

ORDER OF THE SECRETARY OF STATE CIVIL SERVICE COMMISSIONERS (NORTHERN IRELAND) ORDER 1999

In exercise of the powers conferred on me by Letters Patent of Her Majesty dated 20 December 1973 and of all other powers enabling me in that behalf, I hereby make the following Order:-

1. TITLE AND COMMENCEMENT

1. This Order may be cited as the Civil Service Commissioners (Northern Ireland) Order 1999 and shall come into operation forthwith.

2. INTERPRETATION

1. The Interpretation Act (Northern Ireland) 1954(a) shall apply to this Order as if this Order were an enactment, and for the purposes of that Act, as applied by this paragraph, the 1996 Order shall be deemed to be an enactment revoked by this Order.
2. Without prejudice to paragraph (1), any reference in an instrument or other document to a provision of the 1996 Order to which there is a corresponding provision in this Order shall be construed as a reference to that corresponding provision in this Order.
3. In this Order, except where otherwise expressly provided –
 - "the 1996 Order" means the Civil Service (Northern Ireland) Order 1996 (b);
 - "appointed to a situation in the Civil Service" means appointed to a situation in the Civil Service, other than by promotion or transfer from within the Civil Service, where that promotion or transfer was not made following competition for the situation open to applicants from within and without the Civil Service and "appointment to any situation in the Senior Civil Service" shall be construed accordingly;
 - "civil servant" means any person serving in a situation in the Civil Service;
 - "the Civil Service" means the Northern Ireland Civil Service;
 - "the Code of Ethics" means a Code of Ethics made under Article 4(2)(b) of the Civil Service (Northern Ireland) Order 1999;
 - "the Commissioners" means the persons for the time being appointed by Her Majesty to be Civil Service Commissioners for Northern Ireland;
 - "the Department" means the Department of Finance and Personnel;
 - "enactment" has the meaning assigned to it by Section 1(b) of the Interpretation Act (Northern Ireland) 1954.

4. In this Order any reference to the New Northern Ireland Assembly shall, after the coming into operation of Parts II and III of the Northern Ireland Act 1998, be construed as a reference to the Northern Ireland Assembly.

3. SELECTION ON MERIT

1. Except as otherwise expressly provided by or under this Order, a person shall not be appointed to a situation in the Civil Service unless:
 - (a) the selection of that person for appointment was made on merit on the basis of fair and open competition; and
 - (b) the person appointed satisfies such requirements for appointment as may be prescribed by the Department under Article 4(2)(c) of the Civil Service (Northern Ireland) Order 1999.
2. Paragraph (1)(a) shall not apply where an appointment is made to a situation in the Civil Service:
 - (a) directly by Her Majesty; or
 - (b) subject to paragraph (4), by any relevant member for the purpose only of providing advice to him during a period terminating on or before the next dissolution of the New Northern Ireland Assembly.
3. In paragraphs (2)(b) and (4) "relevant member" means any of the following persons, that is to say –
 - (a) the Presiding Officer of the New Northern Ireland Assembly;
 - (b) the First Minister or Deputy First Minister; or
 - (c) any other member of the Executive Committee of that Assembly.
4. The First Minister and the Deputy First Minister may each appoint up to three persons to hold, at any one time, a situation under paragraph (2)(b) and any other relevant member may appoint one person to hold, at any one time, such a situation.
5. The terms and conditions of employment of any appointment under paragraph (2)(b) shall be in accordance with such terms and conditions of employment as shall be prescribed by the Department of Finance and Personnel in regulations or directions.

4. FUNCTIONS OF THE COMMISSIONERS

1. The Commissioners shall maintain the principle of selection on merit on the basis of fair and open competition in relation to selection for appointment.

2. Without prejudice to Article 3(2), the Commissioners may, with the approval of the Secretary of State, prescribe, in General Regulations, or by directions, the circumstances in which the principle of selection on merit on the basis of fair and open competition shall not apply.
3. The Commissioners shall prescribe and publish a recruitment code on the interpretation and application of the principle of selection on merit on the basis of fair and open competition, including the circumstances in which any exceptions to that principle prescribed by the Commissioners, in pursuance of General Regulations or directions made under paragraph (2), may be exercised.
4. The Commissioners shall audit recruitment policies and practices followed in making appointments to situations in the Civil Service to establish whether the recruitment code is being observed.
5. The Commissioners may require the publication of such information as they may specify relating to recruitment and to the use of permitted exceptions to the principle of selection on merit on the basis of fair and open competition.

5. APPEALS UNDER THE CODE OF ETHICS

1. The Commissioners may consider and determine appeals to them by a civil servant under the Code of Ethics.
2. For the purposes of paragraph (1), the Commissioners may –
 - (a) regulate their own procedure;
 - (b) require the parties to any appeal or to any investigation occasioned by an appeal to provide such information and other assistance as the Commissioners think necessary or appropriate; and
 - (c) make recommendations.
3. The Commissioners –
 - (a) shall publish annually a report of the number of appeals made to them under the Code of Ethics together with summary information as to the nature of such appeals; and
 - (b) may make such other reports on appeals to them under the Code of Ethics as they think fit.

6. THE COMMISSIONERS' APPROVAL FOR APPOINTMENT

1. Other than an appointment referred to in Article 3(2), no appointment shall be made to any situation in the Senior Civil Service, or to any situation prescribed by General Regulations or by directions for the purposes of this Article by the Commissioners with the approval of the Secretary of State, without the written approval of the Commissioners, whose decision shall be final.

7. EXERCISE OF THE COMMISSIONERS' FUNCTIONS

1. The functions of the Commissioners may be exercised by any one or more than one of the Commissioners and references to the Commissioners shall be construed accordingly.
2. The Secretary of State may assign officers to act as secretary and deputy secretary to the Commissioners and shall afford to the Commissioners such assistance as they may reasonably require for the discharge of their functions.
3. The Commissioners may, in relation to such matters, and to such extent as they may specify, authorise their secretary, deputy secretary or any other person to act on their behalf.
4. A Commissioner may be paid such remuneration and allowances as the Secretary of State may determine.

Marjorie Mowlam
Northern Ireland Office

2 March 1999
One of Her Majesty's Principal Secretaries of State