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STATUTORY INSTRUMENTS

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1990 No. 247 (N.I. 3)

**NORTHERN IRELAND**

**The Health and Personal Social Services  
(Special Agencies)  
(Northern Ireland) Order 1990**

*Made*

14th February 1990

*Coming into operation*

15th April 1990

At the Court of Saint James, the 14th day of February 1990

Present,

The Counsellors of State in Council

Whereas Her Majesty in pursuance of the Regency Acts 1937 to 1953, was pleased, by Letters Patent dated the 18th day of January 1990, to delegate to the six Counsellors of State therein named or any two or more of them full power and authority during the period of Her Majesty's absence from the United Kingdom to summon and hold on Her Majesty's behalf Her Privy Council and to signify thereat Her Majesty's approval for anything for which Her Majesty's approval in Council is required:

And whereas a draft of this Order has been approved by a resolution of each House of Parliament:

Now, therefore, Her Majesty Queen Elizabeth The Queen Mother and His Royal Highness The Prince Charles, Prince of Wales, being authorised thereto by the said Letters Patent, and in pursuance of the powers conferred by paragraph 1 of Schedule 1 to the Northern Ireland Act 1974, and all other powers enabling Her Majesty, and by and with the advice of Her Majesty's Privy Council, do on Her Majesty's behalf order, and it is hereby ordered, as follows:—

1974 c. 28

*Title and commencement*

1.—(1) This Order may be cited as the Health and Personal Social Services (Special Agencies) (Northern Ireland) Order 1990.

(2) This Order shall come into operation on the expiration of two months from the day on which it is made.

*Interpretation*

2.—(1) The Interpretation Act (Northern Ireland) 1954 shall apply

1954 c. 33 (N.I.)

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to Article 1 and the following provisions of this Order as it applies to a Measure of the Northern Ireland Assembly.

(2) In this Order—

“the Department” means the Department of Health and Social Services;

“the principal Order” means the Health and Personal Social Services (Northern Ireland) Order 1972;

“special agency” has the meaning assigned to it by Article 3(7).

(3) This Order shall be construed as one with the principal Order.

1972 NI 14

*Special health and social services agencies*

3.—(1) If the Department considers that a special body should be established for the purpose of performing any functions which the Department may under Article 4(1) direct the body to perform on behalf of the Department, the Department may by order establish a body for that purpose.

(2) The Department may, subject to the provisions of the Schedule, by order make such further provision relating to that body as it thinks fit.

(3) A body established in pursuance of this Article shall (without prejudice to the power conferred by paragraph (4) to allocate a particular name to the body) be called a special health and social services agency.

(4) Without prejudice to the generality of the power conferred by this Article to make an order, that order may in particular contain provisions as to—

(a) the membership of the body established by the order;

(b) the transfer to the body of officers, movable property, rights and liabilities; and

(c) the name by which the body is to be known.

(5) Before the Department makes an order under this Article, it shall consult with respect to the order such bodies as it may recognise as representing officers who in its opinion are likely to be transferred or affected by transfers in pursuance of the order.

(6) An order under this Article—

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

(b) shall be subject to negative resolution.

(7) The Schedule shall have effect with respect to a special health and social services agency (referred to in that Schedule and the following provisions of this Order as a “special agency”).

*Directions as to functions of special agency*

4.—(1) The Department may direct a special agency to exercise on its behalf such functions with respect to the administration of such

health and personal social services as are specified in the directions.

(2) The Department may give directions to a special agency with respect to the exercise of any functions exercisable by virtue of paragraph (1).

(3) The Department may direct that Article 18 of the principal Order (scheme as to exercise of functions) shall (with the appropriate modifications) apply to a special agency as it applies to a Health and Social Services Board.

(4) It shall be the duty of a special agency to comply with any directions given to it under this Article.

(5) Directions under this Article shall be in writing.

(6) In Article 3(3)(a) of the Health and Medicines (Northern Ireland) Order 1988 (directions as to exercise by other bodies of Department's powers for financing health services) after the words "principal Order" there shall be inserted the words "or the Health and Personal Social Services (Special Agencies) (Northern Ireland) Order 1990".

