
STATUTORY RULES OF NORTHERN IRELAND

1998 No. 426

HEALTH AND PERSONAL SOCIAL SERVICES

Appointment of Consultants (Special Agencies) Regulations (Northern Ireland) 1998

Made - - - - 4th December 1998

Coming into operation 1st January 1999

The Department of Health and Social Services in exercise of the powers conferred on it by Articles 89(1), 106(b) and 107(6) of the Health and Personal Social Services (Northern Ireland) Order 1972(1) and Article 3(7) and paragraphs 3(6) and 6(2) of the Schedule to the Health and Personal Social Services (Special Agencies) (Northern Ireland) Order 1990(2) and of every other power enabling it in that behalf and in conjunction with the Department of Finance and Personnel hereby makes the following Regulations:—

Citation and commencement

1. These Regulations may be cited as the Appointment of Consultants (Special Agencies) Regulations (Northern Ireland) 1998 and shall come into operation on 1st January 1999.

Interpretation

2. In these Regulations—

“application” means an application for an appointment to which these Regulations apply;

“chief officer” means the person holding the post or performing the duties of a Chief Executive of a special agency;

“Committee” means an Advisory Appointments Committee constituted pursuant to regulation 7;

“consultant”, in relation to a relevant specialty, means—

- (a) a consultant specialising or who has recently specialised in the relevant specialty; or
- (b) where such a specialty has not yet been established, a consultant specialising or who has recently specialised in a specialty which is closely related to the relevant specialty;

“hospice” means an institution which provides hospital accommodation wholly or mainly for persons resident there who are terminally ill;

(1) S.I.1972/1265 (N.I. 14)—relevant amending instruments are S.I. 1990/247 (N.I. 3) and S.I. 1991/194 (N.I. 1)
(2) S.I. 1990/247 (N.I. 3) as amended by S.I. 1991/194 (N.I. 1)

“joint appointment posts” means full-time posts involving both teaching and hospital duties to which persons are appointed jointly by a special agency and the Queen’s University of Belfast;

“lay member” means a member who is not—

- (a) an employee of any Health and Social Services Board or any Health and Social Services Trust or special agency; or
- (b) except when he is also Chairman of the special agency, a medical or dental practitioner;

“professional member” in relation to a proposed appointment means—

- (a) in the case of an appointment to a medical specialty, a medical practitioner; or
- (b) in the case of an appointment to a dental speciality, a dental practitioner;

“relevant specialty”, in relation to a proposed appointment, means the branch of medicine or dentistry in which the appointment is to be made.

Appointments to which the Regulations apply

3.—(1) Subject to paragraph (2) these Regulations shall apply to any appointment by a special agency of any medical or dental practitioner whether whole-time or part-time to a consultant post.

(2) These Regulations do not apply to the appointment of any person in any of the classes specified in regulation 5.

Registration of applicants

4. No person may be appointed to a consultant post on the staff of a special agency unless—

- (a) he is either a registered medical practitioner or a registered dental practitioner; and
- (b) in the case of an appointment of a registered medical practitioner, his name is included in the Specialist Register kept by the General Medical Council in accordance with Article 8(1) of the European Specialist Medical Qualifications Order 1995(3).

Appointments to which the Regulations do not apply

5.—(1) The appointments referred to in regulation 3(2) to which these Regulations do not apply are those for which the person appointed is—

- (a) appointed to a joint appointment post;
- (b) to receive no remuneration from the special agency in respect of his tenure of the post and who is—
 - (i) a member of the academic staff of a university;
 - (ii) wholly or mainly engaged in research which requires his appointment to the staff of a special agency; or
 - (iii) a medical practitioner who has been appointed to a post in a hospice which is equivalent to a consultant post in the health service;
- (c) a person whose appointment in a post is to be for an initial period not exceeding six months—
 - (i) pending the appointment of a permanent postholder;
 - (ii) where the permanent holder of that post is unable to carry out his duties by reason of illness or because of other absence; or

- (iii) where a special agency considers for some other reason that such an appointment is necessary; and in each case in respect of whom any further period of employment in that post is to be for a period not exceeding six months and to be subject to prior consultation with the Specialty Adviser of the relevant Specialist Advisory Committee of the Northern Ireland Council for Postgraduate Medical and Dental Education and to the satisfactory performance of the duties of the post during the initial period;
 - (d) transferred from employment as a consultant—
 - (i) by a special agency to another consultant post with that special agency; or
 - (ii) by a Health and Social Services Trust or Health and Social Services Board to a consultant post with a special agency;where the employment of the officer would otherwise be terminated by reason of redundancy;
 - (e) a person whose employment is transferred from one special agency to another special agency without any significant alteration in the duties of the post as part of a local reorganisation of the health and personal social services.
- (2) In this regulation—
- (a) “employment” includes part-time employment, whether or not the person is also employed by another special agency, Health and Social Services Trust or Health and Social Services Board and “employed” shall be construed accordingly;
 - (b) “remuneration” does not include any distinction award or any amount paid by the employer towards the defrayment of expenses involved in the carrying out of the duties of the post required by the appointment.

Advertising of post

6.—(1) Subject to paragraphs (2) and (5), where a special agency proposes to make an appointment to which these Regulations apply, it shall arrange for an advertisement in one or more publications circulating throughout the United Kingdom which are commonly used for similar advertisements relating to the profession concerned.

(2) Where, in the opinion of the special agency, compliance with the foregoing provisions of this regulation is not reasonably practicable the special agency shall arrange for such advertisement to appear in such other publication as it deems appropriate.

