STATUTORY RULES OF NORTHERN IRELAND

2009 No. 94

HEALTH AND SOCIAL CARE

The Northern Ireland Health Promotion Agency (Dissolution and Transfer of Staff, Assets and Liabilities) Order (Northern Ireland) 2009

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

The Department of Health, Social Services and Public Safety(**1**) makes the following Order in exercise of the powers conferred by paragraph 8A of the Schedule to the Health and Personal Social Services (Special Agencies) (Northern Ireland) Order 1990(**2**) having considered it appropriate in the interests of health and social care.

The Department, having considered it necessary to make this Order as a matter of urgency, has not consulted with the relevant staff interests in accordance with the Special Agencies (Consultation on Dissolution) Regulations (Northern Ireland) 2009(**3**).

Citation, commencement and interpretation

1.—(1) This Order may be cited as the Northern Ireland Health Promotion Agency (Dissolution and Transfer of Staff, Assets and Liabilities) Order (Northern Ireland) 2009 and shall come into operation on 1st April 2009.

(2) In this Order—

"the Act" means the Health and Social Care (Reform) Act (Northern Ireland) 2009(**4**);

"the Agency" means the Northern Ireland Health Promotion Agency(**5**);

"the Regional Agency" means the Regional Agency for Public Health and Social Well-being(**6**);

"the transfer date" means 1st April 2009.

(**1**) Formerly the Department of Health and Social Services. See S.I. 1999/283 (N.I. 1) Article 3(6)
(**2**) S.I. 1990/247 (N.I. 3); as amended by s. 28 of 2009 c.1 (N.I.)
(**3**) S.R. 2009 No. 84
(**4**) 2009 c.1 (N.I.)
(**5**) Established by S.R. 1990 No. 258
(**6**) Established by s.12 of 2009 c.1 (N.I.)

Dissolution of the Northern Ireland Health Promotion Agency

2. The Agency is dissolved.

Revocation

3. The Northern Ireland Health Promotion Agency (Establishment and Constitution) Order (Northern Ireland) 1990(**7**) is revoked.

Transfer of assets and liabilities

4.—(1) On the transfer date all the assets and liabilities of the Agency, not mentioned in Article 5, shall be transferred to the Regional Agency, including without limitation—

(a) the obligation to prepare the outstanding accounts of the Agency and to perform all statutory duties relating to those accounts;

(b) the property held on trust;

(c) any assets or liabilities arising out of or resulting from any contract for the purpose of enabling it to discharge its functions (including the provision of professional services relating to that contract) or arising anyway thereout.

(2) The transfer by this Order of any asset leased or hired from a third party or in which a third party has an interest, shall be binding on the third party notwithstanding that, apart from this Order, it would have required that party's consent or concurrence.

(3) Any dispute arising out of any transfer which is effected by this Order shall be referred for arbitration to a person appointed by the Department.

Transfer of staff

5.—(1) Subject to paragraph (4), this Article applies to any person who, immediately before the transfer date, was employed by the Agency.

(2) In accordance with a scheme made by the Department under Article 6, the contract of employment between a person to whom this Article applies and the Agency shall have effect from the transfer date as if originally made between that person and the Regional Agency.

(3) Without prejudice to paragraph (2)–

(a) all the rights, powers, duties and liabilities of the Agency under or in connection with a contract to which that paragraph applies shall, by virtue of this Article, be transferred to the Regional Agency on the transfer date; and

(b) anything done before that date by or in relation to the Agency in respect of that contract or the employee shall be deemed from that date to have been done by or in relation to the Regional Agency.

(4) Paragraphs (2) and (3) are without prejudice to any right of an employee to terminate his contract of employment if a substantial change is made to the detriment of that employee in his working conditions; but no such right shall arise by reason only of the change in employer effected by this Article.

(5) The Transfer of Undertakings (Protection of Employment) Regulations 2006(**8**) apply to the transfer whether or not the transfer would, apart from this paragraph, be a relevant transfer for the purposes of those Regulations.

(**7**) S.R. 1990 No. 258
(**8**) S.I. 2006/246