

2010 No. 2540

PUBLIC HEALTH

The Health Protection Agency (Amendment) Regulations 2010

Made - - - - *14th October 2010*

Laid before Parliament *21st October 2010*

Coming into force - - *1st December 2010*

The Secretary of State for Health makes these Regulations in exercise of the powers conferred by paragraphs 1(5A), 8(1) and (2) and 29(2) and (3) of Schedule 1 to the Health Protection Agency Act 2004(a).

In accordance with paragraphs 1(7) and 8(4) of Schedule 1 to that Act the Secretary of State has consulted the Scottish Ministers, the Department of Health, Social Services and Public Safety in Northern Ireland and the Welsh Ministers(b).

Citation, commencement and interpretation

1.—(1) These Regulations may be cited as the Health Protection Agency (Amendment) Regulations 2010 and shall come into force on 1st December 2010.

(2) In these Regulations, “the 2005 Regulations” means the Health Protection Agency Regulations 2005(c).

Amendment of regulation 2 of the 2005 Regulations

2. In regulation 2(4) of the 2005 Regulations (appointment and tenure of office of chairman and members), for “and 6 (termination of tenure of office of chairman and non-executive members)” substitute—

“, 6 (termination of tenure of office of chairman and non-executive members) and 6A (suspension of office of chairman and non-executive members)”.

Insertion of new regulations 6A and 6B into the 2005 Regulations

3.—(1) After regulation 6 of the 2005 Regulations (termination of tenure of office of chairman and non-executive members), insert—

(a) 2004 c.17; paragraphs 1 and 29 of Schedule 1 were amended by the Health Act 2009 (c.21), section 19 and Schedule 3, Part 1, paragraphs 4 to 6.
(b) See paragraph 30 of Schedule 1 to the Health Protection Agency Act 2004 (c.17) for the definition of devolved authority. By virtue of paragraph 30(1)(c) of Schedule 11 to the Government of Wales Act 2006 (c.32) functions conferred on the National Assembly for Wales under the 2004 Act are transferred to the Welsh Ministers.
(c) S.I. 2005/408. There are no relevant amending statutory instruments.

“Suspension of office of chairman and non-executive members

6A.—(1) The Secretary of State^(a) may suspend a member from office as chairman or non-executive member if it appears to the Secretary of State that there are or may be grounds to remove that person from office under regulation 6(2) or (3).

(2) The Secretary of State must give notice to the chairman or non-executive member of the decision and the suspension takes effect on receipt of such notification.

(3) A notice under paragraph (2) may be—

- (a) delivered in person, in which case the chairman or non-executive member is treated as receiving it when it is delivered; or
- (b) sent by first class post to the chairman’s or non-executive member’s last known address, in which case that person is treated as receiving it on the third day after the day on which it was posted.

(4) The initial period of suspension must not exceed 6 months.

(5) The Secretary of State may review the chairman’s or non-executive member’s suspension at any time.

(6) The Secretary of State must review the chairman’s or non-executive member’s suspension if requested in writing by that person to do so, but need not carry out a review less than 3 months after the beginning of the initial period of suspension.

(7) Following a review the Secretary of State may—

- (a) revoke the suspension; or
- (b) suspend the chairman or non-executive member for another period of not more than 6 months from the expiry of the current period.

(8) The Secretary of State must revoke the suspension if at any time the Secretary of State decides—

- (a) that there are no grounds to remove the chairman or non-executive member from office under regulation 6(2) or (3); or
- (b) that there are such grounds but does not remove that person from office as chairman or non-executive member under these provisions.

Appointment of interim deputy chairman

6B.—(1) This paragraph applies where a person is suspended from office as chairman under regulation 6A.

(2) The Secretary of State may direct that the appointment as deputy chairman, under paragraph 1(5) of Schedule 1 to the Act, shall cease to have effect.

(3) Where a direction is made under paragraph (2), the Secretary of State may appoint another non-executive member to be deputy chairman.

(4) Subject to the following provisions of this regulation, a deputy chairman appointed under paragraph (3) shall hold and vacate office in accordance with the terms of their appointment.

(5) Appointment as a deputy chairman appointed under paragraph (3) shall be for a term not exceeding the shorter of—

- (a) the period ending with either—
 - (i) the appointment of a new chairman, or
 - (ii) the revocation of the existing chairman’s suspension or expiry of the existing chairman’s term as a member of the Agency; and

^(a) In accordance with regulation 2(4) of the 2005 Regulations a reference to the “Secretary of State” is to be read as if it were a reference to the relevant devolved authority. For the definition of devolved authority see paragraph 30 of Schedule 1 to the Act.

(b) the remainder of the deputy chairman's term as a member of the Agency.

(6) When the period for which a person is appointed as deputy chairman under paragraph (3) expires and provided that the chairman remains suspended from office as chairman, the Secretary of State may re-appoint the person, or appoint another non-executive member, as deputy chairman.

(7) Previous service as a chairman or deputy chairman of the Agency does not affect a person's eligibility for appointment as deputy chairman under paragraph (3) or (6).

(8) A person holding office as deputy chairman of the Agency under this regulation may resign that office by giving notice in writing to the Secretary of State.

(9) A notice given under paragraph (8) shall take effect—

(a) where a date is specified in the notice as that on which the resignation is to take effect, on that date; or

(b) in any other case, on the date that the notice is received by the Secretary of State.

(10) The Secretary of State may remove a person holding office as deputy chairman under this regulation from that office if the Secretary of State is satisfied that it would be in the best interests of the Agency for another non-executive member to be the deputy chairman.”

Signed by authority of the Secretary of State for Health.

14th October 2010

Simon Burns
Minister of State,
Department of Health

EXPLANATORY NOTE

(This note is not part of the Regulations)

These Regulations amend the Health Protection Agency Regulations 2005(a) and make provision for the suspension of members of the Health Protection Agency (“the Agency”).

Regulations 2 and 3 provide for the suspension from office of the chairman and non-executive members of the Agency by the person who appointed the chairman or member where certain conditions are satisfied (see the insertion of new regulation 6A). It further provides for the appointment of an interim deputy chairman where the chairman is suspended (see insertion of new regulation 6B).

A full impact assessment has not been produced for this instrument as no impact on the private or voluntary sectors is foreseen.

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(a) S.I. 2005/408.

STATUTORY INSTRUMENTS

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