Status: *Point in time view as at 11/04/2014.*
Changes to legislation: *Health and Social Care (Reform) Act (Northern Ireland) 2009 is up to date with all changes known to be in force on or before 16 May 2024. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details)*

Health and Social Care (Reform) Act (Northern Ireland) 2009

2009 CHAPTER 1

An Act to make changes to the administrative structures for health and social care; and for connected purposes. [21st January 2009]

BE IT ENACTED by being passed by the Northern Ireland Assembly and assented to by Her Majesty as follows:

Restructuring of administration of health and social care

Restructuring of administration of health and social care

1.—(1) The following bodies are dissolved—

(a) Health and Social Services Boards;

(b) the Mental Health Commission;

(c) the Central Services Agency; and

(d) Health and Social Services Councils.

(2) The Northern Ireland Health and Personal Social Services Regulation and Improvement Authority established under Article 3 of the Health and Personal Social Services (Quality, Improvement and Regulation) (Northern Ireland) Order 2003 (NI 9)—

(a) is renamed the Health and Social Care Regulation and Quality Improvement Authority; and

(b) is referred to in this Act as “RQIA”.

(3) Health and Social Services trusts established under Article 10 of the Health and Personal Social Services (Northern Ireland) Order 1991 (NI 1)—

(a) are renamed Health and Social Care trusts; and

(b) are referred to in this Act as "HSC trusts".

(4) Special health and social services agencies established under Article 3 of the Health and Personal Social Services (Special Agencies) (Northern Ireland) Order 1990 (NI 3)—

(a) are renamed special health and social care agencies; and

(b) are referred to in this Act as "special agencies".

(5) In this Act "the health and social care bodies" means—

(a) the Regional Health and Social Care Board, established under section 7 and referred to in this Act as "the Regional Board";

(b) the Regional Agency for Public Health and Social Well-being, established under section 12 and referred to in this Act as "the Regional Agency";

(c) the Regional Business Services Organisation, established under section 14 and referred to in this Act as "RBSO";

(d) HSC trusts;

(e) special agencies;

(f) the Patient and Client Council, established under section 16;

(g) RQIA.

Department's role in promoting and providing health and social care

Department's general duty

2.—(1) The Department shall promote in Northern Ireland an integrated system of—

(a) health care designed to secure improvement—

(i) in the physical and mental health of people in Northern Ireland, and

(ii) in the prevention, diagnosis and treatment of illness; and

(b) social care designed to secure improvement in the social well-being of people in Northern Ireland.

(2) For the purposes of subsection (1) the Department shall provide, or secure the provision of, health and social care in accordance with this Act and any other statutory provision, whenever passed or made, which relates to health and social care.

(3) In particular, the Department must—

(a) develop policies to secure the improvement of the health and social well-being of, and to reduce health inequalities between, people in Northern Ireland;

(b) determine priorities and objectives in accordance with section 4;

(c) allocate financial resources available for health and social care, having regard to the need to use such resources in the most economic, efficient and effective way;

(d) set standards for the provision of health and social care;

(e) prepare a framework document in accordance with section 5;

(f) formulate the general policy and principles by reference to which particular functions are to be exercised;

(g) secure the commissioning and development of programmes and initiatives conducive to the improvement of the health and social well-being of, and the reduction of health inequalities between, people in Northern Ireland;

(h) monitor and hold to account the Regional Board, the Regional Agency, RBSO and HSC trusts in the discharge of their functions;

(i) make and maintain effective arrangements to secure the monitoring and holding to account of the other health and social care bodies in the discharge of their functions;

(j) facilitate the discharge by bodies to which Article 67 of the Order of 1972 applies of the duty to co-operate with one another for the purposes mentioned in that Article.

(4) The Department shall discharge its duty under this section so as to secure the effective co-ordination of health and social care.

(5) In this Act—

"health care" means any services designed to secure any of the objects of subsection (1)(a);

"health inequalities" means inequalities in respect of life expectancy or any other matter that is consequent on the state of a person's health;

"social care" means any services designed to secure any of the objects of subsection (1)(b).

Department's general power

3.—(1) The Department may—

(a) provide, or secure the provision of, such health and social care as it considers appropriate for the purpose of discharging its duty under section 2; and

(b) do anything else which is calculated to facilitate, or is conducive or incidental to, the discharge of that duty.

(2) Subsection (1) does not affect the Department's powers apart from this section.

[[F1]Provision of health care outside Northern Ireland

3A. The Department may provide or secure the provision of health care mentioned in Article 5(1), 6(1), 7(1), 8(1) or 10(1) of the Order of 1972 (hospital etc. accommodation and health care services, including diagnostic services, after-care and ancillary services) outside Northern Ireland.**]**

Textual Amendments

F1 S. 3A inserted (10.5.2012) by The Health Care (Reimbursement of the Cost of EEA Services etc.) Regulations (Northern Ireland) 2012 (S.R. 2012/167), regs. 1, **3(1)**

Department's priorities and objectives

4.—(1) The Department shall determine, and may from time to time revise, its priorities and objectives for the provision of health and social care in Northern Ireland.

(2) Before determining or revising any priorities or objectives under this section, the Department must consult such bodies or persons as it thinks appropriate.

(3) Where the Department is of the opinion that because of the urgency of the matter it is necessary to act under subsection (1) without consultation—

(a) subsection (2) does not apply; but

(b) the Department must as soon as reasonably practicable give notice to such bodies as it thinks appropriate of the grounds on which the Department formed that opinion.

The framework document

5.—(1) The Department shall prepare a document (in this Act referred to as "the framework document") setting out in relation to each health and social care body—

(a) the main priorities and objectives of the body in carrying out its functions and the process by which it is to determine further priorities and objectives;

(b) the matters for which the body is responsible;

(c) the manner in which the body is to discharge its functions and conduct its working relationship with—

(i) the Department, and

(ii) any other body specified in the document; and

(d) the arrangements for providing the Department with information to enable it to carry out its functions in relation to the body under section 2(3)(h) or (i).

(2) The framework document may contain—

(a) such guidance relating to the carrying out by each health and social care body of its functions, and

(b) such other material pertaining to the body or its functions,

as the Department considers appropriate.

(3) The Department—

(a) shall keep the framework document under review; and

(b) may from time to time revise it.

(4) The Department must carry out its duties under subsections (1) to (3) in the manner and to the extent that appear to it to be best calculated to promote—

(a) health and social care;

(b) the economy, efficiency and effectiveness of health and social care bodies; and

(c) economy, efficiency and effectiveness in connection with the matters in relation to which those bodies have functions.

(5) In preparing the framework document, or any revision of it which appears to the Department to be significant, the Department must consult—

(a) each health and social care body as respects its functions (or persons considered by the Department to represent that body); and

(b) any other bodies or persons the Department considers appropriate.

(6) Each health and social care body shall have regard to the framework document in carrying out its functions.

Power of Department to give directions to certain bodies

6.—(1) The Department may give directions of a general or specific nature to—

(a) the Regional Board,

(b) the Regional Agency, and

(c) RBSO,

as to the carrying out by that body of any of its functions.

(2) Before giving any directions to a body under subsection (1) the Department must consult that body.

(3) Where the Department is of the opinion that because of the urgency of the matter it is necessary to give directions under subsection (1) without consulting the body concerned—

(a) subsection (2) does not apply; but

(b) the Department must as soon as reasonably practicable give notice to that body of the grounds on which the Department formed that opinion.

(4) Where the Department is of the opinion that (for any reason other than the urgency of the matter) it is not reasonably practicable to comply with subsection (2)—

(a) that subsection does not apply; but

(b) the Department must as soon as reasonably practicable give notice to the body concerned of the grounds on which the Department formed that opinion.

(5) It is the duty of a body to comply with any directions given to it under subsection (1).

(6) Subsection (1) does not affect the Department's powers to give directions apart from this section.

The Regional Board

The Regional Health and Social Care Board

7.—(1) There shall be a body corporate to be known as the Regional Health and Social Care Board.

(2) Schedule 1 applies in relation to the Regional Board.

Commencement Information

I1 S. 7 wholly in operation at 1.4.2009; s. 7(2) in operation for certain purposes at Royal Assent see s. 34(2)(a); s. 7 in operation at 1.4.2009 insofar as not already in operation by S.R. 2009/114, **art. 2**

Functions of the Regional Board

8.—(1) The Regional Board shall exercise on behalf of the Department—

(a) such functions as are transferred to it by section 24; and

(b) such other functions of the Department (including functions imposed under an order of any court) with respect to the administration of health and social care as the Department may direct.

(2) The Regional Board must exercise its functions with the aim of—

(a) improving the performance of HSC trusts, by reference to such indicators of performance as the Department may direct; and

(b) establishing and maintaining effective systems—

(i) for managing the performance of HSC trusts;

(ii) for commissioning health and social care;

(iii) for ensuring that resources are used in the most economic, efficient and effective way in commissioning such care.

(3) The Regional Board must in respect of each financial year prepare and publish a document ("the commissioning plan") setting out such details as the Department may direct concerning—

(a) the health and social care which the Board is to commission in that year; and

(b) the costs to be incurred in that regard.

(4) The Regional Board—

(a) must, in drawing up the commissioning plan, consult the Regional Agency and have due regard to any advice or information provided by it; and

(b) must not publish a commissioning plan unless it has been approved by the Regional Agency.

(5) The functions mentioned in subsection (1)(a) and any function conferred on the Regional Board by any other statutory provision (whenever passed or made) are deemed to be functions which the Department has directed the Regional Board to exercise under subsection (1)(b).

(6) For the purposes of carrying out its functions the Regional Board may, on behalf of the Department, exercise the Department's general power under section 3**[**[F2]or its power under section 3A**]**.

(7) It is the duty of the Regional Board to carry out its functions in the manner which it considers is best calculated to discharge the Department's general duty under section 2(1).

(8) Subsections (6) and (7) apply subject to any directions given to the Regional Board by the Department under section 6.

Textual Amendments

F2 Words in s. 8(6) inserted (10.5.2012) by The Health Care (Reimbursement of the Cost of EEA Services etc.) Regulations (Northern Ireland) 2012 (S.R. 2012/167), regs. 1, **3(2)**

Local Commissioning Groups

9.—(1) The Regional Board shall in accordance with paragraph 7 of Schedule 1 appoint a prescribed number of committees to be called "Local Commissioning Groups".

(2) Each Local Commissioning Group shall exercise its functions as regards such area of Northern Ireland as may be prescribed.

(3) Each Local Commissioning Group shall exercise—

(a) such functions with respect to the commissioning of health and social care as may be prescribed; and

(b) such other functions as the Regional Board may, with the agreement of the Department, determine.

(4) Each Local Commissioning Group must—

(a) exercise its functions in accordance with any scheme for the time being having effect under Article 18 of the Order of 1972; and

(b) in connection with the exercise of its functions—

(i) work in collaboration with the Regional Agency and have due regard to any advice or information provided by it; and

(ii) undertake such consultation as the Department may direct.

(5) Each Local Commissioning Group must exercise its functions with the aim of—

(a) improving the health and social well-being of people in the area as regards which the Local Commissioning Group exercises its functions;

(b) planning and commissioning health and social care to meet the needs of people in that area;

(c) securing the delivery to people in that area of health and social care that is efficient, co-ordinated and cost-effective;

(d) improving the availability and quality of health and social care in that area.

(6) Regulations may—

(a) make provision for the membership of Local Commissioning Groups;

(b) modify the application of paragraphs 7 to 11 of Schedule 1 in relation to those Groups;

(c) make such further provision in relation to those Groups as the Department considers appropriate.

(7) Before making regulations under subsection (6), the Department must consult the Regional Board.

Commencement Information

I2 S. 9 wholly in operation at 1.4.2009; s. 9 in operation for certain purposes at Royal Assent see s. 34(2)(b); s. 9 in operation at 1.4.2009 insofar as not already in operation by S.R. 2009/114, **art. 2**

Power of Regional Board to give directions and guidance to HSC trusts

10.—(1) The Regional Board may give directions of a general or specific nature to an HSC trust as to the carrying out by that trust of any of its functions.

(2) The Regional Board may give guidance to an HSC trust as to the carrying out by that trust of any of its functions.

(3) The Regional Board must—

(a) consult the HSC trust concerned, and

(b) obtain the approval of the Department,

before giving any directions under subsection (1).

(4) Where the Regional Board is of the opinion that because of the urgency of the matter it is necessary to give directions under subsection (1) without consulting the HSC trust concerned—

(a) subsection (3)(a) does not apply; but

(b) the Regional Board must as soon as reasonably practicable give notice to the HSC trust concerned of the grounds on which the Regional Board formed that opinion.

(5) The Regional Board must not give any direction under subsection (1) or any guidance under subsection (2) that would be inconsistent with—

(a) the framework document; or

(b) any direction given to the HSC trust by the Department under paragraph 6 of Schedule 3 to the Health and Personal Social Services (Northern Ireland) Order 1991 (NI 1).

(6) It is the duty of an HSC trust—

(a) to comply with any directions given to it under subsection (1);

(b) to have regard to any guidance given to it under subsection (2).

(7) The Department may by regulations provide that this section is to apply, subject to such modifications as may be prescribed, in relation to any prescribed body exercising on behalf of the Regional Board such functions as may be prescribed.

Provision of information, etc. to Regional Board by HSC trusts

11.—(1) Part 2 of Schedule 3 to the Health and Personal Social Services (Northern Ireland) Order 1991 (NI 1) (duties, powers and status of HSC trusts) is amended as follows.

(2) After paragraph 6 insert—

"**6A.**—(1) An HSC trust shall record such information with respect to the exercise of its functions as the Regional Board may direct.

(2) Information shall be recorded in such form, and retained for such period, as the Regional Board may direct.

(3) An HSC trust shall furnish to the Regional Board such reports, returns and other information as the Regional Board may require.

