

2004 No. 62

HEALTH AND PERSONAL SOCIAL SERVICES

**The Northern Ireland Medical and Dental Training Agency
(Establishment and Constitution) Order
(Northern Ireland) 2004**

Made - - - - - 25th February 2004

Coming into operation 1st April 2004

Whereas the Department of Health, Social Services and Public Safety^(a) considers that a special body should be established for the purpose of performing the functions referred to in Article 2(1);

Now therefore the Department, in exercise of the powers conferred upon it by Articles 3(1), (2), (4) and (6) of the Health and Personal Social Services (Special Agencies) (Northern Ireland) Order 1990^(b) and of all other powers enabling it in that behalf, and after consultation, in accordance with Article 3(5) of that order, with such bodies as it recognises as representing officers who in its opinion are likely to be transferred or affected by transfers in pursuance of this order, hereby make the following order:

Citation, commencement and interpretation

1.—(1) This order may be cited as the Northern Ireland Medical and Dental Training Agency (Establishment and Constitution) Order (Northern Ireland) 2004 and shall come into operation on 1st April 2004.

(2) In this order –

“the 1990 order” means the Health and Personal Social Services (Special Agencies) (Northern Ireland) Order 1990;

“the Agency” means the Northern Ireland Medical and Dental Training Agency;

“the chairman” means the chairman of the Agency;

“a member” means a member of the Agency other than the chairman;

“a health and social services body” means –

(a) a Health and Social Services Board;

(b) an HSS Trust;

(c) the Northern Ireland Central Services Agency for the Health and Social Services;

or

(d) a special agency.

“a health service body” means –

^(a) See S.I. 1999/283 (N.I. 1) Article 3 (6)

^(b) S.I. 1990/247 (N.I. 3)

- (a) a health authority, a special health authority, a Primary Care Trust or an NHS Trust respectively constituted under sections 8, 11, 16A of the National Health Services Act 1977^(a) and section 5 of the National Health Service and Community Care Act 1990^(b);
- (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^(c);
- (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^(d).

Establishment of the Northern Ireland Medical and Dental Training Agency

2.—(1) The Department hereby establishes a special agency to perform any functions which the Department may under Article 4(1) of the 1990 order direct with respect to the provision of postgraduate education and training for doctors and dentists.

(2) The special agency established under paragraph (1) shall be known as the Northern Ireland Medical and Dental Training Agency.

Constitution of the Agency

3.—(1) The Agency shall consist of a chairman and five members appointed by the Department.

(2) The members of the Agency shall consist of –

- (a) One member who is a medical practitioner;
- (b) One member who is a dental practitioner;
- (c) Three members who are neither a medical practitioner nor a dental practitioner.

Period of appointment

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

(2) A member shall be appointed for a period not exceeding 4 years.

(3) The period of appointment of the chairman and of a member shall be determined by the Department.

(4) Subject to Article 5 the chairman or a member of the Agency may, on the termination of the period of appointment, be eligible for re-appointment for such further period, not exceeding 4 years, as the Department may in any particular case determine.

(5) The Department may instead of re-appointing the chairman or a member on the termination of their period of appointment, 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

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

- (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

(a) 1977 c. 49 as amended by the Health Authorities Act 1995 (c. 17) and the Health Act 1999 (c. 8)
 (b) 1990 c. 19 as amended by the Health Authorities Act 1995 and the Health Act 1999
 (c) 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 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
 (d) 1970 c. 46

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 dismissed, otherwise than by reason of redundancy, from any paid employment with a public body, a health service body or a health and social services body;
- (d) a person whose appointment as the chairman or a member of any public body, health service body or health and social services body 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 has failed without the consent of that body to attend its meetings for a continuous period of 3 months;
 - (iii) he has failed to declare pecuniary interest or withdraw from the consideration of any matter in respect of which he had a pecuniary interest.
- (e) a person who has financial or related interests which prejudice the exercise of his duties;
- (f) a person whose registration as a health care professional has been withdrawn or suspended;
- (g) a person who is an employee of the Agency;
- (h) a person who holds paid employment or office with a trade union which represents the interests of members who are employed by a health and social services body.

(2) A person who is currently a chairman, member, director or employee of a health and social services body is disqualified for appointment as the chairman.

(3) For the purposes of paragraph (1)(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.

(4) Where a person is disqualified under paragraph (1)(b) by reason of having been adjudged bankrupt –

- (a) if the bankruptcy is annulled on the grounds that he ought not to have been adjudged bankrupt or on the grounds that his debts have been paid in full, the disqualification shall cease on the date of the annulment;
- (b) if he is discharged the disqualification shall cease on the date of his discharge.

(5) Where a person is disqualified under paragraph (1)(b) by reason of his having made a composition or arrangement with his creditors, if he pays his debts in full the disqualification shall cease on the date on which the payment is completed and in any other case shall cease on the expiry of five years from the date on which the terms of the deed of composition or arrangement is fulfilled.

(6) For the purposes of paragraph (1)(c) “dismissal” excludes dismissal which was established to be unfair in industrial tribunal proceedings.

(7) Subject to paragraph (8), a person who is disqualified under (1)(c) (dismissed employees), may, after the expiry of a period of not less than two years, apply in writing to the Department to remove the disqualification and the Department may direct that the disqualification shall cease.

(8) 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.

(9) 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 when terminating his period of appointment but the Department may on application being made to it by that person, reduce the period of disqualification.

- (10) In paragraph (1)(f) “health care professional” means –
- (a) a medical practitioner or a dental practitioner;
 - (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(a);
 - (d) a person who is registered as a member of a profession to which the Health Professions Order 2001(b) extends or to which the Professions Supplementary to Medicine Act 1960(c) extended;
 - (e) a registered osteopath as defined by section 41 of the Osteopaths Act 1993(d);
 - (f) a registered chiropractor as defined by section 43 of the Chiropractors Act 1994(e);
 - (g) a person registered under section 5 of the Nursing and Midwifery Order 2001(f), or the register previously maintained under section 7 of the Nurses, Midwives and Health Visitors Act 1997(g).

Termination of appointment

6.—(1) The chairman or a member may resign his office at any time during the period for which he was appointed by giving not less than 30 days notice in writing to the Department.

(2) Where the Department is satisfied that it is not in the interests of the Agency or the health and social services that a person whom it has appointed as the chairman or a member should continue to hold that office, it may forthwith terminate the appointment of that chairman or member.

(3) Where the place of a member becomes vacant before the expiration of his period of appointment whether by death, resignation or otherwise, the vacancy shall be filled by appointment by the Department and any person so appointed shall hold the remainder of the period of appointment of the former member.

Proceedings of the Agency

7. The proceedings of the Agency shall not be invalidated by any vacancy in the membership of the Agency or by any defect in the appointment of the chairman or any of its members.

Transfer of staff

8. Any officer of the Northern Ireland Council for Postgraduate Medical and Dental Education who immediately before the date upon which this order comes into operation is employed by that body shall be transferred to the Agency on the date of the coming into operation of this order and the contract of employment between each such officer and the Northern Ireland Council for Postgraduate Medical and Dental Education shall be modified so as to substitute the Agency as the employer.

Enforceability of rights and liabilities

9. Any right or liability which was enforceable by or against the Northern Ireland Council for Postgraduate Medical and Dental Education in respect of the employment by that Council of any officer who is transferred to the employment of the Agency by virtue of Article 8 shall be enforceable by or against the Agency.

(a) 1989 c. 44
(b) S.I. 2002/254
(c) 1960 c. 66
(d) 1993 c. 21
(e) 1994 c. 17
(f) S.I. 2002/253
(g) 1997 c. 24

Protection of officers

10. The scale of remuneration of any officer transferred to the employment of the Agency by virtue of Article 8 and, taken as a whole, the other terms and conditions of the employment of that officer shall be no less favourable than the scale of remuneration, terms and conditions enjoyed by him immediately before the transfer.

Sealed with the Official Seal of the Department of Health, Social Services and Public Safety on 25th February 2004.

(L.S.)

D. C. Bingham

A Senior Officer of the Department of Health, Social Services and Public Safety

EXPLANATORY NOTE

(This note is not part of the Order.)

This order provides for the establishment and constitution of a special health and social services agency, to be known as the Northern Ireland Medical and Dental Training Agency, for the purposes of carrying out such functions, in relation to the postgraduate education and training of doctors and dentists, as the Department of Health, Social Services and Public Safety may direct in accordance with Article 4(1) of the Health and Personal Social Services (Special Agencies) (Northern Ireland) Order 1990.

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