

SCHEDULES

SCHEDULE 1

Article 3(2)

THE NORTHERN IRELAND HEALTH AND PERSONAL SOCIAL SERVICES REGULATION AND IMPROVEMENT AUTHORITY

Status

1. The Regulation and Improvement Authority shall not be regarded as the servant or agent of the Crown or as enjoying any status, immunity or privilege of the Crown; and its property shall not be regarded as property of, or property held on behalf of, the Crown.

General powers

2.—(1) Subject to any directions given by the Department, the Regulation and Improvement Authority may do anything which appears to it to be necessary or expedient for the purpose of, or in connection with, the exercise of its functions.

(2) That includes, in particular—

- (a) co-operating with other public authorities in the United Kingdom;
- (b) acquiring and disposing of land and other property; and
- (c) entering into contracts.

General duty

3. The Regulation and Improvement Authority shall carry out its functions effectively, efficiently and economically.

Membership

4. The Regulation and Improvement Authority shall consist of a chairman and other members appointed by the Department.

Appointment, procedure etc.

5. The Department may by regulations make provision as to—

- (a) the appointment of the chairman and other members (including the number, or limits on the number, of members who may be appointed and any conditions to be fulfilled for appointment);
- (b) the tenure of office of the chairman and other members (including the circumstances in which they cease to hold office or may be removed or suspended from office);
- (c) the appointment of, constitution of and exercise of functions by committees and sub-committees (including committees and sub-committees which consist of or include persons who are not members of the Regulation and Improvement Authority); and

- (d) the procedure of the Regulation and Improvement Authority and any committees or sub-committees (including the validation of proceedings in the event of vacancies or defects in appointment).

Remuneration and allowances

6.—(1) The Regulation and Improvement Authority may pay to its chairman, to any other member of the Authority and to any member of a committee or sub-committee who is not a member of the Authority, such remuneration and allowances as the Department may determine.

(2) If the Department so determines, the Regulation and Improvement Authority shall make provision for the payment of such pension, allowance or gratuities as the Department may determine to or in respect of a person who is or has been the chairman or any other member of the Authority.

(3) If the Department determines that there are special circumstances that make it right for a person ceasing to hold office as chairman of the Regulation and Improvement Authority to receive compensation, the Authority shall pay to him such compensation as the Department may determine.

(4) Any determination of the Department under this paragraph shall be subject to the approval of the Department of Finance and Personnel.

Chief executive

7.—(1) There shall be a chief executive of the Regulation and Improvement Authority who shall be a member of its staff and shall be responsible to it for the general exercise of its functions.

(2) The first chief executive shall be appointed by the Department on such terms and conditions as the Department may determine.

(3) Subject to paragraph 8(3), any chief executive subsequent to the first shall be appointed by the Regulation and Improvement Authority on such terms and conditions as the Authority may determine.

(4) An appointment under sub-paragraph (3) requires the approval of the Department.

Staff

8.—(1) The Regulation and Improvement Authority may appoint such other staff as it considers appropriate.

(2) Subject to sub-paragraph (3), appointments under this paragraph shall be on such terms and conditions as the Regulation and Improvement Authority may determine.

(3) The Department may give directions as to—

- (a) the appointment of staff under this paragraph and paragraph 7(3) (including any conditions to be fulfilled for appointment); and
- (b) the terms and conditions of appointment of staff under the provisions mentioned in head (a).

(4) Different directions may be given under sub-paragraph (3) in relation to different categories of staff.

Delegation of functions

9. The Regulation and Improvement Authority may arrange for the discharge of any of its functions by a committee, sub-committee, member or member of staff of the Authority or any other person.

Arrangements for the use of staff

10. The Department may by regulations provide for arrangements under which—
- (a) members of staff of the Regulation and Improvement Authority are placed at the disposal of a prescribed person for the purpose of discharging, or assisting in the discharge of, prescribed functions of that person; or
 - (b) members of staff of a prescribed person are placed at the disposal of the Regulation and Improvement Authority for the purpose of discharging, or assisting in the discharge of, any functions of the Authority.

Payments to the Regulation and Improvement Authority

11. The Department may make payments to the Regulation and Improvement Authority of such amounts, at such times and on such conditions (if any) as it considers appropriate.

Accounts

- 12.—(1) The Regulation and Improvement Authority shall—
- (a) keep proper accounts and proper records in relation to the accounts; and
 - (b) prepare a statement of accounts in respect of each financial year.
- (2) The statement of accounts shall—
- (a) be in such form; and
 - (b) contain such information,
- as the Department may, with the approval of the Department of Finance and Personnel, direct.
- (3) The Regulation and Improvement Authority shall, within such period after the end of each financial year as the Department may direct, send copies of the statement of accounts relating to that year to—
- (a) the Department; and
 - (b) the Comptroller and Auditor General for Northern Ireland.
- (4) The Comptroller and Auditor General shall—
- (a) examine, certify and report on every statement of accounts sent to him by the Regulation and Improvement Authority under this paragraph; and
 - (b) send a copy of his report to the Department.
- (5) The Department shall lay a copy of the statement of accounts and of the Comptroller and Auditor General's report before the Assembly.
- (6) In this paragraph "financial year" means—
- (a) the period beginning with the date on which the Regulation and Improvement Authority is established and ending with the next 31st March following that date; and
 - (b) each successive period of twelve months ending with 31st March.