(4) In sub-paragraph (3) the reference to reports, returns and other information includes any report, return or other information that an HSC trust is required to provide to the Department under paragraph 7 or 8.".

The Regional Agency

The Regional Agency for Public Health and Social Well-being

12.—(1) There shall be a body corporate to be known as the Regional Agency for Public Health and Social Well-being.

(2) Schedule 2 applies in relation to the Regional Agency.

Commencement Information

I3 S. 12 wholly in operation at 1.4.2009; s. 12(2) in operation for certain purposes at Royal Assent see s. 34(2)(c); s. 12 in operation at 1.4.2009 insofar as not already in operation by S.R. 2009/114, **art. 2**

Functions of the Regional Agency

13.—(1) The Regional Agency shall exercise on behalf of the Department—

(a) the health improvement functions mentioned in subsection (2); and

(b) the health protection functions mentioned in subsection (3).

(2) The health improvement functions are—

(a) developing and providing, or securing the provision of, programmes and initiatives designed to secure the improvement of the health and social well-being of, and reduce health inequalities between, people in Northern Ireland; and

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(b) health promotion, including in particular enabling people in Northern Ireland to increase control over and improve their health and social well-being.

(3) The health protection functions are the protection of the community (or any part of the community) against—

(a) communicable disease, in particular by the prevention or control of such disease;

(b) other dangers to health and social well-being, including dangers arising on environmental or public health grounds or arising out of emergencies.

(4) For the purpose of the exercise of the health improvement or health protection functions the Regional Agency may—

(a) engage in or commission research;

(b) obtain and analyse data and other information;

(c) provide laboratory and other technical and clinical services;

(d) provide training in relation to matters in respect of which the Regional Agency has functions;

(e) make available to any other body such persons, materials and facilities as it thinks appropriate;

(f) provide information, advice and assistance.

(5) The Department may by order amend subsections (1) to (4) for the purposes of altering the functions of the Regional Agency.

(6) In the exercise of its functions the Regional Agency must—

(a) co-operate with other bodies which exercise functions relating to health improvement or health protection; and

(b) in particular, provide the Department, the Regional Board and Local Commissioning Groups with such information, advice and assistance as they may reasonably require in connection with the exercise of their functions.

(7) A body mentioned in subsection (6)(a) must co-operate with the Regional Agency in the exercise by that body of any such functions as are mentioned there.

(8) The disclosure of information to or by the Regional Agency in pursuance of a duty of co-operation under subsection (6) or (7) does not breach any restriction on the disclosure of information (however imposed); but this subsection does not authorise a disclosure of information which contravenes the Data Protection Act 1998 (c. 29).

RBSO

The Regional Business Services Organisation

14.—(1) There shall be a body corporate to be known as the Regional Business Services Organisation.

(2) Schedule 3 applies in relation to RBSO.

Commencement Information

I4 S. 14 wholly in operation at 1.4.2009; s. 14(2) in operation for certain purposes at Royal Assent see s. 34(2)(d); s. 14 in operation at 1.4.2009 insofar as not already in operation by S.R. 2009/114, **art. 2**

[F3 Functions of RBSO: support services]

15.—(1) RBSO shall on behalf of the Department provide, or secure the provision of, support services to **[F4** relevant bodies**]** in accordance with directions under subsection (4).

[F5(1A) Each of the following is a relevant body for the purposes of this section—

(a) any health and social care body (other than RBSO);

(b) the Northern Ireland Social Care Council;

(c) the Northern Ireland Practice and Education Council for Nursing and Midwifery;

(d) the Northern Ireland Fire and Rescue Service Board.

(1B) RBSO shall provide to the Department, or on behalf of the Department secure the provision to the Department of, such support services as the Department may after consultation with RBSO direct.**]**

(2) Support services are services which are required to be carried out by, or on behalf of, **[F6**any relevant body or the Department,**]** and include—

(a) administrative support, advice and assistance;

(b) financial services;

(c) human resource, personnel and corporate services;

(d) training;

(e) the management and maintenance of buildings, equipment and land;

(f) information technology and information management;

(g) the procurement of goods and services;

(h) legal, medical, scientific or other professional services;

(i) contractual compliance, internal audit **[**[F7] , and counter-fraud and probity services**]**.

(3) It is the duty of RBSO to put in place arrangements for providing, or securing the provision, of support services under this section which—

(a) secure that those services are provided in the most economic, efficient and effective way; and

(b) are approved by the Department.

(4) After consultation with **[**[F8] RBSO and such relevant bodies as the Department thinks appropriate **]**, the Department may direct that such support services as the Department may direct shall be provided by RBSO to **[**[F9] such relevant bodies **]** as the Department may direct.

(5) RBSO may charge for support services provided by it.

(6) The Department may by order amend subsection (2).

Textual Amendments

F3 S. 15 heading substituted (11.4.2014) by Health and Social Care (Amendment) Act (Northern Ireland) 2014 (c. 5), **s. 1(2)**

F4 Words in s. 15(1) substituted (11.4.2014) by Health and Social Care (Amendment) Act (Northern Ireland) 2014 (c. 5), **s. 1(3)**

F5 S. 15(1A)-(1B) inserted (11.4.2014) by Health and Social Care (Amendment) Act (Northern Ireland) 2014 (c. 5), **s. 1(4)**

F6 Words in s. 15(2) substituted (11.4.2014) by Health and Social Care (Amendment) Act (Northern Ireland) 2014 (c. 5), **s. 1(5)(a)**

F7 Words in s. 15(2)(i) substituted (11.4.2014) by Health and Social Care (Amendment) Act (Northern Ireland) 2014 (c. 5), **s. 1(5)(b)**

F8 Words in s. 15(4) substituted (11.4.2014) by Health and Social Care (Amendment) Act (Northern Ireland) 2014 (c. 5), **s. 1(6)(a)**

F9 Words in s. 15(4) substituted (11.4.2014) by Health and Social Care (Amendment) Act (Northern Ireland) 2014 (c. 5), **s. 1(6)(b)**

[[F10]**Other functions of RBSO**

15A.—(1) RBSO shall exercise on behalf of the Department such functions of the Department with respect to the administration of health and social care as the Department may direct.

(2) Where RBSO is directed under this section to exercise any function, it is the duty of RBSO to put in place arrangements for exercising the function which—

(a) secure that the function is exercised in the most economic, efficient and effective way; and

(b) are approved by the Department.**]**

Textual Amendments

F10 S. 15A inserted (11.4.2014) by Health and Social Care (Amendment) Act (Northern Ireland) 2014 (c. 5), **s. 2**

Patient representation and public involvement

The Patient and Client Council

16.—(1) There shall be a body corporate to be known as the Patient and Client Council.

(2) Schedule 4 applies in relation to the Patient and Client Council.

Commencement Information

I5 S. 16 wholly in operation at 1.4.2009; s. 16(2) in operation for certain purposes at Royal Assent see s. 34(2)(e); s. 16 in operation at 1.4.2009 insofar as not already in operation by S.R. 2009/114, **art. 2**

Functions of the Patient and Client Council

17.—(1) The Patient and Client Council has the following functions as respects the provision of health and social care in Northern Ireland—

(a) representing the interests of the public;

(b) promoting involvement of the public;

(c) providing assistance (by way of representation or otherwise) to individuals making or intending to make a complaint relating to health and social care for which a body to which this section applies is responsible;

(d) promoting the provision by bodies to which this section applies of advice and information to the public about the design, commissioning and delivery of health and social care;

(e) such other functions as may be prescribed.

(2) In exercising its functions under subsection (1)(a), the Patient and Client Council must—

(a) consult the public about matters relating to health and social care; and

(b) report the views of those consulted to the Department (where it appears to the Council appropriate to do so) and to any other body to which this section applies appearing to have an interest in the subject matter of the consultation.

(3) In exercising its functions under subsection (1)(b), the Patient and Client Council shall promote the involvement of the public in consultations or processes leading (or potentially leading) to decisions by a body to which this section applies which would or might affect (whether directly or not) the health and social well-being of the public.

(4) In exercising its functions under subsection (1)(c), the Patient and Client Council shall arrange, to such extent as it considers necessary to meet all reasonable requirements, for the provision (by way of representation or otherwise) of assistance to individuals making or intending to make a complaint of a prescribed description.

(5) The Patient and Client Council shall—

(a) undertake research and conduct investigations into the best methods and practices for consulting the public about, and involving them in, matters relating to health and social care; and

(b) provide advice regarding those methods and practices to bodies to which this section applies.

(6) The Patient and Client Council must publish any report under subsection (2)(b) in such manner as the Department may direct.

(7) In this section "the public" includes individuals, a group or community of people and a section of the public, however selected.

(8) This section and sections 18 and 19 apply to—

(a) the Department;

(b) the Regional Board;

(c) the Regional Agency;

(d) HSC trusts; and

(e) special agencies.

(9) For the purposes of this section and sections 18 to 20 a body is responsible for health and social care—

(a) if the body provides or will provide that care to individuals; or

(b) if another person provides, or will provide, that care to individuals—

(i) at that body's direction;

(ii) on its behalf; or

(iii) in accordance with an agreement or arrangements made by that body with that other person;

and references to the provision of care include references to the provision of care jointly with another person.

Commencement Information

I6 S. 17 wholly in operation at 1.4.2009; s. 17 in operation for certain purposes at Royal Assent see s. 34(2)(f); s. 17 in operation at 1.4.2009 insofar as not already in operation by S.R. 2009/114, **art. 2**

Duty to co-operate with the Patient and Client Council

18.—(1) A body to which this section applies must co-operate with the Patient and Client Council in the exercise by the Council of its functions.

(2) In particular, such a body must—

(a) consult the Patient and Client Council with respect to such matters, and on such occasions, as the body considers appropriate, having regard to the functions of the Council;

(b) furnish to the Council, subject to such conditions as the body may specify, such information as the Council considers necessary to enable it properly to exercise its functions; and

(c) have regard to advice provided by the Council under section 17(5)(b).

(3) Regulations may make provision authorising members of the Patient and Client Council to enter, for the purposes of any of the Council's functions, premises of a kind described in subsection (4).

(4) Those premises are—

(a) any premises controlled by a body to which this section applies or by a person providing primary medical services or general dental, pharmaceutical or ophthalmic services under Part 2 or 6 of the Order of 1972; and

(b) premises of such other description as may be prescribed.

(5) Any power of entry conferred by regulations under subsection (3) is exercisable only so far as is necessary for the purpose of enabling the Patient and Client Council to exercise its functions, and is subject to such conditions as may be prescribed.

(6) A body to which this section applies shall have due regard to any views expressed by the Patient and Client Council regarding health and social care for which that body is responsible.

Commencement Information

I7 S. 18 wholly in operation at 1.4.2009; s. 18 in operation for certain purposes at Royal Assent see s. 34(2)(g); s. 18 in operation at 1.4.2009 insofar as not already in operation by S.R. 2009/114, **art. 2**

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Public involvement and consultation

19.—(1) Each body to which this section applies must take such steps as it considers appropriate—

(a) to promulgate information about the health and social care for which it is responsible;

(b) to obtain information about—

(i) the needs of persons to whom that care is being or may be provided; and

(ii) the efficacy of that care;

(c) to encourage and assist persons to whom that care is being or may be provided—

(i) to avail of that care in an appropriate manner, having regard to the need to use resources in the most economic, efficient and effective way; and

(ii) to maintain and improve their own health and social well-being.

(2) In particular, each body to which this section applies must, before the end of the period of 9 months beginning with the day appointed for the coming into operation of this section, or, if later, the establishment of the body concerned—

(a) prepare a consultation scheme in accordance with section 20; and

(b) in the case of a health and social care body, submit the scheme to the Department.

(3) The Department may direct any health and social care body to which this section applies to submit a revised scheme to it.

(4) The Department may, after consulting the Patient and Client Council, approve a consultation scheme submitted to it under this section with or without amendments.

Public involvement: consultation schemes

20.—(1) A consultation scheme must make it clear how the body to which the scheme is to apply will make arrangements with a view to securing, as respects health and social care for which it is responsible, that the following are (directly or through representatives) involved in and consulted on the matters mentioned in subsection (2), namely—

(a) the Patient and Client Council;

(b) persons to whom that care is being or may be provided; and

(c) the carers of such persons (that is to say the individuals who provide a substantial amount of care on a regular basis for such persons but who are not employed to do so by a health and social care body).

(2) Those matters are—

(a) the planning of the provision of that care;

(b) the development and consideration of proposals for changes in the way that care is provided; and

(c) decisions to be made by that body affecting the provision of that care.

(3) The consultation scheme must provide for the body to which it is to apply—

(a) to have due regard to any comments submitted to it in response to the consultation; and

(b) to prepare a written statement which—

(i) summarises the comments received; and

(ii) sets out the body's response to those comments.

(4) The consultation scheme must provide that the body to which it is to apply shall take such steps as in its opinion will give adequate publicity to the statement.

HSC trusts

Duty on HSC trusts in relation to improvement of health and social well-being

21 It is the duty of an HSC trust to exercise its functions with the aim of improving the health and social well-being of, and reducing health inequalities between, those for whom it provides, or may provide, health and social care.

Public-private partnerships

Public-private partnerships

22.—(1) A body to which this section applies may form, or participate in forming, companies to provide facilities or services for—

(a) HSC trusts; or

(b) any other persons or bodies exercising functions, or otherwise providing services, under any statutory provision relating to the promotion or provision of health and social care.

(2) A body to which this section applies may, with a view to securing or facilitating the provision by companies of facilities or services for persons or bodies falling within subsection (1)(a) or (b)—

(a) invest in the companies (whether by acquiring assets, securities or rights or otherwise), or

(b) provide loans and guarantees and make other kinds of financial provision to or in respect of them,

or both.

