STATUTORY RULES OF NORTHERN IRELAND

2009 No. 97

HEALTH AND SOCIAL CARE

The Regional Business Services Organisation (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 section 14(2) of, and paragraphs 3, 5 and 11(1) of Schedule 3 to, the Health and Social Care (Reform) Act (Northern Ireland) 2009(**1**):

Citation, commencement and interpretation

1.—(1) These regulations may be cited as the Regional Business Services Organisation (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;

(iv) an NHS trust;

(v) a Local Health Board;

(**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

(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**);

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

Membership

2.—(1) The prescribed number of members appointed by the Department for the purposes of paragraph 3(1)(b) of Schedule 3 to the Act shall be 8.

(2) The prescribed officers for the purposes of paragraph 3(1)(d) of Schedule 3 to the Act shall be—

(a) the Director of Operations;

(b) the Director of Human Resources and Corporate Services; and

(c) the Director of Finance.

Joint membership

3. Where more than one person is appointed jointly to a post in the RBSO which qualifies the holder for membership in accordance with paragraph 3(1)(d) of Schedule 3 to the Act those persons shall become or be appointed as a member jointly, and shall count for the purposes of regulation 2 as one person.

Disqualification for appointment

4.—(1) Subject to regulation 5, a person shall be disqualified for appointment under regulation 2(1) if that person—

(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 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;

(**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

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

(d) is subject to a disqualification under the Company Directors Disqualification (Northern Ireland) Order 2002(**8**), the Company Directors Disqualification Act 1986(**9**), or to an order made under section 429(2)(b) of the Insolvency Act 1986(**10**) (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 by his conduct contributed to or facilitated; or

(ii) removed under section 7 of the Law Reform (Miscellaneous Provisions) (Scotland) Act 1990(**11**) (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 a health and social care body or a 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; and

(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)—

(i) 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 and social care body or a health service body; and

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

Cessation of disqualification

5.—(1) Subject to paragraph (2), where a person is disqualified under regulation 4(1)(b) (dismissed employees) that person may, after the expiry of a period of not less than two years, apply

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

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 4(1)(h) (certain Chairs, chairmen, members and 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

6.—(1) The tenure of office of the Chair and the members of the RBSO appointed under regulation 2(1)—

(a) shall be for a period not exceeding 4 years; or

(b) such other period as may be determined by the Department at the time the appointments are made.

(2) Subject to regulation 4, the Chair or a member of the RBSO appointed under regulation 2(1) may, on 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.

(3) The Department may instead of re-appointing the Chair or a member of the RBSO appointed under regulation 2(1) on the expiration of his tenure 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.

(4) A member of the RBSO specified in regulation 2(2)—

(a) who ceases to hold the qualifying office, shall cease to be a member of the RBSO; or

(b) who is suspended from the qualifying office shall be suspended from membership of the RBSO while suspended from that office.

(5) In paragraph (4), "the qualifying office" in relation to a member of the RBSO means the office under the RBSO which the member held at the time of becoming a member of the RBSO.

Resignations

7.—(1) The Chair or a member of the RBSO appointed under regulation 2(1) 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 RBSO may, with the consent of the Department, continue to serve as a member of the RBSO for any part of the period of his appointment which remains when his resignation as Chair takes effect.

(3) Any person to whom paragraph (2) applies, shall inform the Department in writing of his wish to do so when submitting his resignation as Chair.

(4) Any person who fails to comply with paragraph (3) shall cease to be a member of the RBSO on the termination of his term of office as Chair.

(5) In the case of a member of the RBSO appointed under regulation 2(1) who during his term of office is appointed Chair of the RBSO, the terms on which he was appointed a member shall cease to apply on the day on which his appointment as Chair takes effect.