1988 NI 24

#### *Application of principal Order to special agencies*

5.—(1) The principal Order shall have effect subject to the amendments in the following provisions of this Article, being amendments to apply to special agencies certain provisions of that Order.

(2) In Article 2(2) (interpretation) at the appropriate place in alphabetical order there shall be inserted the following definition—

“special agency” means a special health and social services agency established under the Health and Personal Social Services (Special Agencies) (Northern Ireland) Order 1990;”.

(3) In Article 52 (power of Department in emergency) after the words “this Order” in the first place where they occur there shall be inserted the words “or the Health and Personal Social Services (Special Agencies) (Northern Ireland) Order 1990” and after those words in the second place where they occur there shall be inserted the words “or that Order”.

(4) In Article 53 (default powers of Department)—

(a) in paragraph (1) after the words “Health and Social Services Board” there shall be inserted the words “, any special agency”;

(b) in paragraphs (1) and (2) after the words “this Order” there shall be inserted the words “or the Health and Personal Social Services (Special Agencies) (Northern Ireland) Order 1990”.

(5) In Article 67 (co-operation with other bodies) after the words “Health and Social Services Boards” there shall be inserted the words “, special agencies”.

(6) In Article 68(1) (supply of goods and services) for the words "or the Agency" in both places where they occur there shall be substituted the words ", the Agency or a special agency".

(7) In Article 69 (arrangements with district councils) after the words "district council" in the first place where they occur there shall be inserted the words "or a special agency and a district council" and after the words "Health and Social Services Board" in the second place where they occur there shall be inserted the words "or, as the case may be, the special agency".

(8) In Article 85(1) (power to accept property on trust) after the words "Health and Social Services Board" there shall be inserted the words "or a special agency" and for the words "the Board's" there shall be substituted the words "that body's".

(9) In Article 87(1) (payment of expenses by Department) after the words "Health and Social Services Boards" there shall be inserted the words ", the special agencies".

(10) In Article 88(1) (regulation of financial arrangements) after the words "Health and Social Services Board" there shall be inserted the words ", each special agency".

(11) In Article 89(1) for the words "or the Mental Health Act" there shall be substituted the words "or the Health and Personal Social Services (Special Agencies) (Northern Ireland) Order 1990".

(12) In Article 90 (accounts)—

(a) in paragraphs (1) and (2)(a) after the words "Health and Social Services Board" there shall be inserted the words ", each special agency";

(b) in paragraph (2)(b) after the words "Health and Social Services Boards" there shall be inserted the words ", the special agencies".

(13) In Article 91(a) (accounts of endowments, etc.) after the words "Health and Social Services Board" there shall be inserted the words "and each special agency".

(14) In Article 92 (directions as to audit of accounts) after the words "Health and Social Services Board" there shall be inserted the words ", each special agency".

(15) In Article 97(1) (protection for officer acting in execution of duty) after the words "Health and Social Services Board" in the first place where they occur there shall be inserted the words ", a special agency" and after those words in the second place where they occur there shall be inserted the words ", the special agency".

*G. I. de Deney*  
Clerk of the Privy Council

**SCHEDULE**

Article 3(7).

**SPECIAL HEALTH AND SOCIAL SERVICES AGENCIES**

*Status*

1. A special agency shall be a body corporate to which, subject to the provisions of this Order, section 19 of the Interpretation Act (Northern Ireland) 1954 shall apply.

1954 c. 33 (N.I.)

*Acquisition, etc., of property*

2. Subject to Article 85(1) of the principal Order, so much of section 19 of the Interpretation Act (Northern Ireland) 1954 as relates to the acquisition of land shall not apply to a special agency and any power conferred by that section to acquire movable property shall be exercised on behalf of the Department.

*Committees*

3.—(1) A special agency may, subject to sub-paragraph (6), appoint one or more committees to which it may delegate such of its functions as it thinks fit.

(2) A committee appointed under this paragraph may include persons who are not members of the special agency.

(3) Every member of a committee appointed under this paragraph, who, at the time of his appointment, was a member of the special agency shall, if he ceases to be a member of the agency, also cease to be a member of the committee.