(3) For the purposes of subsections (1) and (2) it is immaterial that the facilities or services provided or to be provided by the companies in question are not provided or to be provided—

(a) only to persons or bodies falling within subsection (1)(a) or (b); or

(b) to persons or bodies falling within subsection (1)(b) only in their capacities as persons or bodies such as are mentioned in that provision.

(4) This section applies to—

(a) the Department; and

(b) a health and social care body, other than RQIA or the Patient and Client Council.

(5) In this section—

"companies" means companies within the meaning of the Companies Act 2006 (c. 46);

"facilities" includes the provision of (or of the use of) premises, goods, materials, vehicles, plant or apparatus.

(6) This section does not affect any powers of any body to which this section applies that are exercisable apart from this section.

Transfer of assets, liabilities and functions

Schemes for transfer of assets and liabilities

23.—(1) The power conferred by subsection (2) is exercisable in connection with the dissolution of the bodies mentioned in section 1(1).

(2) The Department shall make one or more schemes for the transfer of designated assets and liabilities of a dissolved body to—

(a) a health and social care body; or

(b) the Department.

(3) The power conferred by subsection (4) is exercisable in connection with—

(a) any change in the administrative structures for health and social care effected by or under this Act; or

(b) the efficient management of any assets or liabilities used for the purposes of health and social care.

(4) The Department may at any time make one or more schemes for the transfer—

(a) of designated assets or liabilities of the Department to a health and social care body;

(b) of designated assets or liabilities of a health and social care body to—

(i) the Department; or

(ii) any other health and social care body.

(5) On the transfer date the designated assets or liabilities are transferred and vest in accordance with the scheme.

(6) Schedule 5 has effect and in that Schedule—

(a) Part 1 contains provisions about schemes; and

(b) Part 2 contains provisions about the final accounts and reports of certain dissolved bodies.

(7) In this section and Schedule 5—

"designated", in relation to a scheme, means specified in or determined in accordance with the scheme;

"dissolved body" means a body dissolved by section 1(1);

"scheme" means a scheme under this section;

"the transfer date", in relation to a scheme, means the date specified by the scheme as the date on which it is to have effect.

Transfer of functions of Health and Social Services Boards

24.—(1) The functions exercisable immediately before the date on which section 1(1)(a) comes into operation by Health and Social Services Boards under any statutory provision or by virtue of a direction of the Department shall insofar as they consist of, or relate to—

(a) health improvement functions (within the meaning of section 13), or

(b) health protection functions (within the meaning of that section),

be exercisable as from that date by the Regional Agency.

(2) The other functions exercisable immediately before that date by Health and Social Services Boards under any statutory provision or by virtue of a direction of the Department shall as from that date be exercisable by the Regional Board in accordance with section 8.

(3) Subsections (1) and (2)—

(a) apply only to provisions or directions which have continuing effect; and

(b) are subject to any order under subsection (4).

(4) The Department may by order provide that subsections (1) and (2) are not to apply to any specified function.

(5) An order under subsection (4) may—

(a) provide for a specified function to be exercised by the Department or by a health and social care body; or

(b) provide that a specified function is to cease to be exercised.

(6) Where an order under subsection (4) provides for a specified function to be exercised by a health and social care body, the order may provide for that body to exercise that function on the Department's behalf.

(7) In this section "specified function" means any function of a Health and Social Services Board specified in an order made under subsection (4).

Commencement Information

I8 S. 24 wholly in operation at 1.4.2009; s. 24(4) - (7) in operation at Royal Assent see s. 34(1)(b); s. 24 in operation at 1.4.2009 insofar as not already in operation by S.R. 2009/114, **art. 2**

Transfer of functions of the Mental Health Commission

25.—(1) The functions exercisable immediately before the date on which section 1(1)(b) comes into operation by the Mental Health Commission under any statutory provision shall be exercisable as from that date by RQIA.

(2) Subsection (1) only applies to provisions which have continuing effect.

Transfer of functions of Central Services Agency

26.—(1) The functions exercisable immediately before the date on which section 1(1)(c) comes into operation by the Central Services Agency under any statutory provision or by virtue of any direction of the Department shall be exercisable as from that date by RBSO.

(2) Subsection (1)—

(a) applies only to provisions or directions which have continuing effect; and

(b) is subject to any order under subsection (3).

(3) The Department may by order provide that subsection (1) is not to apply to any specified function.

(4) An order under subsection (3) may—

(a) provide for a specified function to be exercised by the Department or by a health and social care body; or

(b) provide that a specified function is to cease to be exercised.

(5) Where an order under subsection (3) provides for a specified function to be exercised by a health and social care body, the order may provide for that body to exercise that function on the Department's behalf.

(6) In this section "specified function" means any function of the Central Services Agency specified in an order made under subsection (3).

Commencement Information

I9 S. 26 wholly in operation at 1.4.2009; s. 26(3) - (6) in operation at Royal Assent see s. 34(1)(c); s. 26 in operation at 1.4.2009 insofar as not already in operation by S.R. 2009/114, **art. 2**

Amendment of statutory and other references to dissolved bodies, etc.

27.—(1) This section applies for the purposes of a transfer of functions effected by section 24, 25 or 26; and in this section, in its application for the purposes of such a transfer—

"the transferor" means the body from which functions are transferred;

"the transferee" means the body to which functions are transferred;

"the transfer date" means the date on which functions are transferred.

(2) In relation to any time after the transfer date, any reference in any statutory provision or document to a Health and Social Services Board (whether general or particular) shall—

(a) in relation to any function transferred by section 24(1), be construed as a reference to the Regional Agency;

(b) in relation to any function transferred by section 24(2), be construed as a reference to the Regional Board;

and any reference which delimits functions of a Board by reference to its area shall, in relation to that time, be disregarded.

(3) In relation to any time after the transfer date, any reference in any statutory provision or document to the Mental Health Commission shall, in relation to any function transferred by section 25(1), be construed as a reference to RQIA.

(4) In relation to any time after the transfer date, any reference in any statutory provision or document to the Central Services Agency shall, in relation to any function transferred by section 26(1), be construed as a reference to RBSO.

(5) Subsections (2) to (4) apply unless contrary provision is made by or under this Act or the context otherwise requires.

(6) A transfer of functions to which this section applies does not affect the validity of anything done by, or in relation to, the transferor before the transfer date.

(7) Anything which before the transfer date was done by or in relation to the transferor in relation to any transferred function shall, if in effect immediately before that date, continue to have effect to the same extent and subject to the same provisions as if it had been done by, or in relation to, the transferee.

(8) Anything (including any legal proceedings) in the process of being done by or in relation to the transferor immediately before the transfer date may, so

far as it relates to any transferred function, be continued by or in relation to the transferee.

Dissolution of special agencies

28.—(1) The Health and Personal Social Services (Special Agencies) (Northern Ireland) Order 1990 (NI 3) is amended as follows.

(2) In the Schedule, after paragraph 8 (execution of contracts and instruments not under seal) insert the following paragraph—

"Dissolution of special agencies

8A.—(1) The Department may by order dissolve a special agency.

(2) An order under this paragraph may be made—

(a) on the application of the special agency concerned; or

(b) if the Department considers it appropriate in the interests of health and social care.

(3) Except where it appears to the Department necessary to make an order under this paragraph as a matter of urgency, no such order shall be made until after the completion of such consultation as may be prescribed.

(4) An order under this paragraph may provide for the transfer to—

(a) the Department, or

(b) such other HSC body as the order may specify,

of such of the assets and liabilities of the special agency which is dissolved as the Department considers appropriate.

(5) The Department must exercise its powers under sub-paragraph (4) so as to ensure that all the liabilities of the special agency are transferred.

(6) An order under this paragraph may make provision in connection with the transfer of staff employed by or for the purposes of the special agency which is dissolved including provision for the making of a scheme by the special agency or such other body as may be specified in the order.

(7) An order under this paragraph—

(a) may include such incidental, supplemental or transitional provision as the Department considers appropriate; and

(b) shall be subject to negative resolution.

(8) Without prejudice to the generality of sub-paragraphs (4) to (7), if a special agency is dissolved under this paragraph, the Department, or such other HSC body as the Department may direct, shall undertake the responsibility for the continued payment of any such pension, allowances or gratuities as, by virtue of regulations

made under paragraph 6, would otherwise have been the responsibility of the special agency which has been dissolved.

(9) A special agency may not be dissolved or wound up except in accordance with this paragraph.”.

Supplementary

Orders, regulations, guidance and directions

29.—(1) No order shall be made under section 13(5), 15(6) or 30(1) unless a draft of the order has been laid before, and approved by resolution of, the Assembly.

(2) Regulations under this Act and orders under section 24(4) or 26(3) are subject to negative resolution.

(3) Any guidance issued or directions given by the Department or the Regional Board under this Act—

(a) shall be in writing; and

(b) may be varied or revoked by subsequent guidance or directions so issued or given.

(4) Regulations and orders under this Act may contain such incidental, supplementary, transitional and savings provisions as appear to the Department to be necessary or expedient.

Further provision

30.—(1) The Department may by order make such supplementary, incidental or consequential provision as it thinks necessary or expedient—

(a) for the general purposes, or any particular purpose, of this Act; or

(b) in consequence of any provision made by or under this Act, or for giving full effect to this Act or any such provision.

(2) An order under subsection (1) may apply (with or without modifications), amend or repeal any statutory provision passed or made before the passing of this Act.

(3) The Department may by order make such transitional or transitory provisions and savings as it considers appropriate in connection with—

(a) the coming into operation of any provision of this Act; or

(b) any provision made by an order under subsection (1).

(4) The powers conferred by this section are not restricted by any other power conferred by this Act.

Status: *Point in time view as at 11/04/2014.*
Changes to legislation: *Health and Social Care (Reform) Act (Northern Ireland) 2009 is up to date with all changes known to be in force on or before 16 May 2024. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details)*

Interpretation

31.—(1) In this Act—

"the Central Services Agency" means the Northern Ireland Central Services Agency for the Health and Social Services established under Article 26 of the Order of 1972;

"the Department" means the Department of Health, Social Services and Public Safety;

"the framework document" has the meaning given in section 5;

"the health and social care bodies" has the meaning given in section 1(5);

"Health and Social Services Board" means a body established under Article 16 of the Order of 1972;

"health care" has the meaning given in section 2(5);

"health inequalities" has the meaning given in section 2(5);

"HSC trust" means a Health and Social Care trust established under Article 10 of the Health and Personal Social Services (Northern Ireland) Order 1991 (NI 1);

"the Mental Health Commission" means the Mental Health Commission for Northern Ireland established under Part 6 of the Mental Health (Northern Ireland) Order 1986 (NI 4);

"the Order of 1972" means the Health and Personal Social Services (Northern Ireland) Order 1972 (NI 14);

"prescribed" means prescribed by regulations;

"the Regional Agency" means the Regional Agency for Public Health and Social Well-being established under section 12;

"the Regional Board" means the Regional Health and Social Care Board established under section 7;

"RBSO" means the Regional Business Services Organisation established under section 14;

"RQIA" means the Health and Social Care Regulation and Quality Improvement Authority;

"regulations" means regulations made by the Department;

"social care" has the meaning given in section 2(5);

"special agency" means a special health and social care agency established under Article 3 of the Health and Personal Social Services (Special Agencies) (Northern Ireland) Order 1990 (NI 3);

"statutory provision" has the meaning given in section 1(f) of the Interpretation Act (Northern Ireland) 1954 (c. 33).

(2) Other expressions used in this Act to which a meaning is given in Article 2(2), (3) or (4) of the Order of 1972 have the same meaning in this Act as in that Order.

Minor and consequential amendments

32 The statutory provisions mentioned in Schedule 6 have effect subject to the minor and consequential amendments specified there.

Repeals

33 The statutory provisions mentioned in the first column of Schedule 7 (which include provisions which are spent or no longer of any practical utility) are repealed to the extent specified in the second column of that Schedule.

Commencement

34.—(1) The following provisions come into operation on Royal Assent—

(a) section 23 and Schedule 5;

(b) section 24(4) to (7);

(c) section 26(3) to (6);

(d) section 28 to 31;

(e) this section; and

(f) section 35.

(2) The following provisions come into operation on Royal Assent insofar as they confer power to make regulations or orders—

(a) section 7(2) and Schedule 1;

(b) section 9;

(c) section 12(2) and Schedule 2;

(d) section 14(2) and Schedule 3;

(e) section 16(2) and Schedule 4;

(f) section 17; and

(g) section 18.

(3) The other provisions of this Act come into operation on such day or days as the Department may by order appoint.

Subordinate Legislation Made

P1 S. 34(3) power fully exercised: 1.4.2009 appointed by S.R. 2009/114, **art. 2**

Status: *Point in time view as at 11/04/2014.*
Changes to legislation: *Health and Social Care (Reform) Act (Northern Ireland) 2009 is up to date with all changes known to be in force on or before 16 May 2024. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details)*

Short title

35 This Act may be cited as the Health and Social Care (Reform) Act (Northern Ireland) 2009.

Status: *Point in time view as at 11/04/2014.*
Changes to legislation: *Health and Social Care (Reform) Act (Northern Ireland) 2009 is up to date with all changes known to be in force on or before 16 May 2024. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details)*

SCHEDULES

SCHEDULE 1

Sections 7 and 9.

THE REGIONAL HEALTH AND SOCIAL CARE BOARD

Status

1.—(1) The Regional Board shall not be regarded—

(a) as the servant or agent of the Crown; or

(b) as enjoying any status, immunity or privilege of the Crown.

(2) The property of the Regional Board shall not be regarded as property of, or held on behalf of, the Crown.

(3) Where land in which the Department has an interest is managed, used or occupied by the Regional Board, the interest of the Department shall be treated for the purposes of any statutory provision or rule of law relating to Crown land or interests as if it were an interest held otherwise than by, or on behalf of, the Crown.

