STATUTORY RULES OF NORTHERN IRELAND

2002 No. 386

HEALTH AND PERSONAL SOCIAL SERVICES

The Northern Ireland Practice and Education Council for Nursing and Midwifery (Appointments and Procedure) Regulations (Northern Ireland) 2002

Made - - - -	*12th December 2002*
Coming into operation	*27th January 2003*

The Department of Health, Social Services and Public Safety, in exercise of the powers conferred on it by section 2(5) of, and paragraphs 5 and 22 to the Schedule to, the Health and Personal Social Services Act (Northern Ireland) 2002(**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 Northern Ireland Practice and Education Council for Nursing and Midwifery (Appointments and Procedure) Regulations (Northern Ireland) 2002 and shall come into operation on 27th January 2003.

(2) In these regulations–

"the Act" means the Health and Personal Social Services Act (Northern Ireland) 2002;

"the chairman" means the chairman of the Council;

"the Council" means the Northern Ireland Practice and Education Council for Nursing and Midwifery established under section 2(1) of the Act;

"member" means a member of the Council other than the chairman and chief executive of the Council;

"public body" means a body established by a statutory provision.

Appointments

2.—(1) The Council shall consist of–

(a) a Chairman appointed by the Department;

(b) a Chief Executive; and

(**1**) 2002 c. 9 (N.I.)

(c) not more than 14 members appointed by the Department.

(2) The Council shall consist of 60% of non-executive members who are registered under Article 5 of the Nursing and Midwifery Order 2001(**2**).

(3) The Council shall consist of 40% of non-executive members who are not registered under Article 5 of the Nursing and Midwifery Order 2001 or were not registered under section 7 of the Nurses, Midwives and Health Visitors Act 1997(**3**).

Terms of Appointment

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

(2) The members 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 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 a further period as may appear reasonable in the particular circumstances; but the period by which the 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 Council–

(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 three 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 fairly dismissed, other than by reasons of redundancy from any paid employment with a public body;

(d) a person whose appointment as the Chairman or Member or Director of any public body which employs nurses or midwives has been terminated on the grounds 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) he failed without the consent of that body to attend its meetings for a continuous period of 3 months;

(iii) he 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 an employee of the Council, other than the chief executive of the Council;

(f) a person who has financial or related interests which prejudice the exercise of his duties;

(**2**) S.I.2001/253
(**3**) 1997 c. 24

(g) a person whose name has been removed from the register maintained under section 5 of the Nursing and Midwifery Order 2002, or the register previously maintained under section 7 of the Nurses, Midwives and Health Visitors Act 1997, or is currently suspended;

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

(i) any person included in a list kept by the Secretary of State under section 1 of the Protection of Children Act 1999(**4**) (list of individuals considered unsuitable to work with children) or section 81 of the Care Standards Act 2000(**5**) (list of individuals considered unsuitable to work with vulnerable adults).

(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 it not being prosecuted.

(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 of 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 the bankruptcy; and

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

(4) 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.

(5) Subject to paragraph (6), 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.

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

(7) Where a person is disqualified under paragraph 1(d) (certain chairmen and 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, but the Department may on application being made to it by that person, reduce the period of disqualification.

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

(a) a medical practitioner or dental practitioner;

(**4**) 1999 c. 14
(**5**) 2000 c. 14

(b) a registered pharmacist;

(c) an ophthalmic optician, other than a body corporate enrolled in the list kept under section 9 of the Opticians Act 1989(**6**);

(d) a person who is registered as a member of a profession to which the Professions Supplementary to Medicine Act 1960 extends(**7**);

(e) a registered osteopath as defined by section 41 of the Osteopaths Act 1993(**8**);

(f) a registered chiropractor as defined by section 43 of the Chiropractors Act 1994(**9**);

(g) a person registered under Part I of the Health and Personal Social Services Act (Northern Ireland) 2001(**10**).

Resignations

5.—(1) The chairman or a member 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 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 Council when his term of office as chairman terminates.

(5) In the case of a member who during his term of office is appointed chairman, the terms on which he was appointed a member shall cease to apply on the date 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 where the person–

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

(ii) fails without the consent of the Council to attend meetings for a continuous period of 3 months beginning with the date of a meeting; and

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

(i) is incapable of carrying out his functions by reason 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 Council.

(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.

(**6**) 1989 c. 44
(**7**) 1960 c. 66
(**8**) 1993 c. 21
(**9**) 1994 c. 17
(**10**) 2001 c. 3 (N.I.)