Application of seal and evidence

13. The application of the seal of the Regulation and Improvement Authority shall be authenticated by the signature—
- (a) of any member of the Regulation and Improvement Authority; or

- (b) of any other person who has been authorised by the Regulation and Improvement Authority (whether generally or specifically) for that purpose.

14. A document purporting to be duly executed under the seal of the Regulation and Improvement Authority or to be signed on its behalf shall be received in evidence and, unless the contrary is proved, taken to be so executed or signed.

Default powers of Department

15.—(1) The powers conferred by this paragraph are exercisable by the Department if it is satisfied that the Regulation and Improvement Authority—

- (a) has without reasonable excuse failed to discharge any of its functions; or
- (b) in discharging any of its functions, has without reasonable excuse failed to comply with any directions given to it under Article 6(2) in relation to those functions.

(2) The Department may—

- (a) make an order declaring the Council to be in default; and
- (b) direct the Council to discharge such of its functions, and in such manner and within such period or periods, as may be specified in the direction.

(3) If the Regulation and Improvement Authority fails to comply with the Department's direction under sub-paragraph (2), the Department may—

- (a) discharge the functions to which the direction relates itself; or
- (b) make arrangements for any other person to discharge those functions on its behalf.

Transfer of staff to the Regulation and Improvement Authority

16.—(1) The Department may by order make a scheme for the transfer to the Regulation and Improvement Authority of any eligible employee.

(2) The scheme may apply to all eligible employees or to such of them as are specified in the scheme.

(3) The Department shall not make an order under this paragraph unless such requirements as may be prescribed about consultation have been complied with in relation to each of the employees to be transferred under the scheme.

(4) The contract of employment of an employee transferred under the scheme—

- (a) is not terminated by the transfer; and
- (b) has effect from the date of transfer as if originally made between the employee and the Regulation and Improvement Authority.

(5) Where an employee is transferred under the scheme—

- (a) all the rights, powers, duties and liabilities of Boards under or in connection with the contract of employment are by virtue of this sub-paragraph transferred to the Regulation and Improvement Authority on the date of transfer; and
- (b) anything done before that date by or in relation to Boards in respect of that contract or the employee is to be treated from that date as having been done by or in relation to the Regulation and Improvement Authority.

(6) Sub-paragraph (5) does not prejudice the generality of sub-paragraph (4).

(7) This paragraph does not prejudice any right of an employee to terminate his contract of employment if a substantial change is made to his detriment in his working conditions; but no such

right arises by reason only that, by virtue of this paragraph, the identity of his employer changes unless the employee shows that, in all the circumstances, the change is a significant change and is to his detriment.

(8) In this paragraph—

“date of transfer” means the date of transfer determined under the scheme in relation to the employee;

“eligible employee” means a person who is employed under a contract of employment with a Health and Social Services Board on work which would have continued but for the provisions of this Order.

(9) An order under this paragraph shall not be a statutory rule for the purposes of the [Statutory Rules \(Northern Ireland\) Order 1979 \(NI 12\)](#).

Transfer of assets and liabilities to the Regulation and Improvement Authority

17.—(1) The Department may by order transfer or provide for the transfer to the Regulation and Improvement Authority, with effect from such date as may be specified in the order, of such of the assets and liabilities of the Department or of a Health and Social Services Board as, in the Department’s opinion, need to be transferred to the Regulation and Improvement Authority for the purpose of enabling it to carry out its functions.

(2) An order under this paragraph may create or impose such new rights or liabilities in respect of what is transferred or what is retained by the Department or a Health and Social Services Board as appear to the Department to be necessary or expedient.

(3) Nothing in this paragraph affects the power of the Department or any power of a Health and Social Services Board to transfer assets or liabilities to the Regulation and Improvement Authority otherwise than under sub-paragraph (1).

(4) Stamp duty shall not be chargeable in respect of any transfer to the Regulation and Improvement Authority effected by or by virtue of an order under this paragraph.

(5) Where an order under this paragraph provides for the transfer—

(a) of land held on lease from a third party, or

(b) of any other asset leased or hired from a third party or in which a third party has an interest, the transfer shall be binding on the third party notwithstanding that, apart from this sub-paragraph, it would have required his consent or concurrence.

(6) Any assets and liabilities which are to be transferred to the Regulation and Improvement Authority shall be identified by agreement between the Authority and the Department or, in default of agreement, by direction of the Department.

(7) Where, for the purpose of a transfer pursuant to an order under this paragraph, it becomes necessary to apportion any assets or liabilities, the order may contain such provisions as appear to the Department to be appropriate for the purpose; and where any such assets fall within sub-paragraph (5), the order shall contain such provisions as appear to the Department to be appropriate to safeguard the interests of third parties, including, where appropriate, provision for the payment of compensation of an amount to be determined in accordance with the order.

(8) In the case of any transfer made by or pursuant to an order under this paragraph, a certificate issued by the Department that any asset or liability specified in the certificate is vested in the Regulation and Improvement Authority shall be conclusive evidence of that fact for all purposes.

(9) An order under this paragraph may include provision for matters to be settled by arbitration by a person determined in accordance with the order.

Draft Legislation: This is a draft item of legislation. This draft has since been made as a UK Statutory Instrument: *The Health and Personal Social Services (Quality, Improvement and Regulation) (Northern Ireland) Order 2003 No. 431*

(10) In this paragraph “third party” means a person other than the Department or a Health and Social Services Board.

(11) An order under this paragraph shall not be a statutory rule for the purposes of the [Statutory Rules \(Northern Ireland\) Order 1979 \(NI 12\)](#).