(4) The Regional Board shall, notwithstanding that it is exercising any functions on behalf of the Department, be entitled to enforce any rights acquired and shall be liable in respect of any liabilities incurred (including liabilities in tort) in the exercise of those functions in all respects as if it were acting as a principal, and all proceedings for the enforcement of such rights or liabilities shall be brought by or against the Regional Board in its own name.

(5) Subject to the provisions of this Schedule, section 19 of the Interpretation Act (Northern Ireland) 1954 (c. 33) applies to the Regional Board.

General powers

2.—(1) Subject to any directions given by the Department, the Regional Board 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) But the Regional Board may not borrow money.

Membership

3.—(1) The Regional Board shall consist of—

(a) a Chair appointed by the Department;

(b) a prescribed number of persons appointed by the Department;

(c) the chief officer of the Regional Board;

(d) such other officers of the Regional Board as may be prescribed; and

(e) not more than a prescribed number of other officers of the Regional Board appointed by the Chair and the members specified in heads (b) and (c).

(2) Except in so far as regulations otherwise provide, no person who is an officer of the Regional Board may be appointed under sub-paragraph (1)(a) or (b).

[[F11](3) Regulations may provide—

(a) that the person appointed under sub-paragraph (1)(a) must fulfil prescribed conditions or hold a post of a prescribed description;

(b) that all or any of the persons appointed under sub-paragraph (1)(b) must fulfil prescribed conditions or hold posts of a prescribed description.**]**

Textual Amendments

F11 Sch. 1 para. 3(3) substituted (11.4.2014) by Health and Social Care (Amendment) Act (Northern Ireland) 2014 (c. 5), **s. 3(1)**

Commencement Information

I10 Sch. 1 para. 3 wholly in operation at 1.4.2009; Sch. 1 para. 3 in operation for certain purposes at Royal Assent see s. 34(2)(a); Sch. 1 para. 3 in operation at 1.4.2009 insofar as not already in operation by S.R. 2009/114, **art. 2**

Remuneration and allowances

4.—(1) The Regional Board shall pay to its members such remuneration and allowances as the Department may determine.

(2) A determination of the Department under this paragraph requires the approval of the Department of Finance and Personnel.

Term of office

5.—(1) The term of office of members of the Regional Board appointed under paragraph 3(1)(a), (b) or (e) shall be 4 years or such other period as may be determined by the Department at the time the appointments are made.

(2) A member of the Regional Board specified in paragraph 3(1)(c), (d) or (e)—

(a) who ceases to hold the qualifying office, shall cease to be a member of the Regional Board;

(b) who is suspended from the qualifying office, shall be suspended from membership of the Regional Board while suspended from that office.

(3) In sub-paragraph (2) "the qualifying office" in relation to a member of the Regional Board means the office under the Regional Board which the member held at the time of becoming a member of the Regional Board.

Resignation and removal

6.—(1) A member of the Regional Board appointed under paragraph 3(1)(a) or (b)—

(a) may resign membership by serving notice on the Department;

(b) may be removed from office by the Department.

(2) A member of the Regional Board appointed under paragraph 3(1)(e) may be removed from office by the Chair and the members specified in paragraph 3(1)(b) and (c).

(3) Where any member of the Regional Board—

(a) is absent from the meetings of the Regional Board for more than 6 months consecutively, except for an approved reason; or

(b) is convicted of an indictable offence;

the Regional Board shall forthwith, by resolution, declare the office to be vacant and shall notify that fact in such manner as it thinks fit, and thereupon the office shall become vacant.

(4) In sub-paragraph (3)(a) "approved reason" means a reason approved—

(a) in the case of members appointed under paragraph 3(1)(e), by the Chair and the members specified in paragraph 3(1)(b) and (c);

(b) in the case of any other member, by the Department.

(5) Where the place of a member specified in paragraph 3(1)(a), (b) or (e) becomes vacant before the expiration of the member's term of office whether by death, resignation or otherwise, the vacancy shall be filled by appointment—

(a) in the case of a member specified in paragraph 3(1)(a) or (b), by the Department;

(b) in the case of a member specified in paragraph 3(1)(e), by the Chair and the members specified in paragraph 3(1)(b) and (c);

and any person so appointed shall hold office for the remainder of the term of office of the former member.

Committees

7.—(1) The Regional Board—

(a) shall appoint such committees as are required under section 9, and

(b) may appoint one or more other committees to which it may delegate such of its functions as it thinks fit.

(2) References in this Schedule to a committee are to a committee appointed under this paragraph.

(3) A person who is not a member of the Regional Board shall not, except with the approval of the Department, be appointed to a committee.

(4) The Regional Board may pay to members of its committees who are neither members nor employees of the Board such remuneration and allowances as the Board may, with the approval of the Department, determine.

(5) Every member of a committee who, at the time of appointment, was a member of the Regional Board shall, on ceasing to be a member of the Regional Board, also cease to be a member of the committee.

Sub-committees

8.—(1) The Regional Board or a committee may appoint a sub-committee to consider and report to the Regional Board or, as the case may be, the committee on any matter within the competence of the Regional Board or the committee.

(2) References in this Schedule to a sub-committee are to a sub-committee appointed under this paragraph.

(3) A sub-committee may include persons who are not members of the Regional Board or the committee which appoints the sub-committee.

Proceedings

9 Without prejudice to section 19(1)(a)(v) of the Interpretation Act (Northern Ireland) 1954 (c. 33), the Regional Board shall make standing orders regulating the procedure of the Board, its committees and sub-committees, including provision regulating—

(a) the convening of meetings;

(b) the fixing of the quorum; and

(c) the conduct of business at meetings.

Validity of proceedings

10 The proceedings of the Regional Board or of any committee or sub-committee are not invalidated—

(a) by any vacancy in the membership of the Regional Board or the committee or sub-committee;

(b) by any defect in the appointment of any of its members; or

(c) by any failure to comply with paragraph 9.

Disclosure of pecuniary, etc., interests and related provisions

11.—(1) Subject to sub-paragraph (2), sections 28 to 33 and 146 of the Local Government Act (Northern Ireland) 1972 (c. 9) and section 148 of that Act so far as it applies for the interpretation of those sections, shall apply to the Regional Board, a committee or sub-committee and to a member of the Regional Board, a committee or sub-committee as if—

(a) in those sections—

(i) any reference to a council were a reference to the Regional Board, a committee or sub-committee,

(ii) any reference to a councillor were a reference to a member of the Regional Board, a committee or sub-committee,

(iii) any reference to the clerk of the council were a reference to the chief officer of the Regional Board, and

(iv) any reference to that Act were a reference to this Act;

(b) in section 28(4) of that Act the words "or 46" were omitted and for the words from "by any local elector" onwards there were substituted the words "by any person.".

(2) Notwithstanding anything in sub-paragraph (1), an officer of the Regional Board who is a member of the Regional Board may vote upon any matter which affects the interests of officers of the Regional Board or such officers of any class (including a class to which the officer belongs), but must not vote upon any matter affecting only the officer's individual interest.

The chief officer and other staff

12.—(1) There shall be a chief officer of the Regional Board who shall be a member of the staff of the Regional Board and shall be responsible to the Regional Board for the general exercise of its functions.

(2) Subject to paragraph 13—

(a) the first chief officer shall be appointed by the Department; and

(b) any subsequent chief officer shall be appointed by the Regional Board.

13.—(1) The qualifications, remuneration and conditions of service of officers of the Regional Board may be determined by the Department.

(2) Regulations may make provision with respect to—

(a) the method of appointment of officers of the Regional Board;

(b) the qualifications, remuneration and conditions of service of such officers of the Regional Board as may be prescribed;

and an officer such as is mentioned in head (b) shall not be employed otherwise than in accordance with the regulations.

(3) Determinations or regulations under sub-paragraph (1) or (2) may provide for approvals or determinations to have effect from a date specified in them.

(4) The date mentioned in sub-paragraph (3) may be before or after the date of giving the approvals or making the determinations but may not be before if it would be to the detriment of the officers to whom the approvals or determinations relate.

(5) The appointment and removal from office of such officers of the Regional Board as may be prescribed is subject to the approval of the Department.

Commencement Information

I11 Sch. 1 para. 13 wholly in operation at 1.4.2009; Sch. 1 para. 13 in operation for certain purposes at Royal Assent see s. 34(2)(a); Sch. 1 para. 13 in operation at 1.4.2009 insofar as not already in operation by S.R. 2009/114, **art. 2**

Application of the seal

14 The application of the seal of the Regional Board shall be authenticated by the signatures of—

(a) at least one member of the Regional Board appointed under paragraph 3(1)(a) or (b); and

(b) the chief officer of the Regional Board.

Execution of documents

15.—(1) Any document which if executed by an individual would not require to be executed as a deed may be executed on behalf of the Regional Board by any person generally or specially authorised by the Regional Board for that purpose.

(2) In any legal proceedings any document purporting to have been so executed on behalf of the Regional Board shall be deemed to be so executed until the contrary is proved.

Finance

16.—(1) The Department may make payments to the Regional Board out of money appropriated for the purpose.

(2) Payments under this paragraph shall be made on such terms and conditions as the Department may determine.

(3) Subject to sub-paragraph (4), the Regional Board must pay to the Department all sums received by it in the course of, or in connection with, the carrying out of its functions.

(4) Sub-paragraph (3) does not apply to such sums, or sums of such description, as the Department may, with the approval of the Department of Finance and Personnel, direct.

(5) Any sums received by the Department under sub-paragraph (3) shall be paid into the Consolidated Fund.

Accounts

17.—(1) The Regional Board 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 Regional Board 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.

(4) The Comptroller and Auditor General shall—

(a) examine, certify and report on every statement of accounts received from the Regional Board under this paragraph; and

(b) send a copy of any such 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.

Annual report

18.—(1) The Regional Board shall within such period after the end of each financial year as the Department may direct, prepare and send to the Department a report in such form, and containing such information, as may be prescribed.

(2) The Department shall lay a copy of the report before the Assembly.

Commencement Information

I12 Sch. 1 para. 18 wholly in operation at 1.4.2009; Sch. 1 para. 18 in operation for certain purposes at Royal Assent see s. 34(2)(a); Sch. 1 para. 18 in operation at 1.4.2009 insofar as not already in operation by S.R. 2009/114, **art. 2**

Interpretation

19 In paragraphs 17 and 18—

"Comptroller and Auditor General" means the Comptroller and Auditor General for Northern Ireland;

"financial year" means—

(a) the period beginning with the day on which the Regional Board is established and ending on the next following 31st March; and

(b) each subsequent period of 12 months ending on 31st March.

Information

20.—(1) The Regional Board shall record such information with respect to the exercise of its functions as the Department may direct.

(2) Information shall be recorded in such form, and retained for such period, as the Department may determine.

(3) The Regional Board shall, in relation to its functions, furnish to the Department, such reports, returns and other information as the Department may require.

Default powers of Department

21.—(1) The powers conferred by this paragraph are exercisable by the Department if it is satisfied that the Regional Board has without reasonable excuse failed to discharge any of its functions adequately or at all.

(2) The Department may—

(a) make an order declaring the Regional Board to be in default; and

(b) direct the Regional Board to discharge such of its functions, in such manner and within such period or periods, as may be specified in the direction.

(3) If the Regional Board 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.

Commencement Information

I13 Sch. 1 para. 21 wholly in operation at 1.4.2009; Sch. 1 para. 21 in operation for certain purposes at Royal Assent see s. 34(2)(a); Sch. 1 para. 21 in operation at 1.4.2009 insofar as not already in operation by S.R. 2009/114, **art. 2**

SCHEDULE 2

Section 12.

THE REGIONAL AGENCY FOR PUBLIC HEALTH AND SOCIAL WELL-BEING

Status

1.—(1) The Regional Agency shall not be regarded—

(a) as the servant or agent of the Crown; or

(b) as enjoying any status, immunity or privilege of the Crown.

(2) The property of the Regional Agency shall not be regarded as property of, or held on behalf of, the Crown.

(3) Where land in which the Department has an interest is managed, used or occupied by the Regional Agency, the interest of the Department shall be treated for the purposes of any statutory provision or rule of law relating to Crown land or interests as if it were an interest held otherwise than by, or on behalf of, the Crown.

(4) The Regional Agency shall, notwithstanding that it is exercising any functions on behalf of the Department, be entitled to enforce any rights acquired and shall be liable in respect of any liabilities incurred (including liabilities in tort) in the exercise of those functions in all respects as if it were acting as a principal, and all proceedings for the enforcement of such rights or liabilities shall be brought by or against the Regional Agency in its own name.

(5) Subject to the provisions of this Schedule, section 19 of the Interpretation Act (Northern Ireland) 1954 (c. 33) applies to the Regional Agency.

General powers

2.—(1) Subject to any directions given by the Department, the Regional Agency 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) But the Regional Agency may not borrow money.

Membership

3.—(1) The Regional Agency shall consist of—

(a) a Chair appointed by the Department;

(b) a prescribed number of persons appointed by the Department;

(c) the chief officer of the Regional Agency;

(d) such other officers of the Regional Agency as may be prescribed;

(e) not more than a prescribed number of other officers of the Regional Agency appointed by the Chair and the members specified in heads (b) and (c); and

(f) a prescribed number of members of district councils appointed by the Department in such manner as may be prescribed.

(2) Except in so far as regulations otherwise provide, no person who is an officer of the Regional Agency may be appointed under sub-paragraph (1)(a) or (b).

