

1991 No. 70**HEALTH AND PERSONAL SOCIAL SERVICES****The Health and Social Services Councils
Regulations (Northern Ireland) 1991***Made 7th March 1991**Coming into operation 1st April 1991*

ARRANGEMENT OF REGULATIONS

PART I

GENERAL

1. Citation, commencement and interpretation.

PART II

MEMBERSHIP OF COUNCILS

2. Size and composition of Councils.
3. Term of office of members.
4. Appointment of District Council representatives.
5. Appointment of members representative of voluntary organisations.
6. Eligibility of members for re-appointment.
7. Disqualification for membership.
8. Termination of membership.

PART III

CONSTITUTION AND PROCEEDINGS OF COUNCILS

9. Election of chairman.
10. Appointment of committees and joint committees.
11. Meetings and proceedings.
12. Officers.
13. Premises and other facilities.
14. Expenses.

PART IV

PERFORMANCE AND FUNCTIONS

15. Advising on operation of the health and personal social services.
16. Reports.
17. Consultation of Councils by relevant Board.
18. Information to be furnished by relevant Board.
19. Inspection of premises by Councils.
20. Meeting between Council and relevant Board.

SCHEDULE

Meetings and proceedings of Councils.

The Department of Health and Social Services in exercise of the powers conferred on it by paragraphs 2 and 3 of Schedule 1 to, the Health and Personal Social Services (Northern Ireland) Order 1991(a) and of all other powers enabling it in that behalf, hereby makes the following regulations:

PART I

GENERAL

Citation, commencement and interpretation

1.—(1) These regulations may be cited as the Health and Social Services Councils Regulations (Northern Ireland) 1991 and shall come into operation on 1st April 1991.

(2) In these regulations—

“the Order” means the Health and Personal Social Services (Northern Ireland) Order 1991;

“Board” means a Health and Social Services Board established under Article 16 of the principal Order;

“Council” means a Health and Social Services Council established under Article 4 of the Order;

“health service body” means—

- (a) a health authority, a Family Health Services Authority, a special health authority or an NHS trust respectively constituted under sections 8, 10 and 11 of the National Health Service Act 1977(b) and section 5 of the National Health Service and Community Care Act 1990(c);

(a) S.I. 1991/194 (N.I. 1). Definitions in Article 2(2) of the Health and Personal Social Services (Northern Ireland) Order 1972 apply, by virtue of Article 2(3) of the Health and Personal Social Services (Northern Ireland) Order 1991, to the exercise of certain powers conferred under that Order

(b) 1977 c. 49; sections 8 and 10 were amended by sections 1 and 2 of the National Health Service and Community Care Act 1990 (c. 19)

(c) 1990 c. 19

- (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(a);
- (c) a State Hospital Management Committee constituted under section 91 of the Mental Health (Scotland) Act 1984(b);
- (d) the Dental Practice Board or Scottish Dental Practice Board;
- (e) the Public Health Laboratory Service Board; and
- (f) the National Radiological Protection Board established by section 1 of the Radiological Protection Act 1970(c);

“health and social services body” means:—

- (a) a Board;
- (b) the Agency;
- (c) a special agency; or
- (d) an HSS trust;

“HSS trust” means a Health and Social Services trust established under Article 10 of the Order;

“member” means a member of a Council and includes its chairman;

“relevant Board” means the Board for the area of a Council;

“relevant district council” means a district council within the area of a Council;

“relevant HSS trust” means, in relation to a Council, any HSS trust established in relation to a hospital, establishment or facility situated or to be situated (whether wholly or partly) within the area of a Council;

“the Secretary” means the person appointed under regulation 12 to act as Secretary to the Council;

“trade union” has the meaning assigned to it in Article 2(2) of the Industrial Relations (Northern Ireland) Order 1976(d).

