STATUTORY RULES OF NORTHERN IRELAND

2004 No. 37

HEALTH AND PERSONAL SOCIAL SERVICES

The Regulation and Improvement Authority (Appointments and Procedure) Regulations (Northern Ireland) 2004

Made - - - -	*5th February 2004*
Coming into operation	*1st April 2004*

The Department of Health, Social Services and Public Safety, in exercise of the powers conferred on it by Article 3(2) of, and paragraph 5 of Schedule 1 to, the Health and Personal Social Services (Quality, Improvement and Regulation) (Northern Ireland) Order 2003(**1**) and of all other powers enabling it in that behalf, hereby makes the following regulations:

Citation, commencement and interpretation

1.—(1) These Regulations may be cited as the Regulation and Improvement Authority (Appointments and Procedure) Regulations (Northern Ireland) 2004 and shall come into operation on 1st April 2004.

(2) In these Regulations –

"the Order" means the Health and Personal Social Services (Quality, Improvement and Regulation) (Northern Ireland) Order 2003;

"the Authority" means the Regulation and Improvement Authority;

"the chairman" means the chairman of the Authority;

"member" means a member of the Authority other than the chairman;

"health service body" means –

(a) a health authority, a special health authority, a Primary Care Trust or an NHS Trust respectively constituted under sections 8, 11 and 16A of the National Health Services Act 1977(**2**) and section 5 of the National Health Service and Community Care Act 1990(**3**);

(b) a Health Board, a Special Health Board, the Common Services Agency for the Scottish Health Service or an NHS Trust respectively constituted under sections 2, 10 and 12A of the National Health Service (Scotland) Act 1978(**4**);

(**1**) S.I.2003/431 (N.I. 9)
(**2**) 1977 c. 49 as amended by the Health Authorities Act 1995 (c. 17) and the Health Act 1999 (c. 8)
(**3**) 1990 c. 19 as amended by the Health Authorities Act 1995 and the Health Act 1999
(**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; section 10

(c) a Dental Practice Board or a Scottish Dental Practice Board;

(d) the Public Health Laboratory Service Board; and

(e) the National Radiological Protection Board established by section 1 of the Radiological Protection Act 1970(**5**);

"health and social services body" means –

(a) a Health and Social Services Board;

(b) an HSS Trust;

(c) the Agency; or

(d) a special agency.

The Chairman and Members

Appointments

2. The Authority shall consist of a chairman and not more than 12 other members appointed by the Department.

Terms of appointment

3.—(1) The chairman shall be appointed for a period not exceeding 4 years.

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

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

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

(5) Subject to Regulation 4 the chairman or a member of the Authority 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 chairman or a member on the expiration of their term of office, extend their 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.

Disqualification for appointment

4.—(1) The following persons are disqualified for appointment as chairman or as a member of the Authority –

(a) a person who within 5 years of the day his appointment would otherwise have taken effect has been convicted whether in the United Kingdom or elsewhere of any offence and has had passed on him a sentence of imprisonment (whether suspended or not) for a period of not less than 3 months without the option of a fine;

(b) a person who has been adjudged bankrupt or has made a composition or arrangement with his creditors;

(c) a person who has been dismissed, otherwise than by reason of redundancy, from any paid employment with a health service body or a health and social services body;

was amended by paragraph 2 of Schedule 6 to the Health Services Act 1980 (c. 53); section 12A was inserted by section 31 of the National Health Service and Community Care Act 1990

(**5**) 1970 c. 46

(d) a person whose tenure of office as chairman or as a member of a committee or sub-committee or a director of any public body, health service body or health and social services body has been terminated on the ground that –

(i) it was not in the interests of, or conducive to the good management of, that body, that he should continue to hold office;

(ii) it was not in the interests of the Health Service or the Health and Personal Social Services that he should continue to hold office;

(iii) the person failed without the consent of that body to attend its meetings for a continuous period of 3 months;

(iv) the person failed to declare a pecuniary interest or withdraw from consideration of any matter in respect of which he had a pecuniary interest;

(e) a person who is employed by the Authority, the Northern Ireland Social Care Council(**6**), the Northern Ireland Practice and Education Council(**7**) or any body exercising functions similar to those of the aforementioned bodies under legislation in force in the United Kingdom;

(f) a person who is a chairman, member, director or employee of a health service body or a health and social services body;

(g) a person whose application for registration under Part III of the Order, Parts II and III of the Registered Homes (Northern Ireland) Order 1992(**8**), Part VIII of the Children (Northern Ireland) Order 1995(**9**), Part I of the Health and Personal Social Services Act (Northern Ireland) 2001(**10**), Part IV of the Care Standards Act 2000(**11**) or Part I of the Regulation of Care (Scotland) Act 2001(**12**), has been refused, or

(i) whose registration has been suspended and the suspension has not been terminated; or

(ii) whose name has been removed from the register and not restored.