[[F12](3) Regulations may provide—

(a) that the person appointed under sub-paragraph (1)(a) must fulfil prescribed conditions or hold a post of a prescribed description;

(b) that all or any of the persons appointed under sub-paragraph (1)(b) must fulfil prescribed conditions or hold posts of a prescribed description.**]**

Textual Amendments

F12 Sch. 2 para. 3(3) substituted (11.4.2014) by Health and Social Care (Amendment) Act (Northern Ireland) 2014 (c. 5), **s. 3(1)**

Commencement Information

I14 Sch. 2 para. 3 wholly in operation at 1.4.2009; Sch. 2 para. 3 in operation for certain purposes at Royal Assent see s. 34(2)(c); Sch. 2 para. 3 in operation at 1.4.2009 insofar as not already in operation by S.R. 2009/114, **art. 2**

Remuneration and allowances

4.—(1) The Regional Agency shall pay to its members such remuneration and allowances as the Department may determine.

(2) A determination of the Department under this paragraph requires the approval of the Department of Finance and Personnel.

Term of office

5.—(1) The term of office of members of the Regional Agency appointed under paragraph 3(1)(a), (b), (e) or (f) shall be 4 years or such other period as may be determined by the Department at the time the appointments are made.

(2) A member of the Regional Agency specified in paragraph 3(1)(c), (d) or (e)—

(a) who ceases to hold the qualifying office, shall cease to be a member of the Regional Agency;

(b) who is suspended from the qualifying office, shall be suspended from membership of the Regional Agency while suspended from that office.

(3) In sub-paragraph (2) "the qualifying office" in relation to a member of the Regional Agency means the office under the Regional Agency which the member held at the time of becoming a member of the Regional Agency.

(4) A member of the Regional Agency specified in paragraph 3(1)(f) who ceases to be a member of a district council shall cease to be a member of the Regional Agency.

Resignation and removal

6.—(1) A member of the Regional Agency appointed under paragraph 3(1)(a), (b) or (f)—

(a) may resign membership by serving notice on the Department;

(b) may be removed from office by the Department.

(2) A member of the Regional Agency appointed under paragraph 3(1)(e) may be removed from office by the Chair and the members specified in paragraph 3(1)(b) and (c).

(3) Where any member of the Regional Agency—

(a) is absent from the meetings of the Regional Agency for more than 6 months consecutively, except for an approved reason; or

(b) is convicted of an indictable offence;

the Regional Agency shall forthwith, by resolution, declare the office to be vacant and shall notify that fact in such manner as it thinks fit, and thereupon the office shall become vacant.

(4) In sub-paragraph (3)(a) "approved reason" means a reason approved—

(a) in the case of members appointed under paragraph 3(1)(e), by the Chair and the members specified in paragraph 3(1)(b) and (c);

(b) in the case of any other member, by the Department.

(5) Where the place of a member specified in paragraph 3(1)(a), (b), (e) or (f) becomes vacant before the expiration of the member's term of office whether by death, resignation or otherwise, the vacancy shall be filled by appointment—

(a) in the case of a member specified in paragraph 3(1)(a) or (b), by the Department;

(b) in the case of a member specified in paragraph 3(1)(e), by the Chair and the members specified in paragraph 3(1)(b) and (c);

(c) in the case of a member specified in paragraph 3(1)(f), by the Department in such manner as may be prescribed;

and any person so appointed shall hold office for the remainder of the term of office of the former member.

Commencement Information

I15 Sch. 2 para. 6 wholly in operation at 1.4.2009; Sch. 2 para. 6 in operation for certain purposes at Royal Assent see s. 34(2)(c); Sch. 2 para. 6 in operation at 1.4.2009 insofar as not already in operation by S.R. 2009/114, **art. 2**

Committees

7.—(1) The Regional Agency may appoint one or more committees to which it may delegate such of its functions as it thinks fit.

(2) References in this Schedule to a committee are to a committee appointed under this paragraph.

(3) A person who is not a member of the Regional Agency shall not, except with the approval of the Department, be appointed to a committee.

(4) The Regional Agency may pay to members of its committees who are neither members nor employees of the Regional Agency such remuneration and allowances as the Regional Agency may, with the approval of the Department, determine.

(5) Every member of a committee who, at the time of appointment, was a member of the Regional Agency shall, on ceasing to be a member of the Regional Agency, also cease to be a member of the committee.

Sub-committees

8.—(1) The Regional Agency or a committee may appoint a sub-committee to consider and report to the Regional Agency or, as the case may be, the committee on any matter within the competence of the Regional Agency or the committee.

(2) References in this Schedule to a sub-committee are to a sub-committee appointed under this paragraph.

(3) A sub-committee may include persons who are not members of the Regional Agency or the committee which appoints the sub-committee.

Proceedings

9 Without prejudice to section 19(1)(a)(v) of the Interpretation Act (Northern Ireland) 1954 (c. 33), the Regional Agency shall make standing orders regulating the procedure of the Regional Agency, its committees and sub-committees, including provision regulating—

(a) the convening of meetings;

(b) the fixing of the quorum; and

(c) the conduct of business at meetings.

Validity of proceedings

10 The proceedings of the Regional Agency or of any committee or sub-committee are not invalidated—

(a) by any vacancy in the membership of the Regional Agency or the committee or sub-committee;

(b) by any defect in the appointment of any of its members; or

(c) by any failure to comply with paragraph 9.

Disclosure of pecuniary, etc., interests and related provisions

11.—(1) Subject to sub-paragraph (2), sections 28 to 33 and 146 of the Local Government Act (Northern Ireland) 1972 (c. 9) and section 148 of that Act so far as it applies for the interpretation of those sections, shall apply to the Regional Agency, a committee or sub-committee and to a member of the Regional Agency, a committee or sub-committee as if—

(a) in those sections—

(i) any reference to a council were a reference to the Regional Agency, a committee or sub-committee,

(ii) any reference to a councillor were a reference to a member of the Regional Agency, a committee or sub-committee,

(iii) any reference to the clerk of the council were a reference to the chief officer of the Regional Agency, and

(iv) any reference to that Act were a reference to this Act;

(b) in section 28(4) of that Act the words “or 46” were omitted and for the words from “by any local elector” onwards there were substituted the words “by any person.”.

(2) Notwithstanding anything in sub-paragraph (1), an officer of the Regional Agency who is a member of the Regional Agency may vote upon any matter which affects the interests of officers of the Regional Agency or such officers of any class (including a class to which the officer belongs), but must not vote upon any matter affecting only the officer's individual interest.

The chief officer and other staff

12.—(1) There shall be a chief officer of the Regional Agency who shall be a member of the staff of the Regional Agency and shall be responsible to the Regional Agency for the general exercise of its functions.

(2) Subject to paragraph 13—

(a) the first chief officer shall be appointed by the Department; and

(b) any subsequent chief officer shall be appointed by the Regional Agency.

13.—(1) The qualifications, remuneration and conditions of service of officers of the Regional Agency may be determined by the Department.

(2) Regulations may make provision with respect to—

(a) the method of appointment of officers of the Regional Agency;

(b) the qualifications, remuneration and conditions of service of such officers of the Regional Agency as may be prescribed;

and an officer such as is mentioned in head (b) shall not be employed otherwise than in accordance with the regulations.

(3) Determinations or regulations under sub-paragraph (1) or (2) may provide for approvals or determinations to have effect from a date specified in them.

(4) The date mentioned in sub-paragraph (3) may be before or after the date of giving the approvals or making the determinations but may not be before if it would be to the detriment of the officers to whom the approvals or determinations relate.

(5) The appointment and removal from office of such officers of the Regional Agency as may be prescribed is subject to the approval of the Department.

Commencement Information

I16 Sch. 2 para. 13 wholly in operation at 1.4.2009; Sch. 2 para. 13 in operation for certain purposes at Royal Assent see s. 34(2)(c); Sch. 2 para. 13 in operation at 1.4.2009 insofar as not already in operation by S.R. 2009/114, **art. 2**

Application of the seal

14 The application of the seal of the Regional Agency shall be authenticated by the signatures of—

(a) at least one member of the Regional Agency appointed under paragraph 3(1)(a) or (b); and

(b) the chief officer of the Regional Agency.

Execution of documents

15.—(1) Any document which if executed by an individual would not require to be executed as a deed may be executed on behalf of the Regional Agency by any person generally or specially authorised by the Regional Agency for that purpose.

(2) In any legal proceedings any document purporting to have been so executed on behalf of the Regional Agency shall be deemed to be so executed until the contrary is proved.

Finance

16.—(1) The Department may make payments to the Regional Agency out of money appropriated for the purpose.

(2) Payments under this paragraph shall be made on such terms and conditions as the Department may determine.

(3) Subject to sub-paragraph (4), the Regional Agency must pay to the Department all sums received by it in the course of, or in connection with, the carrying out of its functions.

(4) Sub-paragraph (3) does not apply to such sums, or sums of such description, as the Department may, with the approval of the Department of Finance and Personnel, direct.

(5) Any sums received by the Department under sub-paragraph (3) shall be paid into the Consolidated Fund.

Accounts

17.—(1) The Regional Agency 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 Regional Agency 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.

(4) The Comptroller and Auditor General shall—

(a) examine, certify and report on every statement of accounts received from the Regional Agency under this paragraph; and

(b) send a copy of any such 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.

Annual report

18.—(1) The Regional Agency shall within such period after the end of each financial year as the Department may direct, prepare and send to the Department a report in such form, and containing such information, as may be prescribed.

(2) The Department shall lay a copy of the report before the Assembly.

Commencement Information

I17 Sch. 2 para. 18 wholly in operation at 1.4.2009; Sch. 2 para. 18 in operation for certain purposes at Royal Assent see s. 34(2)(c); Sch. 2 para. 18 in operation at 1.4.2009 insofar as not already in operation by S.R. 2009/114, **art. 2**

Interpretation

19 In paragraphs 17 and 18—

"Comptroller and Auditor General" means the Comptroller and Auditor General for Northern Ireland;

"financial year" means—

(a) the period beginning with the day on which the Regional Agency is established and ending on the next following 31st March; and

(b) each subsequent period of 12 months ending on 31st March.

Information

20.—(1) The Regional Agency shall record such information with respect to the exercise of its functions as the Department may direct.

(2) Information shall be recorded in such form, and retained for such period, as the Department may determine.

(3) The Regional Agency shall, in relation to its functions, furnish to the Department, such reports, returns and other information as the Department may require.

Default powers of Department

21.—(1) The powers conferred by this paragraph are exercisable by the Department if it is satisfied that the Regional Agency has without reasonable excuse failed to discharge any of its functions adequately or at all.

(2) The Department may—

(a) make an order declaring the Regional Agency to be in default; and

(b) direct the Regional Agency to discharge such of its functions, in such manner and within such period or periods, as may be specified in the direction.

(3) If the Regional Agency 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.

Commencement Information

I18 Sch. 2 para. 21 wholly in operation at 1.4.2009; Sch. 2 para. 21 in operation for certain purposes at Royal Assent see s. 34(2)(c); Sch. 2 para. 21 in operation at 1.4.2009 insofar as not already in operation by S.R. 2009/114, **art. 2**

SCHEDULE 3 Section 14.

THE REGIONAL BUSINESS SERVICES ORGANISATION

Status

1.—(1) RBSO shall not be regarded—

(a) as the servant or agent of the Crown; or

(b) as enjoying any status, immunity or privilege of the Crown.

(2) The property of RBSO shall not be regarded as property of, or held on behalf of, the Crown.

(3) Where land in which the Department has an interest is managed, used or occupied by RBSO, the interest of the Department shall be treated for the purposes of any statutory provision or rule of law relating to Crown land or interests as if it were an interest held otherwise than by, or on behalf of, the Crown.

(4) RBSO shall, notwithstanding that it is exercising any functions on behalf of the Department, be entitled to enforce any rights acquired and shall be liable in respect of any liabilities incurred (including liabilities in tort) in the exercise of those functions in all respects as if it were acting as a principal, and all proceedings for the enforcement of such rights or liabilities shall be brought by or against RBSO in its own name.

(5) Subject to the provisions of this Schedule, section 19 of the Interpretation Act (Northern Ireland) 1954 (c. 33) applies to RBSO.

General powers

2.—(1) Subject to any directions given by the Department, RBSO 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) But RBSO may not borrow money.

Membership

3.—(1) RBSO shall consist of—

(a) a Chair appointed by the Department;

(b) a prescribed number of members appointed by the Department;

(c) the chief officer of RBSO; and

(d) such other officers of RBSO as may be prescribed.

(2) Except in so far as regulations otherwise provide, no person who is an officer of RBSO may be appointed under sub-paragraph (1)(a) or (b).

[[F13](3) Regulations may provide—

(a) that the person appointed under sub-paragraph (1)(a) must fulfil prescribed conditions or hold a post of a prescribed description;

(b) that all or any of the persons appointed under sub-paragraph (1)(b) must fulfil prescribed conditions or hold posts of a prescribed description.**]**

Textual Amendments

F13 Sch. 3 para. 3(3) substituted (11.4.2014) by Health and Social Care (Amendment) Act (Northern Ireland) 2014 (c. 5), **s. 3(1)**

Commencement Information

I19 Sch. 3 para. 3 wholly in operation at 1.4.2009; Sch. 3 para. 3 in operation for certain purposes at Royal Assent see s. 34(2)(d); Sch. 3 para. 3 in operation at 1.4.2009 insofar as not already in operation by S.R. 2009/114, **art. 2**

Remuneration and allowances

4.—(1) RBSO shall pay to its members such remuneration and allowances as the Department may determine.

(2) A determination of the Department under this paragraph requires the approval of the Department of Finance and Personnel.

Appointment, procedure etc.

5 Regulations may make provision as to—

(a) the appointment of members of RBSO under paragraph 3(1)(b) and (d) (including any conditions to be fulfilled for appointment);

(b) the tenure of office of the Chair 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 RBSO);

(d) the procedure of RBSO and any committees or sub-committees (including the validation of proceedings in the event of vacancies or defects in appointment);

(e) the staff, premises and expenses of RBSO;

(f) such other matters in connection with RBSO as the Department thinks fit.

