

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

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SCHEDULE – Provisions as to meetings and proceedings of the Council

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(a) 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
- (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^(a).

(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^(b).

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;

^(a) S.I. 2001/253
^(b) 1997 c. 24

- (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;
 - (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^(a) (list of individuals considered unsuitable to work with children) or section 81 of the Care Standards Act 2000^(b) (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;

(a) 1999 c. 14
 (b) 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(a);
- (d) a person who is registered as a member of a profession to which the Professions Supplementary to Medicine Act 1960 extends(b);
- (e) a registered osteopath as defined by section 41 of the Osteopaths Act 1993(c);
- (f) a registered chiropractor as defined by section 43 of the Chiropractors Act 1994(d);
- (g) a person registered under Part I of the Health and Personal Social Services Act (Northern Ireland) 2001(e).

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.

(4) Where the Department is of the opinion that it is not in the interests of, or conducive to the good management, of the Council or any of its committees that the chairman or member should continue to hold office, it may forthwith terminate his appointment by giving him notice in writing to that effect.

(a) 1989 c. 44
 (b) 1960 c. 66
 (c) 1993 c. 21
 (d) 1994 c. 17
 (e) 2001 c. 3 (N.I.)

(5) Where a person has been appointed chairman or a member and it comes to the notice of the Department that at the time of the appointment he was disqualified for appointment under regulation 4, it shall forthwith declare that the person in question was not duly appointed and notify him in writing to that effect; and upon receipt of such notification, his appointment shall be terminated and he shall cease to act as such chairman or member.

(6) A person who, after his appointment as chairman or as a member is adjudged bankrupt or makes a composition or arrangement with his creditors, shall give notice in writing of the fact to the Department.

Appointment of deputy chairman

7.—(1) Subject to paragraph (2), the chairman and members of the Council may appoint one of their numbers to the deputy chairman for such period, not exceeding the remainder of his term of office as a member, as they may specify on appointing him.

(2) Any member so appointed may at any time resign from the office of deputy chairman by giving notice in writing to the chairman.

(3) Where the chairman is, for whatever reason, unable to perform his duties as chairman, the deputy chairman may perform those duties.

Committees, meetings and procedures

Appointment of committees and sub-committees

8.—(1) Subject to any directions given to it by the Department, the Council may and if so directed by the Department shall appoint committees of the Council.

(2) A committee appointed by the Council may, subject to such directions as may be given by the Department or the Council, appoint sub-committees.

(3) Committees and sub-committees appointed may consist of such persons, whether or not members of the Council, as the Council or the committee making the appointment may determine.

(4) Regulations 4 and 6 shall apply to appointments to committees and sub-committees and to the termination of those appointments as they apply to appointments to the Council and to the termination of those appointments.

Meetings and proceedings

9.—(1) The meetings and proceedings shall be conducted in accordance with the provisions set out in the Schedule and with Standing Orders made under paragraph (2).

(2) Subject to those provisions, to regulation 10 (exclusion on account of pecuniary interest) and to such directions as may be given by the Department, the Council shall make, and may vary or revoke, Standing Orders for the regulation of its proceedings and business, including provision for the suspension of the Standing Orders or any of them.

(3) The proceedings of the Council shall not be invalidated by any defect in the appointment of a member.

Disclosure of pecuniary interest and exclusion of chairman and members in proceedings on account of pecuniary interest

10.—(1) Subject to the following provisions of this regulation, if the chairman or a member of the Council has a pecuniary interest, direct or indirect, in any contract, proposed contract or other matter and is present at any meeting of the Council at which the contract, proposed contract or other matter is the subject of consideration, he shall at the meeting and as soon as practicable after its meeting, disclose his interest and shall not take part in the consideration or discussion of the contract or other matter or vote on any question with respect to it.

(2) The Council may, by Standing Orders made under regulation 9(2), provide for the exclusion of the chairman or a member of the Council from a meeting of the Council while any

contract, proposed contract or other matter in which he has a pecuniary interest, direct or indirect is under consideration.

(3) Any remuneration, compensation or allowances payable to the chairman or a member by virtue of paragraph 6 of the Schedule to the Act (remuneration and allowances) shall not be treated as a pecuniary interest for the purpose of this regulation.

(4) Subject to paragraphs (2) and (5), the chairman or a member shall be treated for the purpose of this regulation as having an indirect pecuniary interest in a contract, proposed contract or other matter if –

- (a) he, or a nominee of his, is a director of a company or other body, not being a public body, with which the contract was made or is proposed to be made or which has a direct pecuniary interest in the other matter under consideration; or
- (b) he is a partner of, or is in the employment of, a person with whom the contract was made or who has a direct pecuniary interest in the other matter under consideration;

and in the case of married persons living together the interest of one spouse shall, if known to the other, be deemed for the purpose of this regulation to be also an interest of the other.

