

EXPLANATORY MEMORANDUM TO
HEALTH AND SOCIAL CARE
The Northern Ireland Medical and Dental Training Agency (Establishment and
Constitution) Amendment) Order (Northern Ireland) 2011

SR 2011 No. 166

1. Introduction

- 1.1. This Explanatory Memorandum has been prepared by the Department of Health, Social Services and Public Safety to accompany the Statutory Rule (details above) which is laid before the Northern Ireland Assembly.
- 1.2. The Statutory Rule is made under Articles 3(2) and 3(4) of the Health and Personal Social Services (Special Agencies) (Northern Ireland) Order 1990 (a) and is subject to the negative resolution procedure.

2. Purpose

- 2.1. The amendment will remove the current disqualification which prevents 'a person who holds paid employment or office with a trade union which represents the interests of members who are employed by a health service body or a health and social services body' from being appointed to the Northern Ireland Medical and Dental Training Agency.

3. Background

- 3.1. A recent audit of the Health and Personal Social Services (Special Agencies) (Northern Ireland) Order 1990 identified a current disqualification contained within the Regulations.
- 3.2. This disqualification prevents 'a person who holds paid employment or office with a trade union which represents the interests of members who are employed by a health service body or a health and social services body' from being appointed as a member of the Northern Ireland Medical and Dental Training Agency.
- 3.3. The Department currently has 17 HSC bodies and trade union representatives have been appointed to five HSC bodies to date. A process is underway to appoint a trade union representative member to a further four bodies as there is no current disqualification preventing the Department from doing so.

4. Consultation

- 4.1. It was not necessary to consult on the rule however, the Department has taken advice from the Attorney General who has advised that whilst there exists room for the Minister to make appointments from trade union members under the current regulations the current restrictions on the trade union status appear to penalise the trade union sector alone.
- 4.2. He further advises that the current restriction is likely to be inconsistent with Articles 10 (freedom of expression) and 11 ECHR (freedom of association) whether taken by themselves or with Article 14 ECHR (prohibition of discrimination).

4.3. The Department has also been advised by the other three jurisdictions that no similar disqualification exists within the Membership Regulations of any of their public bodies.

4.4. Nine of the eleven other NI Departments have also confirmed that no similar disqualification exists within the Membership Regulations of any of their public bodies.

5. Equality Impact

5.1. A preliminary Equality Impact Assessment has not been considered necessary.

6. Regulatory Impact

6.1. The impact of the amendment is to remove the current disqualification that currently prevents appointment as a member of the NIMDTA board, for those who hold paid employment or office with a trade union that represents the interests of members who are employed by a health service body or a health and social services body.

7. Financial Implications

7.1. None.

8. Section 24 of the Northern Ireland Act 1998

8.1. The primary legislations listed above are considered to be in compliance with section 24 of the Northern Ireland Act 1998. It follows that this Rule would similarly comply.

9. EU Implications

9.1. Not applicable.

10. Parity or Replicatory Measure

10.1. The removal of this disqualification will ensure parity with the other three jurisdictions.

11. Additional Information

11.1. Not applicable.