PART II

MEMBERSHIP OF COUNCILS

Size and composition of Councils

2.—(1) The number of members and, subject to the following provisions of this regulation, the numerical proportion as between members falling to be nominated by different bodies, shall be such as may be determined on the

-
- (a) 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
 - (b) 1984 c. 36
 - (c) 1970 c. 46
 - (d) S.I. 1976/1043 (N.I. 16)

establishment of a Council by the Department; and, subject to those provisions, the Department may vary the total membership and composition of a Council.

(2) The Department shall secure as respects each Council that at least four tenths of the members are appointed in accordance with regulation 4 following consultation with relevant district councils.

(3) The Department shall secure that at least three tenths of the members are appointed in accordance with regulation 5.

(4) Any member other than a member appointed in accordance with regulation 4 or 5 shall be appointed by the Department after such consultation with such persons as appear to the Department to have an interest in the provision of the health and personal social services as the Department may consider appropriate.

Term of office of members

3.—(1) Subject to the following provisions of this regulation and to regulations 7 and 8, the term of office of members shall be four years expiring on the relevant date in any year.

(2) Of the members first appointed on the establishment of a Council—

(a) those chosen in accordance with paragraph (3) shall be appointed for a period expiring on the relevant date in the first complete odd year; and

(b) the remainder shall be appointed for a period expiring on the relevant date in the next odd year after the first complete odd year.

(3) Those members whose period of appointment shall expire in accordance with paragraph (2)(a) shall be:

(a) the members appointed to represent the relevant district councils;

(b) one half (as near as may be) of the members appointed to represent voluntary organisations; and

(c) one half (as near as may be) of the other members.

(4) Where, for any reason, a person ceases to be a member before the expiration of the period for which he was appointed, the term of office of any member appointed in his place shall be the remainder of such period.

(5) In this regulation—

“odd year” means 1991 or a year beginning two years or a multiple of two years after the beginning of 1991;

“first complete odd year” means the next odd year after the year in which a Council was established; and

“relevant date” means 31st May.

Appointment of district council representatives

4.—(1) The Department shall invite each relevant district council to submit nominations by such date as the Department may specify, and the Department shall appoint one such person to be a member, and, subject to regulation 2(2), the Department may appoint further members drawn from the nominations or otherwise, after such consultation as the Department may consider appropriate.

(2) A member appointed to represent a district council may be, but need not be, a member of that district council but, if he is a member of that district council he shall cease to be a member two months after ceasing to be a member of that district council unless either—

- (a) that district council within those two months gives notice in writing to the Secretary and to the Department that the person appointed as a member is to continue as such; or
- (b) the person so appointed ceased to be a member of that district council by reason of retirement and has been re-elected a member of that district council not later than the day of his retirement.

Appointment of members representative of voluntary organisations

5. The Department shall invite voluntary organisations which have an interest in the health and personal social services in the area of a Council, to nominate persons for appointment as members representing voluntary organisations by such date as the Department may specify, and, subject to regulation 2(3), the Department may appoint such members after such consultation as the Department may consider appropriate.

Eligibility of members for re-appointment

6.—(1) Subject to paragraph (2) and to regulation 7, a member shall, on the expiration of his term of office, be eligible for re-appointment.

(2) A person who has been a member for completed terms of office of eight or more consecutive years shall not be eligible for re-appointment if he has been a member at any time within two years immediately preceding the date of re-appointment.

Disqualification for membership

7.—(1) A person shall be disqualified for appointment as a member and for being a member if—

- (a) he is a chairman or a member of any Board, the Agency or a special agency; or
- (b) he is a chairman or director of an HSS trust; or
- (c) he holds any paid employment with a health and social services body; or
- (d) he 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; or
- (e) his name is included in a list prepared under Part VI of the principal Order; or
- (f) he holds any paid appointment or office with a trade union which represents the interests of members who are employed by a health and social services body.

(2) For the purposes of paragraph (1)(d) a person shall not be treated as having been in paid employment by reason only of his chairmanship or membership of a health and social services body.

(3) Subject to paragraph (4), where a person is disqualified under paragraph (1)(d) he 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.

