

**2009 No. 395**

**HEALTH AND SOCIAL CARE**

**The Local Commissioning Groups (Membership) Regulations  
(Northern Ireland) 2009**

*Made* - - - - - *27th November 2009*

*Coming into operation* - - - - - *22nd December 2009*

The Department of Health, Social Services and Public Safety makes the following regulations in exercise of the powers conferred by section 9(6) of the Health and Social Care (Reform) Act (Northern Ireland) 2009(a).

In accordance with section 9(7) of that Act it has consulted with the Regional Board.

**Citation, commencement and interpretation**

**1.**—(1) These regulations may be cited as the Local Commissioning Groups (Membership) Regulations (Northern Ireland) 2009 and shall come into operation on 22nd December 2009.

(2) In these regulations—

“area of the Local Commissioning Group” means such area as prescribed under section 9(2) of the Act for that Local Commissioning Group;

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

“bankruptcy restrictions order” means an order made under Schedule 2A of the Insolvency (Northern Ireland) Order 1989(b);

“charity trustee” means one of the persons having the general control and management of the administration of a charity;

“dental practitioner” means a person registered in the dentists’ register under the Dentists Act 1984(c);

“general medical practitioner” means a person whose name is included on a Primary Medical Services Performers List prepared pursuant to regulation 4 of the Health and Personal Social Services (Primary Medical Services Performers Lists) Regulations (Northern Ireland) 2004(d);

“health service body” means—

(a) any of the following within the meaning of the National Health Service Act 2006(e)—

(i) a Strategic Health Authority;

(ii) a Special Health Authority;

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(a) 2009 c.1 (N.I.)

(b) S.I. 1989/2405 (N.I. 19) The relevant amending instrument is S.I. 2005/1455 (N.I. 10)

(c) 1984 c.24

(d) S.R. 2004 No. 149

(e) 2006 c.41

- (iii) a Primary Care Trust;
- (iv) an NHS Trust;
- (v) a Local Health Board;
- (b) any of the following within the meaning of the National Health Service (Scotland) Act 1978(a)—
  - (i) a Health Board;
  - (ii) a Special Health Board;
  - (iii) the Common Services Agency for the Scottish Health Service;
  - (iv) the Scottish Dental Practice Board;
- (c) the Wales Centre for Health established under section 2 of the Health (Wales) Act 2003(b);
- (d) the Health Protection Agency established under section 1 of the Health Protection Agency Act 2004(c);
- (e) the Care Quality Commission established under section 1 of the Health and Social Care Act 2008(d);

“nurse” means a person whose name is included in the register maintained under article 5 of the Nursing and Midwifery Order 2001(e);

“social worker” means a person whose name is included in a register maintained by the Northern Ireland Social Care Council under section 3(1)(a) of the Health and Personal Social Services Act (Northern Ireland) 2001(f);

“trustee for a charity” is a person not being a charity trustee, in whom legal title to the property of the charity is vested.

### **Membership of Local Commissioning Groups**

**2.—(1)** The prescribed number of persons appointed to each Local Commissioning Group shall be 17.

(2) The persons appointed to each Local Commissioning Group shall be—

- (a) four general medical practitioners;
- (b) four members of district councils;
- (c) two representatives from voluntary organisations with an interest in health and social care;
- (d) two social workers;
- (e) one dental practitioner;
- (f) one pharmacist;
- (g) one nurse;
- (h) one person who is registered as a public health medicine specialist on the Specialist Register maintained by the General Medical Council under article 13 of the General Specialist Medical Practice (Education, Training and Qualifications) Order 2003(g); and

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(a) 1978 c.29 section 2 was amended by paragraph 1 of Schedule 7 to the Health and Social Services and Social Security Adjudications Act 1983 (c.41) and by section 28 of the National Health Service and Community Care Act 1990 (c.19); section 10 was amended by paragraph 2 of Schedule 6 to the Health Services Act 1980 (c.53)

(b) 2003 c.4

(c) 2004 c.17

(d) 2008 c.14

(e) S.I. 2002/253

(f) 2001 c.3 (N.I.)

(g) S.I. 2003/1250

- (i) a chiropodist/podiatrist, dietician, occupational therapist, orthoptist, physiotherapist, radiographer or speech and language therapist registered under the Health Professions Order 2001(a).

(3) The persons appointed under paragraph (2)(a) and (e) must practise within the area of the Local Commissioning Group.

(4) The persons appointed under paragraph (2)(b) must be members of district councils within the area of the Local Commissioning Group.

(5) The persons appointed under paragraph (2)(c) must be from voluntary organisations with an interest in health and social care within the area of the Local Commissioning Group.

(6) The person appointed under paragraph (2)(d), (g), (h) and (i) must be employees of the Regional Board or Regional Agency.

(7) The person appointed under paragraph (2)(f) must provide pharmaceutical services within the area of the Local Commissioning Group.

### **Term of office**

3.—(1) The term of office of members of a Local Commissioning Group shall be 4 years or such other period as may be determined by the Regional Board at the time the appointments are made.

(2) Subject to regulation 4, a member of a Local Commissioning Group specified in regulation 2(2)(a), (b), (c), (e) or (f) may, on the termination of the term of office, be eligible for re-appointment for such further period, not exceeding 4 years as the Regional Board may in any particular case determine.

(3) The Regional Board may instead of re-appointing a member of a Local Commissioning Group specified in regulation 2(2)(a), (b), (c), (e) or (f) on the expiration of his term of office, extend his appointment for such further period as may appear reasonable in the particular circumstances; but the period by which an appointment is extended must not exceed 4 years.

(4) A general medical practitioner or a dental practitioner who ceases to practise within the area of the Local Commissioning Group shall cease to be a member of the Local Commissioning Group.

(5) A district councillor who ceases to be a member of a district council within the area of the Local Commissioning Group shall cease to be a member of the Local Commissioning Group.

(6) A person who ceases to be a representative from a voluntary organisation with an interest in health and social care within the area of the Local Commissioning Group shall cease to be a member of the Local Commissioning Group.

(7) A pharmacist who ceases to provide pharmaceutical services within the area of the Local Commissioning Group shall cease to be a member of the Local Commissioning Group.

(8) A person appointed under paragraph (2)(d), (g), (h) or (i) who is suspended from employment with the Regional Board or Regional Agency shall be suspended from membership of the Local Commissioning Group while suspended from that employment.

(9) A person appointed under paragraph (2)(d), (g), (h) or (i) who ceases to be an employee of the Regional Board or Regional Agency shall cease to be a member of the Local Commissioning Group.

(10) Where for any reason, the place of a member becomes vacant before the expiration of the member's term of office whether by death, resignation or otherwise, the term of office of any person appointed in that person's place shall be for the remainder of the term of office of the former member.

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(a) S.I. 2002/254

## Disqualification for appointment

4.—(1) Subject to regulation 5 a person shall be disqualified for appointment under regulation 2(2)(a), (b), (c), (e) or (f) if that person—

- (a) has within five years of the day the appointment would otherwise have taken effect been convicted whether in the United Kingdom or elsewhere of any offence and has been given a sentence of imprisonment (whether suspended or not) for a period of not less than three months without the option of a fine;
- (b) has been dismissed, other than by reason of redundancy, from any paid employment with the Department, a health and social care body or a health service body;
- (c) is the subject of a bankruptcy restrictions order;
- (d) is subject to a disqualification under the Company Directors Disqualification (Northern Ireland) Order 2002(a), the Company Directors Disqualification Act 1986(b) or to an order made under section 429(2)(b) of the Insolvency Act 1986(c) (failure to pay under county court administration order);
- (e) has been—
  - (i) removed from the office of charity trustee or trustee for a charity in Northern Ireland or by an order made by the Charity Commissioners or the High Court in England and Wales on the grounds of any misconduct or mismanagement in the administration of the charity for which that person was responsible or to which that person was privy, or which that person by his conduct contributed to or facilitated, or
  - (ii) removed under section 7 of the Law Reform (Miscellaneous Provisions) (Scotland) Act 1990(d) (powers of the Court of Session to deal with management of charities), from being concerned in the management or control of any body;
- (f) is a Chair, chairman, member or non-executive director of a health and social care body or a health service body;
- (g) holds any office with the Department, a health and social care body or a health service body;
- (h) is a person who has been removed from office as the Chair, chairman, member or non-executive director of a health and social care body or a health service body;
- (i) is a member of another Local Commissioning Group.

(2) A person shall be disqualified for appointment under regulation 2(2)(b) or (c) if he holds any paid employment with the Department, a health and social care body or a health service body.

(3) For the purposes of paragraph (1)(a)–

- (a) the date of conviction shall be deemed to be the date on which the ordinary period allowed for making an appeal or application with respect to the conviction expires or, if such an appeal or application is made, the date on which the appeal or application is finally disposed of or abandoned or fails by reason of its not being prosecuted; and
- (b) there shall be disregarded—
  - (i) any conviction by or before a court outside the United Kingdom for an offence in respect of conduct which, if it had taken place in any part of the United Kingdom, would not have constituted an offence under the law in force in that part of the United Kingdom;
  - (ii) any sentence of imprisonment passed by such a court on a person who at the time the sentence was passed was under 21 years of age.

(4) For the purposes of paragraph (1)(b)–

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(a) S.I. 2002/3150 (N.I. 4)  
(b) 1986 c.46  
(c) 1986 c.45  
(d) 1990 c.40

- (a) a person shall not be treated as having been in paid employment by reason only of his being a Chair, chairman, member or non-executive director of a health and social care body or health service body; and
- (b) “dismissed” excludes dismissal which was established to have been unfair in industrial tribunal proceedings.

**Cessation of disqualification**

5.—(1) Subject to paragraph (2) where a person is disqualified under regulation 4(1)(b) (dismissed employees) that person may, after the expiry of a period of not less than two years, apply in writing to the Regional Board to remove the disqualification and the Regional Board may direct that the disqualification shall cease.

(2) Where the Regional Board refuses an application to remove a disqualification no further application may be made by that person until the expiration of two years from the date of the application.

(3) Where a person is disqualified under regulation 4(1)(h) (certain Chairs, chairmen, members and non-executive directors whose appointments have been terminated) the disqualification shall cease on the expiry of a period of two years or such longer period as the Regional Board specifies when terminating the period of office but the Regional Board may on application being made to it by that person reduce the period of disqualification.

**Resignation and removal**

6.—(1) A member of a Local Commissioning Group appointed under regulation 2(2)(a), (b), (c), (e) or (f) may resign membership at any time by giving not less than 30 days notice in writing to the Regional Board of his intention to do so.

(2) Where any member of a Local Commissioning Group—

- (a) is absent from meetings of the Local Commissioning Group for more than 6 months consecutively, except for an approved reason;
- (b) is convicted of an indictable offence;
- (c) becomes disqualified for appointment under regulation 4;
- (d) is incapable of carrying out his functions for reasons of ill health; or
- (e) has failed to comply with paragraph 11 of Schedule 1 to the Act (exclusion on account of pecuniary interest);

the Local Commissioning Group 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.

(3) In paragraph (2)(a) “approved reason” means a reason approved by the Regional Board.

(4) Where the Regional Board is of the opinion that it is not in the interests of, or conducive to the good management of, the Local Commissioning Group that a member should continue to hold office, it may forthwith remove that member by giving him notice in writing to that effect.

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

Sealed with the Official Seal of the Department of Health, Social Services and Public Safety on  
27th November 2009



*Linda Devlin*  
A senior officer of the  
Department of Health, Social Services and Public Safety

## EXPLANATORY NOTE

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

These regulations make provision concerning the membership of the Local Commissioning Groups established by the Regional Health and Social Care Board under the provisions of the Health and Social Care (Reform) Act (Northern Ireland) 2009. They prescribe that the Regional Board shall appoint 17 persons to each Local Commissioning Group (regulation 2(1)), specify the composition of members (regulation 2(2)) and prescribe that the general medical practitioner and general dental practitioner must practice within the area of the Local Commissioning Group, the district councillors must be members of councils within the area of the Local Commissioning Group, the voluntary representative members must be from voluntary organisations with an interest in health and social care within the area of the Local Commissioning Group, the pharmacist member must provide pharmaceutical services within the area of the Local Commissioning Group and that the nurse, social worker, public health medicine specialist and a chiropodist/podiatrist, dietician, occupational therapist, orthoptist, physiotherapist, radiographer or speech and language therapist registered under the Health Professions Order 2001 must be employees of the Regional Board or Regional Agency. The regulations also provide for the re-appointment, disqualification and cessation of disqualification for appointment of persons appointed by the Regional Health and Social Care Board under these regulations.

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