STATUTORY INSTRUMENTS

2014 No. 784

NATIONAL HEALTH SERVICE, ENGLAND

The National Health Service Trusts (Membership and Procedure) Amendment Regulations 2014

Made - - - -	*19th March 2014*
Laid before Parliament	*21st March 2014*
Coming into force - -	*14th April 2014*

The Secretary of State for Health, makes the following Regulations in exercise of the powers conferred by sections 25(4) and 272(7) of, and paragraph 4(1)(a) of Schedule 4 to, the National Health Service Act 2006(**a**).

Citation and commencement

1. These Regulations may be cited as the National Health Service Trusts (Membership and Procedure) Amendment Regulations 2014 and come into force on 14th April 2014.

Amendment of the National Health Service Trusts (Membership and Procedure) Regulations 1990

2. In regulation 11 (disqualification for appointment of chairman and non-executive directors) of the National Health Service Trusts (Membership and Procedure) Regulations 1990(**b**), for paragraph (4) substitute—

"(4) A person shall not be disqualified by—

(a) paragraph (1)(e) from being the chairman of an NHS trust where that person is a chairman or non-executive director of another NHS trust;

(b) paragraph (1)(e) from being a non-executive director of an NHS trust where that person is a chairman, non-executive director, executive director or employee of another NHS trust;

(c) paragraph (1)(ee) from being the chairman of an NHS trust where that person is a chairman or a non-executive director of an NHS foundation trust;

(d) paragraph (1)(ee) from being a non-executive director of an NHS trust where that person is a chairman, director(**c**) or employee of an NHS foundation trust;

(**a**) 2006 c. 41. By virtue of section 271(1) of the National Health Service Act 2006 ("the 2006 Act"), the powers conferred by this section are exercisable by the Secretary of State only in relation to England. Section 179(2) of the Health and Social Care Act 2012 (c.7) provides for the repeal of section 25 of the 2006 Act (subsection (4) of which gives Schedule 4 effect) but this provision is not yet in force.

(**b**) S.I. 1990/2024, relevant amendments are made by S.Is 1990/2160, 1997/2990, 2001/3786, 2004/696 and 865, 2006/562 and 1722, 2008/1700, and 2012/1641 and 2404.

(**c**) "Director" includes a non-executive director and an executive director of a foundation trust. See paragraph 15 of Schedule 7 to the 2006 Act.

(e) paragraph (1)(f)(ii) to (iv) from being a non-executive director of an NHS trust where that person—

(i) performs or provides primary dental services, primary medical services or primary ophthalmic services under the 2006 Act;

(ii) is a partner in a partnership that, or a legal and beneficial owner of shares in a company that, or a director of a body corporate that provides primary dental services, primary medical services or primary ophthalmic services; or

(iii) is an employee of any of those providers, partners or bodies referred to in paragraph (i) or (ii); or

(f) paragraph (1)(e) or (ee) from being a non-executive director of an NHS trust referred to in paragraph 5(1)(d) of Schedule 4 to the 2006 Act by reason of that person's employment with a health service body.".

Signed by authority of the Secretary of State for Health.

Earl Howe
Parliamentary Under-Secretary of State,
Department of Health

19th March 2014

EXPLANATORY NOTE

(This note is not part of the Regulations)

These Regulations amend the National Health Service Trusts (Membership and Procedure) Regulations 1990 ("the 1990 Regulations") relating to the disqualification for appointment of a chairman and non-executive director. In particular, these Regulations remove restrictions so as to allow a person:

- to be a chair or non-executive director of an NHS trust if that person is already a chair or non-executive director of another NHS trust or NHS foundation trust;

- to be a non-executive director of an NHS trust if that person is an executive director or an employee of an NHS trust or is a director or employee of an NHS foundation trust; and

- to be a non-executive director of an NHS trust if that person is performing or providing primary medical, dental or ophthalmic services under the National Health Service Act 2006 ("the 2006 Act") or is a partner, shareholder, director or employee of an organisation providing those services.

In addition, these Regulations re-enact, with an updated statutory reference, the provision in the 1990 Regulations, which allows a person who is an employee of a health service body to be a non-executive director of an NHS trust where the trust has a significant teaching commitment. The reference to the National Health Service and Community Care Act 1990 has been updated to refer to the 2006 Act.

An overall impact assessment has been prepared and this is attached to the Explanatory Memorandum.

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