Commencement Information

I20 Sch. 3 para. 5 wholly in operation at 1.4.2009; Sch. 3 para. 5 in operation for certain purposes at Royal Assent see s. 34(2)(d); Sch. 3 para. 5 in operation at 1.4.2009 insofar as not already in operation by S.R. 2009/114, **art. 2**

The chief officer

6.—(1) There shall be a chief officer of RBSO who shall be a member of the staff of RBSO and shall be responsible to RBSO for the general exercise of its functions.

Status: *Point in time view as at 11/04/2014.*
Changes to legislation: *Health and Social Care (Reform) Act (Northern Ireland) 2009 is up to date with all changes known to be in force on or before 16 May 2024. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details)*

(2) Subject to regulations made under paragraph 5(e)—

(a) the first chief officer shall be appointed by the Department;

(b) any subsequent chief officer shall be appointed by RBSO.

Application of the seal

7 The application of the seal of RBSO shall be authenticated by the signature—

(a) of any member of RBSO; and

(b) of any other person who has been authorised by RBSO (whether generally or specifically) for that purpose.

Execution of documents

8.—(1) Any document which if executed by an individual would not require to be executed as a deed may be executed on behalf of RBSO by any person generally or specially authorised by RBSO for that purpose.

(2) In any legal proceedings any document purporting to have been so executed on behalf of RBSO shall be deemed to be so executed until the contrary is proved.

Finance

9.—(1) The Department may make payments to RBSO out of money appropriated for the purpose.

(2) Payments under this paragraph shall be made on such terms and conditions as the Department may determine.

Accounts

10.—(1) RBSO 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) RBSO 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.

(4) The Comptroller and Auditor General shall—

(a) examine, certify and report on every statement of accounts received from RBSO under this paragraph; and

(b) send a copy of any such 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.

Annual report

11.—(1) RBSO shall within such period after the end of each financial year as the Department may direct, prepare and send to the Department a report in such form, and containing such information, as may be prescribed.

(2) RBSO shall publish any report prepared under sub-paragraph (1) in such manner as the Department may direct.

(3) The Department shall lay a copy of the report before the Assembly.

Commencement Information

I21 Sch. 3 para. 11 wholly in operation at 1.4.2009; Sch. 3 para. 11 in operation for certain purposes at Royal Assent see s. 34(2)(d); Sch. 3 para. 11 in operation at 1.4.2009 insofar as not already in operation by S.R. 2009/114, **art. 2**

Interpretation

12 In paragraphs 10 and 11—

"Comptroller and Auditor General" means the Comptroller and Auditor General for Northern Ireland;

"financial year" means—

(a) the period beginning with the day on which RBSO is established and ending on the next following 31st March; and

(b) each subsequent period of 12 months ending on 31st March.

Information

13.—(1) RBSO shall at such times as the Department may direct—

(a) provide the Department or a specified body with such information, and

(b) permit the Department or the specified body to inspect and take copies of such documents,

relating to RBSO's functions as the Department may direct.

(2) In sub-paragraph (1) "specified body" means a body specified in directions under that sub-paragraph.

Default powers of Department

14.—(1) The powers conferred by this paragraph are exercisable by the Department if it is satisfied that RBSO has without reasonable excuse failed to discharge any of its functions adequately or at all.

(2) The Department may—

(a) make an order declaring RBSO to be in default; and

(b) direct RBSO to discharge such of its functions, in such manner and within such period or periods, as may be specified in the direction.

(3) If RBSO 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.

Commencement Information

I22 Sch. 3 para. 14 wholly in operation at 1.4.2009; Sch. 3 para. 14 in operation for certain purposes at Royal Assent see s. 34(2)(d); Sch. 3 para. 14 in operation at 1.4.2009 insofar as not already in operation by S.R. 2009/114, **art. 2**

SCHEDULE 4 Section 16.

THE PATIENT AND CLIENT COUNCIL

Status

1.—(1) The Patient and Client Council (in this Schedule referred to as "the Council") shall not be regarded—

(a) as the servant or agent of the Crown; or

(b) as enjoying any status, immunity or privilege of the Crown.

(2) The property of the Council shall not be regarded as property of, or held on behalf of, the Crown.

(3) Subject to the provisions of this Schedule, section 19 of the Interpretation Act (Northern Ireland) 1954 (c. 33) applies to the Council.

Status: *Point in time view as at 11/04/2014.*
Changes to legislation: *Health and Social Care (Reform) Act (Northern Ireland) 2009 is up to date with all changes known to be in force on or before 16 May 2024. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details)*

General powers

2.—(1) The Council 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) But the Council may not borrow money.

Membership

3 The Council shall consist of a Chair and other members appointed by the Department.

Remuneration and allowances

4.—(1) The Council shall pay to its members such remuneration and allowances as the Department may determine.

(2) A determination of the Department under this paragraph requires the approval of the Department of Finance and Personnel.

Appointment, procedure etc.

5 Regulations may make provision as to—

(a) the appointment of the Chair and other members of the Council (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 Chair 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 Council);

(d) the procedure of the Council and any committees or sub-committees (including the validation of proceedings in the event of vacancies or defects in appointment);

(e) the staff, premises and expenses of the Council;

(f) such other matters in connection with the Council as the Department thinks fit.

Commencement Information

I23 Sch. 4 para. 5 wholly in operation at 1.4.2009; Sch. 4 para. 5 in operation for certain purposes at Royal Assent see s. 34(2)(e); Sch. 4 para. 5 in operation at 1.4.2009 insofar as not already in operation by S.R. 2009/114, **art. 2**

The chief officer

6.—(1) There shall be a chief officer of the Council who shall be a member of the staff of the Council and shall be responsible to the Council for the general exercise of its functions.

(2) Subject to regulations made under paragraph 5(e)—

(a) the first chief officer shall be appointed by the Department, and

(b) any subsequent chief officer shall be appointed by the Council.

Application of the seal

7 The application of the seal of the Council shall be authenticated by the signature—

(a) of any member of the Council; and

(b) of any other person who has been authorised by the Council (whether generally or specifically) for that purpose.

Execution of documents

8.—(1) Any document which if executed by an individual would not require to be executed as a deed may be executed on behalf of the Council by any person generally or specially authorised by the Council for that purpose.

(2) In any legal proceedings any document purporting to have been so executed on behalf of the Council shall be deemed to be so executed until the contrary is proved.

Finance

9.—(1) The Department may make payments to the Council out of money appropriated for the purpose.

(2) Payments under this paragraph shall be made on such terms and conditions as the Department may determine.

(3) Subject to sub-paragraph (4), the Council must pay to the Department all sums received by it in the course of, or in connection with, the carrying out of its functions.

(4) Sub-paragraph (3) does not apply to such sums, or sums of such description, as the Department may, with the approval of the Department of Finance and Personnel, direct.

(5) Any sums received by the Department under sub-paragraph (3) shall be paid into the Consolidated Fund.

Accounts

10.—(1) The Council 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 Council 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.

(4) The Comptroller and Auditor General shall—

(a) examine, certify and report on every statement of accounts received from the Council under this paragraph; and

(b) send a copy of any such 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.

Annual report

11.—(1) The Council shall within such period after the end of each financial year as the Department may direct, prepare and send to the Department a report in such form, and containing such information, as may be prescribed.

(2) The Council shall publish any report prepared under sub-paragraph (1) in such manner as the Department may direct.

(3) The Department shall lay a copy of the report before the Assembly.

Commencement Information

I24 Sch. 4 para. 11 wholly in operation at 1.4.2009; Sch. 4 para. 11 in operation for certain purposes at Royal Assent see s. 34(2)(e); Sch. 4 para. 11 in operation at 1.4.2009 insofar as not already in operation by S.R. 2009/114, **art. 2**

Interpretation

12 In paragraphs 10 and 11—

"Comptroller and Auditor General" means the Comptroller and Auditor General for Northern Ireland;

"financial year" means—

(a) the period beginning with the day on which the Council is established and ending on the next following 31st March; and

(b) each subsequent period of 12 months ending on 31st March.

Information

13 The Council shall at such times as the Department may direct—

(a) provide the Department with such information, and

(b) permit the Department to inspect and take copies of such documents,

relating to the Council's functions as the Department may direct.

Default powers of Department

14.—(1) The powers conferred by this paragraph are exercisable by the Department if it is satisfied that the Council has without reasonable excuse failed to discharge any of its functions adequately or at all.

(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, in such manner and within such period or periods, as may be specified in the direction.

(3) If the Council 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.

Commencement Information

I25 Sch. 4 para. 14 wholly in operation at 1.4.2009; Sch. 4 para. 14 in operation for certain purposes at Royal Assent see s. 34(2)(e); Sch. 4 para. 14 in operation at 1.4.2009 insofar as not already in operation by S.R. 2009/114, **art. 2**

SCHEDULE 5 Section 23.

TRANSFER OF ASSETS, ETC.

PART 1

TRANSFER SCHEMES

Transfer of assets and liabilities

1.—(1) A scheme—

(a) may provide for the transfer of assets and liabilities which would not otherwise be capable of being transferred;

(b) shall, accordingly, have effect in relation to assets or liabilities to which it applies in spite of any provision (of whatever nature) which would otherwise prevent or restrict the transfer of those assets or liabilities;

(c) may contain supplementary, incidental, transitional and consequential provisions.

(2) A scheme may define the assets and liabilities to be transferred by specifying or describing them (including describing them by reference to a specified part of the transferor's undertaking).

(3) A certificate issued by the Department that any assets or liabilities specified in the certificate have vested in any body by virtue of a scheme is conclusive evidence for all purposes of that fact.

(4) In this Schedule, in relation to any assets or liabilities transferred by a scheme—

"transferor" means the body from which those assets or liabilities are transferred; and

"transferee" means the body to which those assets or liabilities are transferred.

Transfer of employed staff

2.—(1) This paragraph applies if rights and liabilities under a contract of employment are transferred by virtue of a scheme.

(2) The Transfer of Undertakings (Protection of Employment) Regulations 2006 (S.I. 2006/246) apply to the transfer whether or not the transfer would, apart from this paragraph, be a relevant transfer for the purposes of the regulations.

(3) The scheme shall—

(a) in relation to each transferee, identify the transferring employees (whether by name or otherwise);

(b) include provision securing pension protection for such employees;

(c) include provision for procedures designed to resolve any grievances of such employees arising in relation to matters dealt with by the scheme; and

(d) include provision for the payment of compensation by the Department to any such employee who suffers loss or detriment in consequence of the scheme.

(4) Before making the scheme the Department must consult—

(a) in the case of a scheme which identifies transferring employees by name, those employees; and

(b) in the case of a scheme which identifies transferring employees in any other way, such persons as appear to the Department to be representative of transferring employees.

(5) For the purposes of this paragraph—

(a) "pension protection" is secured for a transferring employee if after the change of employer effected by the scheme the employee has, as an employee of the transferee, rights to acquire pension benefits and those rights are the same as or (taken as a whole) no less favourable than those that the transferring employee had as an employee of the transferor;

(b) "transferring employee" means an employee whose contract of employment becomes, by virtue of sub-paragraph (2), a contract of employment with a transferee; and

(c) employment in the Northern Ireland civil service for the purposes of the Department is to be treated as employment by the Department under a contract of employment (and the terms of that employment are to be regarded as constituting the terms of that contract).

(6) Procedures under sub-paragraph (3)(c) must involve consideration of grievances by a person other than—

(a) a member, or member of staff, of a transferor or transferee; or

(b) a member of staff of the Department.

Continuity

3.—(1) In any statutory provision or document—

(a) which relates to anything transferred by virtue of the scheme, and

(b) which is in effect immediately before the transfer date,

any reference to the transferor shall, in relation to any time after the transfer date, be construed as a reference to the transferee.

(2) Sub-paragraph (1) applies unless contrary provision is made by or under this Act or the context otherwise requires.

(3) A transfer by virtue of a scheme does not affect the validity of anything done by, or in relation to, the transferor before the transfer date.

(4) Anything which—

(a) before the transfer date was done by or in relation to the transferor for the purposes of or otherwise in connection with anything transferred by virtue of a scheme, and

(b) is in effect immediately before the transfer date,

shall continue to have effect to the same extent and subject to the same provisions as if it had been done by, or in relation to, the transferee.

(5) Anything (including any legal proceedings) which—

(a) relates to anything transferred by virtue of a scheme, and

(b) is in the process of being done by or in relation to the transferor immediately before the transfer date,

may be continued by or in relation to the transferee.

PART 2

ACCOUNTS AND REPORTS OF DISSOLVED BODIES

4.—(1) The appropriate body shall make arrangements for—

(a) a statement of accounts to be prepared in relation to—

(i) each Health and Social Services Board,

(ii) the Central Services Agency,

(iii) the Mental Health Commission, and

(b) a report to be prepared on the activities of each such body,

for the relevant period.

(2) The statement of accounts and report shall—

(a) be in such form, and

(b) contain such information,

as the Department may determine.

(3) The appropriate body shall, within such time after the end of the relevant period as the Department may direct—

(a) send a copy of the statement of accounts and the report to the Department; and

(b) send a copy of the statement of accounts to the Comptroller and Auditor General.

(4) In this paragraph "the relevant period", in relation to a body, means the period—

(a) beginning on such day as the Department may determine; and

(b) ending immediately before the date on which the body is dissolved.

(5) The Comptroller and Auditor General shall—

(a) examine and report on any statement of accounts received under sub-paragraph (3); and

(b) send a copy of the report to the Department.

(6) The Department shall lay before the Assembly—

(a) a copy of the statement of accounts;

(b) the Comptroller and Auditor General's report;

(c) the report mentioned in sub-paragraph (1)(b).