(5) Neither the chairman nor a member shall be treated as having a pecuniary interest in any contract, proposed contract or other matter by reason only –

- (a) of his membership of a company or other body if he has no beneficial interest in any securities of that company or other body; or
- (b) of an interest in any company, body or person with which he is connected as mentioned in paragraph (4) which is so remote or insignificant that it cannot reasonably be regarded as likely to influence him in consideration or discussion of, or in voting on, any question with respect to that contract, proposed contract or other matter.

(6) Where the chairman or a member –

- (a) has an indirect pecuniary interest in a contract, proposed contract or other matter by reason only of a beneficial interest in securities of a company or other body; and
- (b) the total nominal value of those securities does not exceed £5,000 or one-hundredth of the total nominal value of the issued share capital of the company or body, whichever is the lesser; and
- (c) if the share capital is of more than one class, the total nominal value of shares of any one class in which he has a beneficial interest does not exceed one-hundredth of the total issued capital of that class,

this regulation shall not prohibit him from taking part in the consideration or discussion of the contract or other matter, or from voting on any question with respect to it, without prejudice however to his duty to disclose his interest.

(7) This regulation applies to any committee or sub-committee of the Council as it applies to the Council and applies to any member of any such committee or sub-committee (whether or not he is also a member of the Council) as it applies to a member of the Council.

(8) In this regulation –

“securities” means –

- (a) shares or debentures, whether or not constituting a charge on the assets of a company or other body, or rights or interests in any share or such debentures; or
- (b) rights (whether actual or contingent) in respect of money lent to, or deposited with, any industrial or provident society or building society;

“shares” means shares in the share capital of a company or other body or the stock of a company or other body.

Sealed with the Official Seal of the Department of Health, Social Services and Public Safety on 12th December 2002.

(L.S.)

David Bingham

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

SCHEDULE

Regulation 9(1)

PROVISIONS AS TO MEETINGS AND PROCEEDINGS OF THE COUNCIL

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

2.—(1) The chairman may call a meeting of the Council at any time.

(2) If a requisition for a meeting, signed by at least 4 other members, is presented to the chairman, and the chairman either –

- (a) refuses to call a meeting; or
- (b) without so refusing, does not within 21 days after the requisition has been presented to him call a meeting,

those members may forthwith call a meeting.

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

- (a) specifies the principal business proposed to be transacted at it; and
- (b) is signed by the chairman or by an officer of the Council authorised by the chairman to sign it on his behalf

shall be delivered to each member, or sent by post to his last known address, at least 7 clear days before the day of the meeting.

(4) The proceedings of any meeting shall not be invalidated by a failure to deliver such notice to any member.

(5) In the case of a meeting called under sub-paragraph (2) by members, those members shall sign the notice and no business other than that specified in the notice shall be transacted at the meeting.

3.—(1) At any meeting of the Council the chairman or, in his absence, the deputy chairman (if there is one and he is present) shall preside.

(2) If the chairman and deputy chairman are both absent, such other member present as the other members present shall choose for the purpose shall preside.

4.—(1) At any meeting of the Council the quorum shall be one third (rounded to a whole number, of the appointed members, including the chairman and chief executive).

(2) Where the Council is considering the appointment of a Chief Executive, the Council is not quorate unless the chairman is present.

5. Every question at a meeting shall be determined by a majority of votes of the Council membership present and competent to vote on the question and, in the case of an equality of votes, the chairman or, in his absence, the person presiding at the meeting shall have a second vote.

6.—(1) The minutes of the proceedings of a meeting shall be drawn up and shall be signed at the ensuing meeting by the person presiding at that next meeting.

(2) The names of the members present at a meeting shall be recorded in the minutes.

EXPLANATORY NOTE

(This note is not part of the Regulations.)

These Regulations make provision concerning the membership and procedure of the Northern Ireland Practice and Education Council for Nursing and Midwifery (“the Council”) established under section 2 of the Health and Personal Social Services Act (Northern Ireland) 2002. In particular they make provision for the appointment (regulation 2) and tenure of office (regulation 3) of the chairman and members of the Council; for disqualification for appointment (regulation 4); for resignations (regulation 5); for the termination of appointments by the Department (regulation 6) and for the appointment of a deputy chairman. Provision is also made for the establishment of committees and sub-committees (regulation 8), the conduct of meetings (regulation 9) and the exclusion from meetings of those with a pecuniary interest in matters under discussion (regulation 10).

These Regulations do not impose a charge on businesses.

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