STATUTORY RULES OF NORTHERN IRELAND

2009 No. 98

HEALTH AND SOCIAL CARE

The Patient and Client Council (Membership and Procedure) Regulations (Northern Ireland) 2009

Made - - - -	*11th March 2009*
Coming into operation	*1st April 2009*

The Department of Health, Social Services and Public Safety makes the following regulations in exercise of the powers conferred by sections 16(2), 17(4), 18(3), (4) and (5) of, and paragraphs 5 and 11(1) of Schedule 4 to, the Health and Social Care (Reform) Act (Northern Ireland) 2009(**1**).

PART 1

GENERAL

Citation, commencement and interpretation

1.—(1) These regulations may be cited as the Patient and Client Council (Membership and Procedure) Regulations (Northern Ireland) 2009 and shall come into operation on 1st April 2009.

(2) In these regulations—

"the Act" means the Health and Social Care (Reform) Act (Northern Ireland) 2009;

"bankruptcy restrictions order" means an order made under Schedule 2A of the Insolvency (Northern Ireland) Order 1989(**2**);

"charity trustee" means one of the persons having the general control and management of the administration of a charity;

"health service body" means—

(a) any of the following within the meaning of the National Health Service Act 2006(**3**)—

(i) a Strategic Health Authority;

(ii) a Special Health Authority;

(iii) a Primary Care Trust;

(**1**) 2009 c.1 (N.I.)
(**2**) S.I. 1989/2405 (N.I. 19); the relevant amending instrument is S.I. 2005/1455 (N.I. 10)
(**3**) 2006 c.41

(iv) an NHS trust;

(v) a Local Health Board;

(b) any of the following within the meaning of the National Health Service (Scotland) Act 1978(**4**)—

(i) a Health Board;

(ii) a Special Health Board;

(iii) the Common Services Agency for the Scottish Health Service;

(iv) the Scottish Dental Practice Board;

(c) the Wales Centre for Health established under section 2 of the Health (Wales) Act 2003(**5**);

(d) the Health Protection Agency established under section 1 of the Health Protection Agency Act 2004(**6**);

(e) the Care Quality Commission established under section 1 of the Health and Social Care Act 2008(**7**);

"the Council" means the Patient and Client Council established under section 16 of the Act;

"trade union" has the meaning assigned to it in Article 3 of the Industrial Relations (Northern Ireland) Order 1992(**8**);

"trustee for a charity" is a person not being a charity trustee, in whom legal title to the property of the charity is vested;

"voluntary organisation" shall have the same meaning as in the Order of 1972.

PART 2

MEMBERSHIP

Membership

2.—(1) The number of members appointed by the Department for the purposes of paragraph 5(a) of Schedule 4 to the Act shall be 16.

(2) The members appointed under paragraph (1) shall include—

(a) five members of district councils;

(b) five representatives of voluntary organisations with an interest in health and social care; and

(c) one representative of a trade union.

Disqualification for appointment

3.—(1) Subject to regulation 4, a person shall be disqualified for appointment as a Chair or as a member of the Council if that person—

(**4**) 1978 c.29; section 2 was amended by paragraph 1 of Schedule 7 to the Health and Social Services and Social Security Adjudications Act 1983 (c.41) and by section 28 of the National Health Service and Community Care Act 1990 (c.19); section 10 was amended by paragraph 2 of Schedule 6 to the Health Services Act 1980 (c.53)
(**5**) 2003 c.4
(**6**) 2004 c.17
(**7**) 2008 c.14
(**8**) S.I. 1992/807 (N.I. 5)

(a) has within five years of the day the appointment would otherwise have taken effect been convicted, whether in the United Kingdom or elsewhere, of any offence and has been given a sentence of imprisonment (whether suspended or not) for a period of not less than three months without the option of a fine;

(b) has been dismissed, other than by reason of redundancy, from any paid employment with the Department, a health and social care body or a health service body;

(c) is the subject of a bankruptcy restrictions order;

(d) is subject to a disqualification under the Company Directors Disqualification (Northern Ireland) Order 2002(**9**), the Company Directors Disqualification Act 1986(**10**) or to an order made under section 429(2)(b) of the Insolvency Act 1986(**11**) (failure to pay under county court administration order);

(e) has been—

(i) removed from the office of charity trustee or trustee for a charity in Northern Ireland or by an order made by the Charity Commissioners or the High Court in England and Wales on the grounds of any misconduct or mismanagement in the administration of the charity for which that person was responsible or to which that person was privy, or which that person's conduct contributed to or facilitated; or

(ii) removed under section 7 of the Law Reform (Miscellaneous Provisions) (Scotland) Act 1990(**12**) (powers of the Court of Session to deal with management of charities), from being concerned in the management or control of any body;

(f) is a Chair, chairman, member or non-executive director of any health and social care body or health service body;

(g) holds any paid employment or office with the Department, a health and social care body or a health service body;

(h) is a person who has been removed from office as the Chair, chairman, member or non-executive director of a health and social care body or a health service body.