(4) 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 and this paragraph shall apply to any subsequent application.

Termination of membership

8.—(1) A member may resign at any time during the period for which he was appointed on giving notice in writing to the Secretary who shall forthwith notify the Department.

(2) If a member has not attended a meeting of the Council to which he belongs, or a committee thereof to which he belongs, for a period of six months the Council shall report his absence to the Department and the Department, after consultation with the nominating body (if any) shall, unless it is satisfied that the absence was due to reasonable cause, declare that his place on the Council has become vacant and on the making of such a declaration that person shall cease to be a member.

(3) If the Department is of the opinion that a member has been guilty of misconduct such as to render him unfit to be a member, it may, subject to paragraph (4), terminate that member's term of office.

(4) The Department shall not terminate a member's term of office under paragraph (3) without having consulted the nominating body (if any) and the Council.

(5) In this regulation "nominating body" means, in relation to a member, the body which nominated him for membership of the Council.

PART III

CONSTITUTION AND PROCEEDINGS OF COUNCILS

Election of chairman

9.—(1) Subject to paragraph (3), the members shall elect one of their number to be chairman for such period as the Council may determine on making the election, not being a longer period than the remainder of the period of his membership during which he is elected; and the Secretary shall forthwith notify the Department of the name of the chairman so elected.

(2) Any member elected to be chairman may resign from such office by giving notice in writing to the Secretary, who shall forthwith notify the Department, and, subject to paragraph (3), the members shall thereupon elect another of their number as chairman in accordance with the provisions of this regulation.

(3) During the period ending 31st May 1993, the chairman of a Council shall be appointed by the Department.

Appointment of committees and joint committees

10.—(1) Subject to paragraph (2), a Council may appoint committees of the Council to exercise, subject to such restrictions and conditions as the Council thinks fit, some, but not all, of the Council's functions and any such committees shall consist wholly or partly of persons who are members.

(2) Except in any particular case which the Department may for special reasons allow, not less than one-third of the members of any committee appointed by a Council must be members of that Council.

(3) A Council may, together with one or more other Councils, appoint a joint committee, of which the members consist of members of those Councils, to exercise, subject to such restrictions and conditions as may be agreed between those Councils, some, but not all, of the functions of those Councils.

Meetings and proceedings

11. The provisions of the Schedule shall apply with respect to meetings and proceedings of a Council.

Officers

12.—(1) The relevant Board shall, with the prior consent of the Council, appoint:—

(a) a person to act as Secretary, and

(b) such other officers for the Council as the relevant Board is satisfied may be necessary.

(2) The appointment of a person to act as Secretary or of any other officer of a Council shall be made by the relevant Board in a manner acceptable to the Council.

(3) Persons appointed in accordance with paragraphs (1) and (2) shall be employed by a Board in accordance with any regulations or determinations made by the Department under paragraph 12 of Schedule 1 to the principal Order and their services shall be made available to the Council by the relevant Board for the period of the appointment.

Premises and other facilities

13.—(1) It shall be the duty of the relevant Board, if requested by the Council—

(a) to provide a Council with such office and other accommodation as the Board considers necessary, and on such terms as to rental and tenure as the Board considers appropriate, to enable the Council to perform its functions; and

(b) to secure that arrangements are made for the administration, maintenance, cleaning and other services for such accommodation; but arrangements for the provision of such accommodation and such services may be made by the Council.

(2) The relevant Board may make available to a Council any facilities (including use of any premises and the use of any vehicle, plant or apparatus) provided for any service under the principal Order and the services of persons

employed by the Board, so far as it considers such facilities and services necessary to enable the Council to perform its functions.

Expenses

14.—(1) It shall be the duty of the Department—

(a) to approve such expenses as it considers may reasonably be incurred by a Council for the purpose of performing functions conferred on the Council by virtue of the Order; and

(b) to make arrangements for the payment of sums equal to such expenses as it has approved.

