regulated by the Pharmacy Act 1954(**e**), the Pharmacy (Northern Ireland) Order 1976(**f**), the Medical Act 1983(**g**), the Dentists Act 1984(**h**), the Opticians Act 1989(**i**), the Osteopaths Act 1993(**j**), the Chiropractors Act 1994(**k**), the Nursing and Midwifery Order 2001(**l**) or the Health Professions Order 2001(**m**).

Tenure of members

5.—(1) Subject to paragraph (3) and regulation 10 (removal from office), the term of office of a member shall be for a period of four years.

(2) A member shall, at the end of his term of office, be eligible for re-appointment.

(**a**) 1986 c. 46.
(**b**) S.I. 1986/1032 (N.I. 6).
(**c**) 1986 c. 45.
(**d**) 1990 c. 40.
(**e**) 1954 c. 61.
(**f**) S.I. 1976/1213 (N.I. 22).
(**g**) 1983 c. 54.
(**h**) 1984 c. 24.
(**i**) 1989 c. 44.
(**j**) 1993 c. 21.
(**k**) 1994 c. 17.
(**l**) S.I. 2002/253.
(**m**) S.I. 2002/254.

(3) A member may resign at any time by giving notice in writing to the Council, and to the person or body that appointed him.

(4) Where a member ceases to be a member, the person or body that appointed him shall appoint a member to replace him, and the term of office of that new member shall be for the period specified in paragraph (1).

Election of chairman

6. The election of a chairman, after the first chairman of the Council, shall be conducted in accordance with the procedure set out in the Schedule to these Regulations.

Tenure and removal of chairman

7.—(1) Subject to paragraph (2), the term of office of a chairman shall be for a period of three years.

(2) The chairman shall hold office until—

(a) he resigns by giving notice in writing to the Council;

(b) he ceases to be a member of the Council; or

(c) he is removed from office by a majority vote of the other members of the Council.

(3) A member shall not be prevented from being elected chairman merely because he has previously been chairman.

Appointment of deputy-chairman

8.—(1) The members may appoint one of the members, other than the chairman, to be deputy-chairman for such period, not exceeding the remainder of his term as a member, as they may specify on making the appointment.

(2) The deputy-chairman shall hold office until—

(a) he resigns by giving notice in writing to the Council;

(b) he ceases to be a member of the Council before the remainder of his term as a member expires; or

(c) he is removed from office by a majority vote of the other members of the Council.

(3) The deputy-chairman shall perform the duties of chairman in any period during which the chairman is suspended under regulation 9 (suspension from office).

(4) A member shall not be prevented from being appointed deputy-chairman merely because he has previously been deputy-chairman.

Suspension from office

9. A member shall be suspended from office as a member of the Council in any period during which he is subject to any investigation or proceedings concerning his professional conduct by any licensing body anywhere in the world.

Removal from office

10. A member shall be removed from office as a member of the Council if—

(a) he fails to attend any meeting of the Council for a period of three consecutive months without the permission of the Council unless the Council is satisfied that −

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

(ii) the person in question will be able to attend meetings of the Council within such period as the Council considers reasonable;

(b) the Council is satisfied that he has become incapable of performing his duties by reason of his physical or mental health;

(c) any of paragraphs (a) to (d) or (f) to (h) of regulation 2 becomes applicable to him;

(d) he has been suspended under regulation 9 and the outcome of the investigation or proceedings is adverse to him;

(e) he ceases to live or work wholly or mainly in the United Kingdom; or

(f) he has been appointed under paragraph 4(1)(a) to (c) or (e) of Schedule 7 to the Act and he ceases to be a lay person within the meaning of regulation 4(2).

Committees

11.—(1) The Council may appoint committees of the Council consisting wholly or partly of members of the Council or wholly of persons who are not members of the Council.

(2) A committee appointed under this regulation may appoint sub-committees consisting wholly or partly of members of the committee (whether or not they are members of the Council) or wholly of persons who are not members of the Council or the committee.

(3) Regulation 2(a) to (g) shall apply to the appointment of members of committees and sub-committees appointed under this regulation as they apply to the appointment of members of the Council.

Signed by authority of the Secretary of State for Health

John Hutton
Minister of State,
Department of Health

17th September 2002

SCHEDULE

Regulation 6

PROCEDURE FOR THE ELECTION OF THE CHAIRMAN

1. Where a vacancy in the office of chairman occurs the Council shall appoint a person who is not a member of the Council as the Returning Officer for the holding of an election to fill the vacancy.

2. The election of the chairman shall take place at a meeting of the Council (in this Schedule referred to as "the relevant meeting").

3. At least 21 days before the relevant meeting, the Returing Officer shall give notice to the members of the Council inviting nominations for the office of chairman and stating the requirements of paragraph 4.

4. A member of the Council who wishes to be nominated as a candidate for election as chairman shall give to the Returning Officer not later than seven days before the relevant meeting a notice of nomination signed by himself and by two other members.

5. If only one person is nominated seven days before the relevant meeting, at that meeting the Returning Officer shall declare the nominee elected.

6. If more than one person is nominated seven days before the relevant meeting, a ballot shall be conducted.

7. Each member who is present at the meeting at which the election takes place shall be entitled to one vote.

8. The election shall take place by secret ballot and, if necessary, by successive secret ballots until one candidate has an overall majority of the votes cast.

9. If no candidate receives an overall majority of the votes cast in the first ballot, the name of the candidate who received the smallest number of votes in the first ballot and that of any candidate who wishes to withdraw shall be omitted and a further ballot shall be held.

10. If no candidate receives an overall majority of the votes cast in the second ballot, the procedure described in paragraph 9 shall be followed and successive ballots shall be held in the same way until one candidate receives an overall majority of the votes cast in a ballot.

11. In any inconclusive ballot if more than one candidate receives the lowest number of votes, a subsidiary ballot shall be held between them and the candidate with the lowest number of votes in that subsidiary ballot shall be the candidate whose name is omitted from the subsequent main ballot. In a subsidiary ballot if more than one candidate receives the lowest number of votes, further subsidiary ballots shall be held between the candidates tying with the lowest number of votes until one of them is eliminated.

12. If there is a tie in a final ballot, the Returning Officer shall declare the election to have been inconclusive and the election process shall begin again.

13. The Returning Officer shall declare the number of votes cast for each candidate and shall declare and publish the result of the election.

EXPLANATORY NOTE

(This note is not part of the Regulations)

These Regulations make provision concerning the appointment, etc. of the members and chairman of the Council for the Regulation of Health Care Professionals established by section 25 of the National Health Service Reform and Health Care Professions Act 2002.

In particular, they make provision for the disqualification for appointment (regulation 2), conditions for appointment (regulations 3 and 4), the tenure of office of the members and the chairman (regulations 5 and 7), the election of the chairman (regulation 6 and the Schedule), the appointment of a deputy-chairman (regulation 8), suspension and removal from office (regulations 9 and 10), and the membership of committees and sub-committees (regulation 11).

STATUTORY INSTRUMENTS

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ISBN 0-11-042821-8

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£2.00

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under the authority and superintendence of Carol Tullo, Controller of
Her Majesty's Stationery Office and Queen's Printer of Acts of Parliament.
E1404 10/2002 121404 19585