(7) In this paragraph—

"the appropriate body" means—

(a) in relation to Health and Social Services Boards, the Regional Board;

(b) in relation to the Central Services Agency, RBSO;

(c) in relation to the Mental Health Commission, RQIA;

"the Comptroller and Auditor General" means the Comptroller and Auditor General for Northern Ireland.

SCHEDULE 6

Section 32.

MINOR AND CONSEQUENTIAL AMENDMENTS

General amendment of certain references to health and social services, etc.

1.—(1) In any provision of Northern Ireland legislation—

(a) for "personal social services" or "social services" substitute " social care ";

(b) for "health services" substitute " health care ";

(c) for "Health and Social Services trust" substitute " Health and Social Care trust ";

(d) for "HSS trust" substitute " HSC trust ";

(e) for "HSS contract" substitute " HSC contract ";

(f) for "HSS employee" substitute " HSC employee ".

(2) Sub-paragraph (1)(a) does not apply to any reference to the name of the Department.

(3) Sub-paragraph (1) does not apply—

(a) to any reference in the title of an Act, Order in Council or other statutory provision;

(b) to any reference in this Act or to any reference which is subject to amendment or repeal by or under any other provision of this Act; or

(c) where the context otherwise requires.

The Public Health Act (Northern Ireland) 1967 (c. 36)

2.—(1) For any reference to the Director of Public Health of a Health and Social Services Board substitute a reference to the Director of Public Health.

(2) For any other reference to a Health and Social Services Board substitute a reference to the Regional Agency.

(3) In section 32 (interpretation) at the appropriate places insert—

""Director of Public Health" means the Director of Public Health for Northern Ireland (see Article 32 of the Health and Personal Social Services (Northern Ireland) Order 1991);";

"the Regional Agency" means the Regional Agency for Public Health and Social Well-being;"."

The Order of 1972

3.—(1) In Article 2(2) (interpretation)—

(a) omit the definitions of "the Agency", "Health and Social Services Board", "Health and Social Services trust", "health services", "the Ministry", "order", "personal social services", "regulations", "special agency" and "waters forming part of a port";

(b) in the definition of "directions" for the words from "and" to the end substitute " given by the Department ";

(c) at the appropriate place, insert the following definition—

""the 2009 Act" means the Health and Social Care (Reform) Act (Northern Ireland) 2009;";

Status: *Point in time view as at 11/04/2014.*
Changes to legislation: *Health and Social Care (Reform) Act (Northern Ireland) 2009 is up to date with all changes known to be in force on or before 16 May 2024. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details)*

(d) in the definition of "mental disorder" for "Act" substitute " Order ".

(2) After Article 2(2) insert—

"(2A) In this Order the following expressions have the meanings given to them by section 31(1) of the 2009 Act—

"the Department";

"health care";

"health and social care bodies";

"health inequalities";

"HSC trust";

"the Regional Agency";

"the Regional Board";

"RBSO";

"RQIA";

"regulations";

"social care"; and

"special agency".".

(3) Omit Article 4 (general duty of the Department).

(4) In Article 5 (provision of accommodation and medical services, etc.)—

(a) after "this Order" (wherever occurring) insert " or the 2009 Act ", and

(b) in paragraph (2) for "Article 4(a)" substitute " section 2(1)(a) of the 2009 Act ".

(5) In Articles 10(1)(a) (ancillary services) and 13 (education and research facilities) after "this Order" insert " or the 2009 Act ".

(6) In Article 15(1) (general social welfare) for "Article 4(b)" substitute " section 2(1)(b) of the 2009 Act ".

(7) Omit Article 16 (establishment of Health and Social Services Boards).

(8) In Article 17 (functions of Health and Social Services Boards) omit sub-paragraphs (1)(a) and (2).

(9) In Article 18 (schemes)—

(a) in paragraph (1) for "Health and Social Services Board" substitute " body to which this Article applies ";

(b) in paragraph (3) for "Health and Social Services Board" substitute " body ";

(c) in paragraphs (4) and (5) for "Health and Social Services Board" substitute " body to which this Article applies ";

(d) at the end add—

"(6) This Article applies to—

(a) the Regional Board;

(b) a Local Commissioning Group;

(c) the Regional Agency.".

(9) Omit Article 19 (joint committees).

(10) In Article 21 (university liaison committees) for paragraph (1) substitute—

"(1) The Department may by order establish University Liaison Committees for the purpose of—

(a) advising the Regional Board and the Regional Agency on the administration of health care in relation to the provision of facilities for undergraduate or post-graduate clinical teaching or for research, and

(b) advising the Regional Board, the Regional Agency and the university or universities concerned on any matter of common interest to them.".

(11) In Article 21(2)(c) after "Order" insert " or the 2009 Act ".

(12) In Article 24(1) (central advisory committees) after "this Order" (twice) insert " or the 2009 Act ".

(13) In Article 25(1) (other advisory committees) for "Article 4" substitute " section 2 of the 2009 Act ".

(14) Omit Articles 26 and 27 (the Northern Ireland Central Services Agency for Health and Social Services).

(15) In Article 31(1)(a) (accommodation and services for private patients) after "Order" insert " or the 2009 Act ".

(16) In Article 38(1)(a) (protection of property of certain persons) after "Order" insert " or the 2009 Act ".

(17) In Article 39(1) (burial, etc, of the dead) after "Order" insert " or the 2009 Act ".

(18) In Article 41 (availability or provision of services, etc.) after "Order" (twice) insert " or the 2009 Act ".

(19) In Article 42(1) (provision of services to persons not ordinarily resident in Northern Ireland) after "Order" insert " or the 2009 Act ".

(20) In Article 45(1) (travelling expenses of patients, etc.)—

(a) in sub-paragraph (a) after "this Order" insert " , the 2009 Act "; and

(b) in sub-paragraph (c) after "Order" insert " or the 2009 Act ".

(21) In Article 46 (provision of residential accommodation for officers) in sub-paragraphs (a) and (b) after "Order" insert " or the 2009 Act ".

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(22) In Article 48(1) and (1A) (land) for "any of the health or social services" substitute " health or social care ".

(23) In Article 51 (powers of Department where services are inadequate) after "Order" (second time) insert " or the 2009 Act ".

(24) In Article 52(2) (powers of Department in emergency) after sub-paragraph (g) insert—

"and

(h) the 2009 Act.".

(25) In Article 53 (default powers) in paragraph (1) for the words from "any Health" to "Agency" substitute " any body to which this Article applies ".

(26) After Article 53(1) insert—

"(1A) This Article applies to the following bodies—

(a) the Regional Board;

(b) the Regional Agency;

(c) RBSO;

(d) HSC trusts; and

(e) special agencies.".

(27) In Article 55 (recognition of local representative committees)—

(a) in paragraphs (2) and (3) for "its area" substitute " an area ";

(b) in paragraph (5)(c)—

(i) for "the area of a Health and Social Services Board" substitute " an area ", and

(ii) omit "but is not himself on a list"; and

(c) in paragraph (5)(d) for "the area of a Health and Social Services Board" substitute " an area ";

(d) in paragraph (6) for "its area" substitute " the area ";

(e) in paragraph (7) omit sub-paragraph (b) and the word "and" preceding it.

(28) In Article 55A(5) (functions of local representative committees) for "its area" substitute " an area ".

(29) In Article 55B(1) (local medical committees) for the words from "formed" to "Boards" substitute " formed for an area ".

(30) In Article 56 (primary medical services)—

(a) in paragraph (1), omit "within its area" (twice), and

(b) in paragraph (2), omit "(whether within or outside its area)" (twice).

(31) In Article 57(4) (general medical services contracts: introductory) omit sub-paragraph (b).

(32) In Article 57G(3)(c) (persons performing primary medical services) omit the words from "as to" to "made, and".

(33) In Article 67 (co-operation) for the words from the beginning to "special agencies" substitute " In exercising their respective functions, health and social care bodies ".

(34) In Article 68 (supply of goods and services to certain persons and bodies)—

(a) in paragraph (1) for "a body to which this Article applies" (twice) substitute " a health and social care body ";

(b) omit paragraph (3).

(35) In Article 69 (supply of goods and services to district councils)—

(a) in paragraph (1) for "a body to which this Article applies" substitute " a health and social care body ";

(b) omit paragraph (2).

(36) Omit Article 84 (powers of Department in cases of difficulty).

(37) In Article 87 (expenses of certain bodies)—

(a) for the heading substitute " Expenses of the special agencies ";

(b) in paragraph (1), for the words from the beginning to "Agency" substitute

"(1) The Department shall pay to the special agencies";

(c) omit paragraph (2).

(38) In Article 88(1) (regulation of financial matters of certain bodies) for the words from "Health" to "Agency" substitute " special agency ".

(39) In Article 89(1)(a) (remuneration of members of bodies and certain other persons) omit head (iii).

(40) In Article 90(6) (accounts and audit) omit sub-paragraphs (a) and (b).

(41) In Article 91(6) (accounts of endowments and other property held on trust) for sub-paragraph (a) substitute—

"(a) the Regional Board;

(aa) the Regional Agency;".

(42) In Article 92B(3) (studies for improving economy, etc. in services) for sub-paragraphs (a) and (b) substitute—

"(a) the Regional Board;

(aa) the Regional Agency;

(b) RBSO;".

(43) In Article 94(1) after "Order" insert " or the 2009 Act ".

(44) In Article 96 (preservation of associations of denominational hospitals) for "Health and Social Services Board" substitute " HSC trust ".

(45) In Article 97(1) (protection for officer acting in execution of his duty) for the words from the beginning to the end of sub-paragraph (e) substitute " An officer of a health and social care body ".

(46) In Article 98(1) (services free of charge) after "1997" insert " or the 2009 Act ".

(47) In Article 107(1) (orders, regulations and directions) omit "16(1)" and "orders made under Article 76(1) to which paragraph 1(a) to (e) of Schedule 13 applies".

(48) Omit Schedule 1 (Health and Social Services Boards) and Schedule 3 (the Agency).

(49) In Schedule 6 (removal to suitable premises of persons in need of care and attention) in paragraph 12(a)(ii) for the words from "the Health" to "resides" substitute " the Regional Board ".

(50) In Schedule 10 (prohibition on sale of medical practices)—

(a) in paragraph 1(1) omit "in that Board's area";

(b) in paragraph 2(2), for the words from "the Health" to "situated" substitute " the Regional Board ".

The Northern Ireland Assembly Disqualification Act 1975 (c. 25)

4.—(1) Schedule 1 (offices disqualifying for membership of the Assembly) is amended as follows.

(2) In Part 2 of that Schedule omit the entry relating to the Mental Health Commission for Northern Ireland.

(3) In Part 3 of that Schedule—

(a) omit the entries relating to—

(i) the Chairman or any member, not also being an employee, of a Health and Social Services Board, and

(ii) the Chairman of the Northern Ireland Central Services Agency for the Health and Social Services; and

(b) at the appropriate places insert— " Chair or any member, not also being an employee, of the Patient and Client Council established under section 16 of the Health and Social Care (Reform) Act (Northern Ireland) 2009. "; " Chair or any member, not also being an employee, of the Regional Health and Social Care Board established under section 7 of the Health and Social Care (Reform) Act (Northern Ireland) 2009. "; " Chair or any member, not also being an employee, of the Regional Agency for Public Health and Social Well-being established under section 12 of the Health and Social Care (Reform) Act (Northern Ireland) 2009. "; " Chair or any member, not also being an employee, of the Regional Business Services Organisation

established under section 14 of the Health and Social Care (Reform) Act (Northern Ireland) 2009. ".

The Solicitors (Northern Ireland) Order 1976 (NI 12)

5 In Article 3(2) (interpretation) in the definition of "local authority" for the words from "or the" (first time) to "1972" substitute " , the Regional Health and Social Care Board, the Regional Business Services Organisation, the Regional Agency for Public Health and Social Well-being ".

The Chronically Sick and Disabled Persons (Northern Ireland) Act 1978 (c. 53)

6.—(1) In section 1 (information as to need for and existence of social welfare services) in subsections (1) and (2) for "Articles 4(b) and" substitute " section 2(1)(b) of the Health and Social Care (Reform) Act (Northern Ireland) 2009 and Article ".

(2) In section 2 (provision of social welfare services)—

(a) for "Articles 4(b) and" substitute " section 2(1)(b) of the Health and Social Services (Reform) Act (Northern Ireland) 2009 and Article ", and

(b) in paragraph (d) for "the said Articles 4(b) and 15" substitute " section 2(1)(b) of the Health and Social Care (Reform) Act (Northern Ireland) 2009 and Article 15 of the Health and Personal Social Services (Northern Ireland) Order 1972 ".

The Magistrates' Courts (Northern Ireland) Order 1981 (NI 26)

7 In Article 51(2)(b) (remand for inquiry into physical or mental condition), for "the Mental Health Commission for Northern Ireland" substitute " the Health and Social Care Regulation and Quality Improvement Authority ".

The Mental Health (Northern Ireland) Order 1986 (NI 4)

8.—(1) Subject to sub-paragraphs (2) to (4), in the Order for "the Commission" (meaning the Mental Health Commission) substitute " RQIA ".

(2) In Article 2(2) (interpretation)—

(a) omit the definition of "the Commission";

(b) in the definition of "responsible authority" for sub-paragraph (ii) of paragraph (a) and sub-paragraph (ii) of paragraph (b) substitute—

"(ii) in any other case, the Regional Health and Social Care Board;";

(c) at the appropriate place in alphabetical order insert—

""RQIA" means the Health and Social Care Regulation and Quality Improvement Authority;"."

(3) In Article 16(3)(d) (correspondence of detained patients) omit ", any Commissioner thereof".

(4) For Article 85 (establishment of Mental Health Commission for Northern Ireland) substitute—

"**Duties of RQIA in relation to mental health**

85 RQIA shall exercise—

(a) such functions under this Order as are transferred to it by section 25 of the Health and Social Care (Reform) Act (Northern Ireland) 2009, and

(b) such other functions relating to or connected with mental health as the Department may by order prescribe.".