(4) A special agency, or a committee appointed by such an agency may, subject to sub-paragraph (6), appoint a sub-committee to consider and report to the agency or, as the case may be, the committee, upon any matter within the competence of that agency or committee.

(5) A sub-committee appointed under sub-paragraph (4) may include persons who are not members of the special agency or committee which appoints the sub-committee.

(6) The Department may, by regulations or directions, make provision with respect to the appointment, constitution or functions of committees and sub-committees appointed under this paragraph.

*Procedure*

4. Each special agency shall make standing orders with regard to its procedure (including the fixing of a quorum) and that of its committees and sub-committees which shall be subject to the approval of the Department.

*Disclosure of pecuniary, etc., interests and related provisions*

5.—(1) Subject to sub-paragraph (2), sections 28 to 33 and 146 of the Local Government Act (Northern Ireland) 1972 and section 148 of that Act so far as it applies for the interpretation of those sections, shall apply to a special agency and to a committee and sub-committee thereof and to a member of such agency, committee and sub-committee as if—

1972 c. 9 (N.I.)

(a) in those sections any reference to a council were a reference to a special agency or to a committee or sub-committee thereof, any reference to a councillor were a reference to a member of a special agency or of a committee or sub-committee thereof, any reference to the clerk of the council were a reference to the chief officer of the

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special agency and any reference to that Act were a reference to this Order;

(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), where an officer of a special agency is a member of the agency he may vote upon any matter which touches the interests of officers of the agency or such officers of any class (including a class to which he belongs), but shall not vote upon any matter touching only his individual interest.

*Officers*

6.—(1) The qualifications, remuneration and conditions of service of officers of a special agency shall be determined by the Department.

(2) Regulations made by the Department may make provision with respect to—

(a) the method of appointment of officers of special agencies;

(b) the qualifications, remuneration and conditions of service of such officers of special agencies 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 special agencies as may be prescribed shall be subject to the approval of the Department.

(6) Where a person becomes an employee of a special agency on direct transfer from employment in the civil service of Northern Ireland or the civil service of the United Kingdom his period of employment in that civil service at the time of the transfer shall count for the purposes of the Contracts of Employment and Redundancy Payments Act (Northern Ireland) 1965 and the Industrial Relations (Northern Ireland) Orders 1976 to 1987 as a period of employment by that special agency, and the transfer shall not break the continuity of the period of employment or give rise to any right to a redundancy payment.

1965 c. 19 (N.I.)

*The seal*

7. The seal of a special agency shall be authenticated by the signatures of at least one member of the agency and of the person for the time being acting as chief officer of the agency.

*Execution of contracts and instruments not under seal*

8. Any contract or instrument which, if entered into or executed by an individual, would not require to be under seal may be entered into or executed on behalf of a special agency by any person generally or specifically authorised by that agency to act for that purpose and any document purporting to be such a contract or instrument shall be deemed to be such a contract or instrument until the contrary is proved.

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*Investigations*

9.—(1) In the Parliamentary Commissioner Act (Northern Ireland) 1969 in paragraph 5 of Schedule 2 (matters not subject to investigation) after the words “Health and Personal Social Services (Northern Ireland) Order 1972,” there shall be inserted the words “a Special Health and Social Services Agency established under the Health and Personal Social Services (Special Agencies) (Northern Ireland) Order 1990,”. 1969 c. 10 (N.I.)

(2) In the Commissioner for Complaints Act (Northern Ireland) 1969 in Part II of Schedule 1 (public bodies subject to investigation) the following entry shall be inserted at the appropriate point in alphabetical order— 1969 c. 25 (N.I.)

“A Special Health and Social Services Agency established under Article 3 of the Health and Personal Social Services (Special Agencies) (Northern Ireland) Order 1990.”.

*Regulations*

10. Regulations under this Schedule shall be subject to negative resolution.

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**EXPLANATORY NOTE**

*(This note is not part of the Order)*

This Order enables the Department of Health and Social Services to establish Special Health and Social Services Agencies to perform functions on its behalf. It amends the Health and Personal Social Services (Northern Ireland) Order 1972 to apply certain provisions of that Order to such agencies.