
Changes to legislation: There are currently no known outstanding effects for the Health and Social Care (Reform) Act (Northern Ireland) 2009, SCHEDULE 2. (See end of Document for details)

SCHEDULES

SCHEDULE 2 **N.I.**

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—

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- (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).

[^{F1}(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

- F1** 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

- II** 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)—

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- (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);

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(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

- 12** 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

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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.

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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

I3 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.

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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.

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- (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

- I4** [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.

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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

- I5** [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](#)

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