(h) a person included in a list kept by the Secretary of State under section 1 of the Protection of Children Act 1999(**13**) (list of individuals considered unsuitable to work with children), section 81 of the Care Standards Act 2000 (list of individuals considered unsuitable to work with vulnerable adults), Article 1 of the Protection of Children (Scotland) Act 2003(**14**) or a list kept by the Department under Article 3 or 35 of the Protection of Children and Vulnerable Adults (Northern Ireland) Order 2003(**15**);

(i) any employed or self-employed health care professional or employees of health care professionals;

(j) a person whose registration as a health care professional has been withdrawn or suspended;

(k) he holds a paid appointment or office with a trade union which represents the interests of members who are employed by a health service body or a health and social services body;

(l) any person who has financial or related interests which prejudice the exercise of his duties.

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

(**6**) Established by the Health and Personal Social Services Act (Northern Ireland) 2001 c. 3 (N.I.)
(**7**) Established by the Health and Personal Social Services Act (Northern Ireland) 2002 c. 9 (N.I.)
(**8**) S.I. 1992/3204 (N.I. 20)
(**9**) S.I. 1995/755 (N.I. 2)
(**10**) 2001 c. 3 (N.I.)
(**11**) 2000 c. 14
(**12**) 2001 asp 8
(**13**) 1999 c. 14
(**14**) 2003 asp 5
(**15**) S.I. 2003/417 (N.I. 4)

(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) Where a person is disqualified because he has been adjudged bankrupt, the disqualification shall cease –

(a) unless the bankruptcy order made against that person is previously annulled, on his discharge from bankruptcy; and

(b) if the bankruptcy order is so annulled, on the date of the order of annulment.

(4) For the purposes of paragraph (1)(c) "dismissal" excludes dismissal which is established to have been unfair in industrial tribunal proceedings.

(5) Where a person is disqualified because he made a composition or arrangement with his creditors, his disqualification shall cease –

(a) except where sub-paragraph (b) applies, on the expiration of 3 years from the date on which the terms of the deed of composition or arrangement are fulfilled; or

(b) where he pays his debts in full, on the day on which payment is completed.

(6) Subject to paragraph (7), a person who is disqualified under paragraph (1)(c) may, after the expiry of 2 years beginning on the date on which he was dismissed, apply in writing to the Department to remove that disqualification, and the Department may direct that that disqualification shall cease.

(7) Where the Department refuses an application to remove a disqualification, no further application may be made by that person until the expiry of the period of 2 years beginning with the date of the application and this paragraph shall apply to any subsequent application.

(8) In paragraph (1)(i), a "health care professional" means –

(a) a medical practitioner or dental practitioner;

(b) a nurse, midwife or health visitor registered in accordance with the Nursing and Midwifery Order 2001(**16**);

(c) a registered pharmacist;

(d) an ophthalmic optician, other than a body corporate enrolled in the list kept under section 9 of the Opticians Act 1989(**17**);

(e) a person who is registered as a member of a profession to which the Professions Supplementary to Medicine Act 1960(**18**) extends;

(f) a fully registered osteopath as defined by section 41 of the Osteopaths Act 1993(**19**); or

(g) a fully registered chiropractor as defined by section 43 of the Chiropractors Act 1994(**20**).

(**16**) S.I. 2002/253
(**17**) 1989 c. 44
(**18**) 1960 c. 66
(**19**) 1993 c. 21
(**20**) 1994 c. 17

Resignations

5.—(1) The chairman or a member of the Authority 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 chairman of the Authority may, if the Department consents, continue to serve as a member for any part of the period of his appointment which remains when his resignation as chairman takes effect.

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

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

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

Termination of tenure of office of chairman and members

6.—(1) The Department –

(a) shall terminate the appointment of a person as chairman or as a member of the Authority where the person –

(i) becomes disqualified for appointment under regulation 4; or

(ii) fails without the consent of the Authority to attend 3 consecutive meetings; and

(b) may terminate the appointment of a person as chairman or as a member of the Authority where the person –

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

(ii) has failed to comply with regulation 10 (exclusion on account of pecuniary interest).

(2) Paragraph (1)(a)(ii) shall not apply where the Department is satisfied that the person had good cause for not attending the meetings and that, once the circumstances which caused him to miss the meetings are removed, he can and will attend the meetings of the Authority.

(3) Where the Department decides to terminate an appointment under paragraph (1), it shall forthwith give the person concerned notice in writing of the termination of his appointment and of the reasons for his decision.

(4) Where the Department is of the opinion that it is not in the interests of, or conducive to the good management of the Authority or any of its committees that the chairman or member should continue to hold office, it may forthwith terminate his appointment by giving him notice in writing to that effect.

(5) Where a person has been appointed chairman or a member and it comes to the notice of the Department that at the time of the appointment he was disqualified for appointment under regulation 4, 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, his appointment shall be terminated and he shall cease to act as such chairman or member.

(6) A person who, after his appointment as chairman or as a member of the Authority, is adjudged bankrupt or makes a composition or arrangement with his creditors, shall give notice in writing of the fact to the Department.