(2) Each Council shall submit to the Department in such form and by such date as the Department may specify, such estimates of expenditure which it expects to incur for such financial years as the Department may require.

(3) The Department may approve estimates submitted under paragraph (2) with or without modification or subject to such conditions as it thinks fit and may vary such approval or conditions.

(4) It shall be the duty of a Council not to incur expenses in excess of the expenses approved for that Council by the Department.

PART IV

PERFORMANCE OF FUNCTIONS

Advising on operation of the health and personal social services

15.—(1) It shall be the duty of each Council to keep under review the operation of the health and personal social services in its area and to make recommendations for the improvement of those services or otherwise advise the relevant Board upon such matters relating to the operation of the health and personal social services within its area as the Council thinks fit.

(2) It shall be the duty of each Council as soon as practicable after its establishment and thereafter as soon as reasonably practicable after 1st April of each successive year, to draw up, in conjunction with the relevant Board, a programme of the work it proposes to undertake in the next succeeding year.

Reports

16.—(1) It shall be the duty of a Council as soon as practicable after the completion of one year from the date of its establishment and thereafter as soon as reasonably practicable after the completion of each successive year—

(a) to make a report to the Department on the performance of its functions during the preceding year;

(b) to furnish copies of that report to the relevant Board; and

(c) to take such steps as appear to the Council to be necessary to secure that that report is made known to the public in its area.

(2) Upon receipt of the report the relevant Board shall furnish to the Council comments on that report and shall include in such comments a record of any steps taken by the Board in consequence of advice given or proposals made by the Council, and it shall be the duty of a Board furnishing comments on any report to secure that those comments are made known to the public in the area.

Consultation of Councils by relevant Board

17.—(1) Subject to paragraphs (2), (3) and (4), it shall be the duty of each relevant Board to consult its Council on any proposals which the Board may have under consideration for any substantial development of the health and personal social services in the Council's area and on any such proposals to make any substantial variation in the provision of such services.

(2) Paragraph (1) shall not apply with respect to any proposal to establish an HSS trust.

(3) Paragraph (1) shall not apply to any proposal on which the Board is satisfied that, in the interest of the health and personal social services, a decision has to be taken without allowing time for consultation; but, in any such case, the Board shall notify the Council immediately of the decision taken and the reason why no consultation has taken place.

(4) Where it appears to the Department that it is expedient in the interests of the health and personal social services for consultation required under this regulation to be carried out by the Department instead of a Board the Department shall so notify the Board, and thereupon it shall be the duty of the Department and not of the Board to carry out that consultation in accordance with this regulation.

(5) A Board may specify a date by which comments on any such proposals as are referred to in paragraph (1) should be made by the Council to be taken into consideration by the Board.

(6) In any case where a Council is not satisfied that sufficient time has been allowed under paragraph (5) or that consultation on a proposal has been adequate, the Department shall have power to require a Board to carry out such further consultations with the Council as the Department considers appropriate and the Board shall reconsider any decision taken on the proposals having regard to such further consultations.

Information to be furnished by relevant Board

18.—(1) Subject to paragraph (2), it shall be the duty of a relevant Board to provide a Council with such information about the planning and operation of health and personal social services in the area of that Board as the Council may reasonably require in order to carry out its duties.

(2) Confidential information about the diagnosis and treatment of individual patients or any personnel matters relating to individual officers employed by a Board shall not be given to any Council or member or officer of a Council and, subject to paragraph (3), a Board may refuse to disclose to a Council any other information which the Board regards as confidential.

(3) In the event of a relevant Board refusing to disclose to a Council information requested, the Council may appeal to the Department and a decision of the Department as to whether the information is reasonably required by the Council in order to carry out its duties or as to whether the Board may regard the information as confidential shall be final for the purposes of this regulation.