(5) Omit Articles 88 and 89 and Schedule 4.

(6) In Article 112 for "A Board" substitute " The Regional Health and Social Care Board and the Regional Agency for Public Health and Social Well-being ".

The AIDS (Control) (Northern Ireland) Order 1987 (NI 18)

9.—(1) In Article 2(2) (interpretation)—

(a) omit the definitions of "Board" and "HSS trust";

(b) at the end add—

""relevant body" means the Regional Health and Social Care Board, the Regional Agency for Public Health and Social Well-being and a health and social care trust.".

(2) In Article 3 (reports)—

(a) in paragraph (1) for "Board and by each HSS trust" substitute " relevant body ".

(b) in paragraph (2) for "Board or HSS trust" substitute " relevant body ".

(3) In the Schedule (contents of reports) for "Board or HSS trust" substitute " relevant body ".

The Water (Fluoridation) (Northern Ireland) Order 1987 (NI 21)

10 In Article 3 (fluoridation of water supplies)—

(a) omit paragraph (3); and

(b) in paragraph (5), for the words from the beginning to "application" substitute " In making arrangements with the Department in pursuance of an application, the Regional Health and Social Care Board ".

The Health and Medicines (Northern Ireland) Order 1988 (NI 24)

11.—(1) In Article 3 (powers for financing health services) in paragraph (3)(a) after "principal Order" insert " or the 2009 Act ".

(2) In Article 11 (transfer of staff) after "principal Order" insert " or the 2009 Act (within the meaning of the principal Order) ".

The Disabled Persons (Northern Ireland) Act 1989 (c. 10)

12 In section 2(5)(b) (rights of authorised representatives of disabled persons) for "Articles 4(b) and" substitute " section 2(1)(b) of the Health and Social Care (Reform) Act (Northern Ireland) 2009 and Article ".

The Health and Personal Social Services (Northern Ireland) Order 1991 (NI 1)

13.—(1) In Article 2(2) (interpretation) at the appropriate place insert—

""the Regional Board" means the Regional Health and Social Care Board established under section 7 of the Health and Social Care (Reform) Act (Northern Ireland) 2009;".

(2) In Article 2(3) after "Article 2(2)" insert " and (2A) ".

(3) Omit Article 3 (constitution of Health and Social Services Boards) and Article 4 (Health and Social Services Councils).

(4) In Article 7 (removal of Crown immunities)—

(a) omit paragraph (1);

(b) in paragraphs (2) to (4) for "health and social services body" substitute " health and social care body to which this Article applies ";

(c) in paragraph (2), omit sub-paragraph (b) and the word "and" immediately before it;

(d) in paragraph (4) after "Order" insert " or the 2009 Act ";

(e) for paragraph (6) substitute—

"(6) This Article applies to the following health and social care bodies—

(a) the Regional Board;

(b) the Regional Agency;

(c) RBSO;

(d) a special agency.".

(5) In Article 8(2) (health and social services contracts) for sub-paragraphs (a) and (b) substitute—

"(a) the Regional Board;

(aa) the Regional Agency;

(b) RBSO;".

(6) Omit Article 9 (primary and other functions of Health and Social Services Boards and special agencies).

(7) In Article 10 (health and social care trusts)—

(a) for paragraph (2) substitute—

"(2) Before making an order under paragraph (1), the Department shall consult—

(a) the Patient and Client Council, and

(b) such other persons and bodies as the Department considers appropriate.".

(b) in paragraph (3) for sub-paragraphs (a) and (b) substitute—

"(a) the Regional Board;

(aa) the Regional Agency;

(b) RBSO; or".

(8) In Article 21 (indicative amounts for doctors' practices)—

(a) in paragraph (1) omit the words "in relation to which it is the relevant Health and Social Services Board";

(b) in paragraph (4) for "the relevant Health and Social Services Board" substitute " the Regional Board ";

(c) omit paragraphs (7) and (8A).

(9) In Article 23(1) (power to raise funds) for "Health and Social Services Boards" substitute " the Regional Board, the Regional Agency, ".

(10) In Article 24(2) (schemes for meeting losses and liabilities, etc.) for sub-paragraphs (a) and (b) substitute—

"(a) the Regional Board;

(aa) the Regional Agency;

(b) RBSO;".

(11) In Article 32 (Director of Public Health) for paragraph (1) substitute—

"(1) The chief administrative medical officer of the Regional Agency shall be known as the Director of Public Health for Northern Ireland.

(1A) For any reference to the Director of Public Health of a Health and Social Services Board in—

(a) the statutory provisions mentioned in paragraph (2);

(b) any other statutory provision passed or made before the coming into operation of section 12 of the Health and Social Care (Reform) Act (Northern Ireland) 2009,

there shall be substituted a reference to theDirector of Public Health for Northern Ireland.”.

(12) Omit Schedule 1 (health and social services councils).

(13) In Schedule 3 (health and social care trusts)—

(a) in paragraph 3 omit sub-paragraphs (1)(d), (2) and (3);

(b) omit paragraph 19;

(c) in paragraph 24 after sub-paragraph (1) insert—

“(1A) The Department must exercise it powers under sub-paragraph (1) so as to ensure that all the liabilities of the HSC trust are transferred.”.

The Children (Northern Ireland) Order 1995 (NI 2)

14.—(1) In Article 17A(3)(a) (assessments and services for children who are carers) for “(in the case of a Board)” substitute “ or section 6 of the Health and Social Care (Reform) Act (Northern Ireland) 2009 ”.

(2) In Article 18A(4) (assessments: carers of disabled children) for “(in the case of a Board)” substitute “ or section 6 of the Health and Social Care (Reform) Act (Northern Ireland) 2009 ”.

(3) In Article 61(2) (right of guardian ad litem to have access to records) after “1972” insert “ or section 6 of the Health and Social Care (Reform) Act (Northern Ireland) 2009 ”.

The Commissioner for Complaints (Northern Ireland) Order 1996 (NI 7)

15.—(1) Schedule 2 (bodies subject to investigation) is amended as follows.

(2) Omit the entries relating to—

(a) a health and social services board,

(b) a health and social services council,

(c) the Mental Health Commission for Northern Ireland, and

(d) the Northern Ireland Central Services Agency for the Health and Social Services.

(3) At the appropriate places insert— “ The Patient and Client Council. ”; “ The Regional Health and Social Care Board. ”; “ The Regional Agency for Public Health and Social Well-being. ”; “ The Regional Business Services Organisation. ”.

The Criminal Justice (Northern Ireland) Order 1996 (NI 24)

16.—(1) In Article 22(5) (additional requirements in the case of mentally disordered offenders) for “the Mental Health Commission for Northern Ireland”

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substitute " the Health and Social Care Regulation and Quality Improvement Authority ".

(2) In Schedule 1 (additional requirements in probation orders) in paragraph 4(1) for "the Mental Health Commission for Northern Ireland" substitute " the Health and Social Care Regulation and Quality Improvement Authority ".

The Freedom of Information Act 2000 (c. 36)

17.—(1) Schedule 1 (bodies, etc. which are public authorities for the purposes of the Act) is amended as follows.

(2) In Part 3—

(a) omit paragraphs 46, 47 and 50;

(b) after paragraph 51 insert—

"**51A** The Regional Business Services Organisation established under section 14 of the Health and Social Services (Reform) Act (Northern Ireland) 2009.

51B The Patient and Client Council established under section 16 of the Health and Social Care (Reform) Act (Northern Ireland) 2009.

51C The Regional Health and Social Care Board established under section 7 of the Health and Social Care (Reform) Act (Northern Ireland) 2009.

51D The Regional Agency for Public Health and Social Well-being established under section 12 of the Health and Social Care (Reform) Act (Northern Ireland) 2009.".

(3) In Part 7 omit the entry relating to the Mental Health Commission for Northern Ireland.

The Health and Personal Social Services Act (Northern Ireland) 2001 (c. 3)

18.—(1) In section 51 (provision of information as to births and deaths)—

(a) in subsections (1) and (2) for "or the Agency" substitute " , RBSO ";

(b) in subsection (4) for the words from "a Health" to "district" (first time) substitute " the Regional Board ".

(2) In section 54(1) (public access to meetings of certain bodies)—

(a) for paragraphs (a) and (b) substitute—

"(a) the Regional Board;

(aa) the Regional Agency;

(b) RBSO;".

(b) for paragraph (e) substitute—

"(e) the Patient and Client Council, and".

(3) In section 59(2) after "Article 2(2)" insert " or (2A) ".

The Audit and Accountability (Northern Ireland) Order 2003 (NI 5)

19.—(1) In Article 5(1) (additional bodies whose annual accounts are subject to audit by the Comptroller and Auditor General) omit sub-paragraph (l).

(2) In Schedule 1 (amendments with respect to accounts of certain bodies) omit paragraph 12.

SCHEDULE 7 Section 33.

REPEALS

Short Title	Extent of repeal
The Public Health Act (Northern Ireland) 1967 (c. 36)	In section 2(1) the words "for the area in which the examination took place". In section 2(3) the words "carrying on practice in their area". In section 3(1) the words "for any area" and "in that area". In section 7(3) the words "for the area". In section 14(2) the words "for the area". In section 18(1) the words "for the area in which the premises are situate". In section 32 the definition of "Health and Social Services Board".
The Health and Personal Social Services (Northern Ireland) Order 1972 (NI 14)	In Article 2(2) the definitions of "the Agency", "Health and Social Services Board", "Health and Social Services trust" "health services", "the Ministry", "order", "personal social services", "regulations", "special agency" and "waters forming part of a port". Article 4. In Article 15B(4) the words "under this Part". Article 16. Article 17(1)(a) and (2).

	Article 19. Articles 26 and 27. In Article 55— (a) in paragraph (5)(c) the words "but is not himself on a list"; (b) paragraph (7)(b) and the word "and" preceding it. In Article 56— (a) in paragraph (1) the words "within its area" (twice); and (b) in paragraph (2) the words "(whether within or outside its area)" (twice). Article 57(4)(b). In Article 57G(3)(c) the words from "as to" to "made, and". Article 68(3). Article 69(2). Articles 75 and 76. Article 84. Article 87(2). Article 89(1)(a)(iii). Article 90(6)(a) and (b). Article 91(6)(a). In Article 107(1) the words "16(1)" and "orders made under Article 76(1) to which paragraph 1 (a) to (e) of Schedule 13 applies". Schedules 1 and 3. In Schedule 10, in paragraph 1(1) the words "in that Board's area". Schedule 13.
The Northern Ireland Assembly Disqualification Act 1975 (c. 25)	In Part 2 of Schedule 1, the entry relating to the Mental Health Commission for Northern Ireland. In Part 3 of Schedule 1, the entries relating to— (a) the Chairman or any member, not also being an employee, of a Health and Social Services Board; and

	(b) the Chairman of the Northern Ireland Central Services Agency for the Health and Social Services.
The Health and Personal Social Services (Northern Ireland) Order 1978 (NI 26)	Article 18.
The Mental Health (Northern Ireland) Order 1986 (NI 4)	In Article 2(2) the definition of "the Commission". In Article 16(3)(d) the words ", any Commissioner thereof". Articles 88 and 89. Schedule 4.
The Health and Personal Social Services and Public Health (Northern Ireland) Order 1986 (NI 24)	Article 3. Articles 11 and 12.
The Aids (Control) (Northern Ireland) Order 1987 (NI 18)	In Article 2(2) the definitions of "Board" and "HSS trust".
The Water (Fluoridation) (Northern Ireland) Order 1987 (NI 21)	Article 3(3).
The Health and Personal Social Services (Special Agencies) (Northern Ireland) Order 1990 (NI 3)	Article 5(2), (5), (9) and (10).
The Health and Personal Social Services (Northern Ireland) Order 1991 (NI 1)	Articles 3 and 4. Article 6. Article 7(1). In Article 7(2), sub-paragraph (b) and the word "and" immediately before it. Article 8(2)(b). Article 9. In Article 21— (a) in paragraph (1) the words "in relation to which it is the relevant Health and Social Services Board"; and (b) paragraphs (7) and (8A). Article 24(2)(b). In Article 32— (a) paragraph (2)(c) and (d); and (b) in paragraph (3) the words from "and" to "1989". Schedule 1.

	Part 2 of Schedule 2. In Schedule 3, paragraphs 3(1)(d), (2) and (3) and 19.
The Health and Personal Social Services (Northern Ireland) Order 1994 (NI 2)	In Schedule 1 the entry relating to Article 27 of the Health and Personal Social Services (Northern Ireland) Order 1972.
The Commissioner for Complaints (Northern Ireland) Order 1996 (NI 7)	In Schedule 2 the entries relating to a health and social services board, a health and social services council, the Mental Health Commission for Northern Ireland and the Northern Ireland Central Services Agency for the Health and Social Services.
The Health and Personal Social Services (Residual Liabilities) (Northern Ireland) Order 1996 (NI 13)	The whole Order.
The Health Services (Primary Care) (Northern Ireland) Order 1997 (NI 7)	In Article 13(2) the words “or by any other Board”.
The Freedom of Information Act 2000 (c. 36)	In Part 3 of Schedule 1, paragraphs 46, 47 and 50. In Part 7 of Schedule 1, the entry relating to the Mental Health Commission for Northern Ireland.
The Health and Personal Social Services Act (Northern Ireland) 2001 (c. 3)	Section 54(3).
The Audit and Accountability (Northern Ireland) Order 2003 (NI 5)	Article 5(1)(1). In Schedule 1, paragraph 12.

Status:
Point in time view as at 11/04/2014.

Changes to legislation:
Health and Social Care (Reform) Act (Northern Ireland) 2009 is up to date with all changes known to be in force on or before 16 May 2024. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations.