

**EXPLANATORY MEMORANDUM TO**  
**THE APPOINTMENTS COMMISSION (AMENDMENT) REGULATIONS**  
**2008**

**2008 No. 2792**

1. This explanatory memorandum has been prepared by the Department of Health and is laid before Parliament by Command of Her Majesty.

**2. Purpose of the instrument**

2.1 The purpose of these amendment regulations is to allow the Appointments Commission (AC) to introduce a smaller board, more suitable to the needs of the organisation going forward. The regulations will reduce:

- the number of required non-executive members (NEMs) in addition to the chair, from five to four,
- the number of executive members (EMs) in addition to the chief executive, from four to three.

**3. Matters of special interest to the Joint Committee on Statutory Instruments**

3.1 None.

**4. Legislative Context**

4.1 The instrument is being made to amend the number of NEMs and EMs of the AC. The AC was established under section 57 of the Health Act 2006. Section 57(3) and Schedule 4 make provision for the constitution of the AC. The AC's main infrastructure comprises a board and a 'Health and Social Care Appointments Committee' (under paragraphs 2 and 10 of Schedule 4). The board is made up of the chairman, chief executive, a number of non-executive members prescribed by regulations (currently five) and a number of executive members prescribed by regulations (currently four).

4.2 The Committee consists of the chairman of the AC, the chief executive and not more than the number of persons prescribed by regulations, appointed by the Secretary of State (known as health and social care commissioners) (paragraphs 10(3) and (4) of Schedule 4). At least one and up to four of the NEMs must also be a health and social care commissioner (under paragraph 3 of Schedule 4). The AC chairman, the NEMs and the health and social care commissioners are appointed by the Secretary of State (paragraphs 3(1) and 10(3)(c) of Schedule 4).

## **5. Territorial Extent and Application**

5.1 This instrument extends to all of the United Kingdom.

## **6. European Convention on Human Rights**

6.1 As the instrument is subject to negative resolution procedure and does not amend primary legislation, no statement is required.

## **7. Policy background**

7.1 When the AC was established, the NHS had a larger number of organisations and consequential public appointments. In 2006/07, the numbers of NHS Strategic Health Authorities and Primary Care Trusts were reduced substantially. The number of NHS Trusts is also diminishing, as they become Foundation Trusts.

7.2 The future AC will be an organisation dealing with lower volumes of appointments, but a wider portfolio of clients (NHS, Foundation Trusts and other Government Departments), providing tailored and targeted recruitment campaigns and supporting activity. A number of changes have been agreed between the Department of Health and the AC to ensure it is fit for purpose both now and in the future. Some of these changes relate to the profile of skills and experience of Board members. This includes reducing the size of the board to one more consistent with the requirements of an organisation of this size going forward.

## **8. Consultation outcome**

8.1 The AC chairman reviewed the structure of the board. Following consultation within the Commission, the proposal to reduce the number of NEMs and EMs on the board, each by one, has the support of the Department, Ministers, the AC board and the individuals affected. The Commissioner for Public Appointments is also content with how the Department and the AC plan to handle the change.

8.2 Due to a current vacancy in the executive team, no EMs will be affected by the changes. Following an internal competition, the plan for the NEMs is for either 3 or 4 of the appointees with a combined 'NEM and Commissioner' role to step down from their NEM role. Those appointed to combined roles were informed in 2006 on appointment that the NEM element of their role would be subject to future review.

## **9. Guidance**

9.1 None required

**10. Impact**

10.1 No Impact Assessment has been prepared for this instrument, as no impact on business, charities or voluntary bodies is foreseen

10.2 The impact on the public sector is insignificant

**11. Regulating small business**

11.1 The legislation does not apply to small businesses.

**12. Monitoring & review**

12.1 Membership and structure of the Appointments Commission Board is kept under review both by the Board and Department of Health through the performance management framework.

**13. Contact**

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Julie Nichols at the Department of Health, Tel: 0113 2545915 or email: [Julie.Nichols@dh.gsi.gov.uk](mailto:Julie.Nichols@dh.gsi.gov.uk) can answer any queries regarding the instrument.