Inspection of premises by Councils

19. A Council shall have the right to enter and inspect any premises controlled by a relevant Board or HSS trust at such times and subject to such conditions as may be agreed between the Council and the Board or HSS trust or, in default of such agreement, as may be determined by the Department; except that—

- (a) premises or part of premises used as residential accommodation for officers employed by any Board or HSS trust may not be entered by members without their having first obtained the consent of the officers residing in such accommodation; and
- (b) premises or parts of premises made available to persons providing general medical services, general dental services, general ophthalmic services or pharmaceutical services may not be entered by members without their having first obtained the consent of the persons providing such services.

Meeting between Council and relevant Board

20. It shall be the duty of each relevant Board to arrange, not less than once every year, a meeting between members of the Board, being not less than one third of the whole number of such members, and the members of the Council to discuss such matters relating to the functions of the Council as may be raised by the Council or the relevant Board.

Sealed with the Official Seal of the Department of Health and Social Services on 7th March 1991.

(L.S.)

B. R. D. White

Assistant Secretary

SCHEDULE

Meetings and Proceedings of Councils

1. The first meeting of a Council shall be held on such day and at such place as may be fixed by the Department and the Department shall be responsible for convening the meeting.

2. A meeting of the Council shall take place at least once in every three months.

3.—(1) After the first meeting the chairman may call a meeting of the Council at any time.

(2) If a requisition for a meeting, signed by at least one third of the members, is presented to the chairman and the chairman either—

(a) refuses to call a meeting; or

(b) without so refusing, does not within ten days after the requisition has been presented to him call a meeting,

those one third or more of the members may forthwith call a meeting.

(3) Before each meeting of a Council, a notice of the meeting which—

(a) specifies the business proposed to be transacted at it; and

(b) is signed by the Secretary or by an officer of the Council authorised by the Secretary to sign on his behalf,

shall be delivered to each member, or sent by post to his usual place of residence or business, so as to be available to him at least seven clear days before the meeting.

(4) Lack of service of the notice on any member shall not affect the validity of a meeting.

(5) In the case of a meeting called by members in default of the chairman, the notice shall be signed by those members and no business shall be transacted at the meeting other than that specified in the notice.

4.—(1) At any meeting of a Council the chairman, if present, shall preside.

(2) If the chairman is absent from the meeting such member as the members present shall choose shall preside.

5. Every question at a meeting shall be determined by a majority of the votes of the members present and voting on the question and, in the case of an equality of votes, the person presiding shall have a second and casting vote.

6. The names of members present at the meeting shall be recorded.

7. No business shall be transacted at a meeting unless at least one third of the members are present.

8. The minutes of the proceedings of a meeting shall be drawn up and entered in a book kept for that purpose and shall be signed at the same or next ensuing meeting by the person presiding at it.

EXPLANATORY NOTE

(This note is not part of the Regulations.)

These Regulations make provision concerning the membership and proceedings of Health and Social Services Councils established under Article 4 of the Health and Personal Social Services (Northern Ireland) Order 1991 ("the Order"). Paragraphs 2 and 3 of Schedule 1 to the Order, the enabling provisions under which these Regulations are made, come into operation on 1st April 1991 by virtue of Article 1(3) of that Order.

They include in Part II provision relating to the numbers of members appointed to represent certain interests and the method of their appointment and conditions of membership (regulations 2 to 5), eligibility for re-appointment (regulation 6) and disqualification for appointment (regulation 7) and termination of membership (regulation 8). In Part III provisions are included relating to the election of chairmen (regulation 9), the appointment of and exercise of functions by committees and joint committees (regulation 10). Provisions are also included relating to meetings and proceedings of Councils (regulation 11) officers (regulation 12), premises and facilities (regulation 13) and expenses (regulation 14).

Part IV contains provisions relating to the performance of functions by Councils including their general duty to advise on the operation of the health and personal social services in their area, and to draw up an annual work programme (regulation 15), compilation and publication of annual reports (regulation 16), consultation of Councils by Boards (regulation 17), information to be provided to Councils (regulation 18), inspection of premises by Councils (regulation 19) and annual meetings with Boards (regulation 20).