STATUTORY RULES OF NORTHERN IRELAND

2009 No. 93

HEALTH AND SOCIAL CARE

The Regional Agency for Public Health and Social Well-being (Membership) 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 12(2) of, and paragraphs 3 and 18(1) of Schedule 2 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 Agency for Public Health and Social Well-being (Membership) 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 Primary Care Trust;

(iii) an NHS trust;

(iv) a Special Health Authority;

(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**); and

(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 persons appointed by the Department for the purposes of paragraph 3(1)(b) of Schedule 2 to the Act shall be 5.

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

(a) the Director of Public Health; and

(b) the Director of Nursing and Allied Health Professions.

(3) The prescribed number of officers for the purposes of paragraph 3(1)(e) of Schedule 2 to the Act shall be 1.

(4) For the purposes of paragraph 3(1)(f) of Schedule 2 to the Act the prescribed number of members of district councils appointed by the Department shall be 2 and the appointments shall be made in accordance with the Code of Practice for Ministerial Appointments to Public Bodies(**8**).

Joint membership

3. Where more than one person is appointed jointly to a post in the Agency which qualifies the holder for membership in accordance with paragraph 3(1)(d) of Schedule 2 to the Act or in relation to which an officer is to be appointed in accordance with paragraph 3(1)(e) of Schedule 2 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) and 2(4) 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**) Issued in May 2007 and available online at www.ocpani.gov.uk

(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 by his 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 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;

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

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