(2) For the purposes of paragraph 1(a)—

(a) the date of conviction shall be deemed to be the date on which the ordinary period allowed for making an appeal or application with respect to the conviction expires or, if such an appeal or application is made, the date on which the appeal or application is finally disposed of or abandoned or fails by reason of its not being prosecuted; and

(b) there shall be disregarded—

(i) any conviction by or before a court outside the United Kingdom for an offence in respect of conduct which, if it had taken place in any part of the United Kingdom, would not have constituted an offence under the law in force in that part of the United Kingdom;

(ii) any sentence of imprisonment passed by such a court on a person who at the time the sentence was passed was under 21 years of age.

(3) For the purposes of paragraph 1(b)—

(a) a person shall not be treated as having been in paid employment by reason only of his being a Chair, chairman, member or non-executive director of a health service body or a health and social care body; and

(**9**) S.I. 2002/3150 (N.I. 4)
(**10**) 1986 c.46
(**11**) 1986 c.45
(**12**) 1990 c.40

(b) "dismissed" excludes dismissal which was established to have been unfair in industrial tribunal proceedings.

Cessation of disqualification

4.—(1) Subject to paragraph (2), where a person is disqualified under regulation 3(1)(b) (dismissed employees) that person may, after the expiry of a period of not less than two years, apply in writing to the Department to remove the disqualification and the Department may direct that the disqualification shall cease.

(2) Where the Department refuses an application to remove a disqualification no further application may be made by that person until the expiration of two years from the date of the application.

(3) Where a person is disqualified under regulation 3(1)(h) (certain Chairs, chairmen, members or non-executive directors whose appointments have been terminated), the disqualification shall cease on the expiry of a period of two years or such longer period as the Department specifies when terminating the period of office but the Department may on application being made to it by that person reduce the period of disqualification.

Tenure of office

5.—(1) The Chair of the Council shall be appointed for a period not exceeding 4 years.

(2) The other members of the Council shall be appointed for a period not exceeding 4 years.

(3) Members of the Council may be appointed for periods of different duration.

(4) The period of appointment of the Chair and of any particular member of the Council shall be determined by the Department.

(5) Subject to regulation 3, the Chair or a member of the Council may, on the termination of the period of tenure of office, be eligible for re-appointment for such further period, not exceeding 4 years as the Department may in any particular case determine.

(6) The Department may, instead of re-appointing the Chair or a member of the Council on the expiration of his term of office, extend his appointment for such further period as may appear reasonable in the particular circumstances; but the period by which an appointment is extended must not exceed 4 years.

(7) A Chair or any member of the Council specified in regulation 2(2)(a), (b) or (c)—

(a) who ceases to be a—

(i) member of a district council;

(ii) representative of a voluntary organisation with an interest in health and social care; or

(iii) representative of a trade union;

shall cease to be a Chair or a member of the Council;

(b) who is suspended from being a—

(i) member of a district council;

(ii) representative of a voluntary organisation with an interest in health and social care; or

(iii) representative of a trade union;

shall be suspended from being a Chair or a member of the Council while so suspended.

Resignations

6.—(1) The Chair or a member of the Council may resign his office at any time during his term of office by giving not less than 30 days notice in writing to the Department of his intention to do so.

(2) A person who resigns as Chair of the Council may, if the Department consents, continue to serve as a member of the Council for any part of the period of his appointment which remains when his resignation as Chair takes effect.

(3) A person who, on his resignation as Chair of the Council seeks to continue to serve as a member of the Council, shall inform the Department in writing of his wish to do so when submitting his resignation as Chair.

(4) A person who fails to comply with the requirement of paragraph (3) shall cease to be a member of the Council when his term of office as Chair terminates.

(5) In the case of a member of the Council who during his term of office is appointed Chair of the Council, the terms on which he was appointed a member shall cease to apply on the day on which his appointment as Chair takes effect.

Removal

7.—(1) Where a Chair or a member of the Council—

(a) is absent from meetings of the Council for more than 6 months consecutively, except for an approved reason;

(b) is convicted of an indictable offence;

(c) becomes disqualified for appointment under regulation 3;

(d) is incapable of carrying out his functions for reasons of ill health; or

(e) has failed to comply with regulation 9 (exclusion on account of pecuniary interest);

the Council shall forthwith, by resolution, declare the office to be vacant and shall notify that fact in such manner as it thinks fit, and thereupon the office shall become vacant.

(2) In paragraph 1(a) "approved reason" means a reason approved by the Department.

(3) Where the place of the Chair or a member of the Council becomes vacant before the expiration of the Chair or the member's term of office, whether by death, resignation or otherwise, the vacancy shall by filled by appointment by the Department and any person so appointed shall hold office for the remainder of the term of office of the former Chair or member.

(4) Where the Department is of the opinion that it is not in the interest of, or conducive to the good management of, the Council or any of its committees that the Chair or a member of the Council should continue to hold office, it may forthwith remove the Chair or a member by giving him notice in writing to that effect.

(5) Where a person has been appointed Chair or a member of the Council and it comes to the notice of the Department that at the time of the appointment he was disqualified for appointment under regulation 3, it shall forthwith declare that the person in question was not duly appointed and notify him in writing to that effect; and upon receipt of such notification, he shall be removed and he shall cease to act as such Chair or member of the Council.

Appointment of deputy Chair

8.—(1) Subject to paragraph (2), the Chair and members of the Council may appoint one of their number to be deputy Chair for such period, not exceeding the remainder of his term of office as a member, as they may specify on appointing him.

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