(3) The advertisement shall set out the general duties of the post and the closing date for the receipt of applications.

(4) Where the advertisement is in respect of a whole-time post, the advertisement shall include a statement to the effect that applicants for appointment to a part-time post will be considered.

(5) The Department may, if it thinks fit, authorise a special agency to dispense with the requirements of paragraph (1) in relation to an appointment to any class of post.

Constitution of Advisory Appointments Committees

7. In relation to any appointment to which these Regulations apply a committee (to be called an Advisory Appointments Committee) shall be constituted by a special agency for the purpose of making any appointment to which regulation 3(1) applies, in accordance with Schedule 1 and Schedule 2 shall have effect with respect to the proceedings of that Committee.

Selection by Committee

- 8.**—(1) An appointing special agency shall—
- (a) in respect of an appointment to which regulation 6(5) applies refer to the Committee any application received by the special agency for that appointment;
 - (b) in respect of all other appointments refer to the Committee any application received by the special agency on or before the closing date specified in accordance with regulation 6(3) and any received after that date but before the Committee has met if the special agency is satisfied that there is a reasonable explanation for its late receipt.
- (2) Subject to paragraph (3), the committee may adopt any procedure which it deems to be appropriate, but shall—
- (a) consider all applications referred to it under paragraph (1);
 - (b) select from the applicants any persons whom it considers suitable for the appointment; and
 - (c) submit to the special agency the names of any persons selected together with such other comments as it considers appropriate.
- (3) The Committee shall not submit the name of any person under paragraph (2) without having interviewed him.
- (4) Where a special agency proposes to make an appointment to a whole-time post but in the opinion of the Committee one or more of the applicants would be suitable for an appointment on a part-time basis, the Committee shall submit to the special agency the names of any such applicants and may add such comments as it considers appropriate.
- (5) Where in the opinion of the Committee none of the applicants is suitable for appointment the Committee shall so inform the special agency.

Appointment by Special Agencies

- 9.**—(1) A special agency shall not make an appointment to which these Regulations apply unless the name of the person to be appointed has been submitted to it by a Committee under regulation 8.
- (2) A special agency shall not make an appointment to which these Regulations apply of any person who has canvassed, in respect of his application for an appointment, any member of the special agency or the Committee.
- (3) Where a special agency—
- (a) decides not to make an appointment from persons named by a Committee, or
 - (b) is informed pursuant to regulation 8(5) that none of the applicants is suitable,
- the Committee shall be discharged and these Regulations shall apply to any further proposal by the special agency to make an appointment to the relevant post as they applied to the original proposal.

Remuneration

- 10.** A member of the Committee appointed in accordance with paragraph 2(d) of Schedule 1 shall be a prescribed person for the purposes of Article 89(1)(b) of the principal Order.

Sealed with the Official Seal of the Department of Health and Social Services on

L.S.

4th December 1998.

John McGrath
Assistant Secretary

Sealed with the Official Seal of the Department of Finance and Personnel on

L.S.

4th December 1998.

J.G. Sullivan
Assistant Secretary

Status: This is the original version (as it was originally made). This item of legislation is currently only available in its original format.

SCHEDULE 1

Regulation 7

Constitution of an Advisory Appointments Committee

1. A special agency shall constitute a committee in accordance with the following provisions.
2. A special agency shall appoint to the Committee five persons, hereafter referred to as “core members”, of whom—
 - (a) one shall be a lay member of the special agency;
 - (b) one shall be a professional member who shall be—
 - (i) a person employed by the special agency as a consultant in the relevant speciality; or
 - (ii) where no such person is available for the purpose a person employed by the special agency as a consultant in some other speciality;
 - (c) one shall be the chief officer of the special agency;
 - (d) one shall be a consultant specialising in the branch of medicine or dentistry concerned practising outside Northern Ireland;
 - (e) one shall be nominated by the Faculty of Medicine of the Queen’s University of Belfast.
3. In addition to the core members a special agency may appoint such additional members to the Committee as it thinks fit.
4. A Committee shall have a majority of professional members and a majority of members who are persons employed by a special agency or who are members of a special agency.
5. Two or more special agencies may in the appointment of a Committee act together as if they were a single special agency.

SCHEDULE 2

Regulation 7

Proceedings of the Advisory Appointments Committee

1. The Committee shall not transact any business in the absence of any core member unless there is present a person who has been nominated by the core member to act as his deputy.
- 2.—(1) Subject to sub-paragraph (2) where an appointed member is unwilling or unable to perform his functions another person may be appointed in the same manner to be a member in his place.
 - (2) Where the person who is unwilling or unable to perform his functions is the chief officer of the special agency another officer of the special agency may be appointed to act in his place.
3. The Chairman of the Committee shall be the lay member appointed under paragraph 2(a) of Schedule 1.
4. The special agency shall appoint an officer to service the Committee and to provide such clerical or other assistance as the Committee may require.
5. In the event of an equality of votes the Chairman shall not have a second or casting vote and no applicant shall be considered suitable for employment unless a majority of the Committee consider him to be so suitable.
6. Subject to the provisions of paragraphs 1 and 2, the proceedings of the Committee shall not be invalidated by any vacancy in, or failure to appoint to, or defect in the appointment or qualification of any member of the Committee.

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EXPLANATORY NOTE

(This note is not part of the Regulations.)

These Regulations prescribe the procedures relating to the appointment of consultants to special health and social services agencies (special agencies); they also provide for the constitution and selection procedure of Advisory Appointments Committees (regulations 7 and 8); they also provide that specified appointments shall be exempted from the requirements of the Regulations (regulation 5).