

**ADRODDIAD GAN Y PWYLLGOR DEDDFAU****LEGISLATION COMMITTEE REPORT**

**The Local Health Boards (Constitution, Membership and Procedures) (Wales)
Regulations 2003**

These contain detailed provisions regarding the membership and proceedings of local health boards.

Standing Order 11.5

The Assembly is invited to pay attention to an apparent drafting defect in the enabling powers. Although the citation includes section 16BA(1) and (2) those provisions contain an order making power for the establishment of local health boards. This is not a power which can be exercised in regulations and, indeed, the present regulations do not contain any purported exercise of that power. Thus, as acknowledged on behalf of the Minister, the reference to section 16BA should not have been included in the enabling powers.

The Assembly is additionally invited to pay attention to see the following points in respect of which the form or meaning of the regulations has needed further explanation which has now been submitted on behalf of the Minister.

1. As regulation 5(3) provides expressly for the appointment of the first chief officer, it was thought that paragraph (4) might have been intended to refer only to non-officer members. It has been confirmed, however, that notwithstanding the provision in paragraph (3), paragraph (4) is intended to cover officer members as well as non-officer members.

2. In relation to regulation 8(2) it has been confirmed that the reference to “the officer members” in line 1 is intended to refer to all such members other than the member against whom the complaint is made.

All of the above points would be capable of correction/clarification by memorandum of corrections.

Observations

Making

The insertion of 28 January 2003 at the head of the regulations and in relation to, and together with, the printed signature is premature.

Preamble

Footnote (b) is misleading in its reference to the transfer of functions order. The function of making these regulations is vested directly in the Assembly by the enabling powers.

Regulation 1(2)

This is not necessary given that local health boards only exist in Wales. It could possibly be mistakenly construed as detracting from the ability of local health boards to enter into arrangements with health authority bodies in England – see, in particular, regulation 16(1).

Regulation 3(2)

The requirement that the number of officer members shall not exceed the number of non-officer members seems unnecessary given that paragraph (3) requires there to be four officer members and paragraph (4) requires a larger number of non-officer members.

Regulation 8

It is noted that the implication must be that action under this provision will effectively terminate the officer’s employment, given the requirement in regulation 3(3). Thus the provision can only be operated if there are valid grounds for dismissal from employment.

Mick Bates AM
Chair, Legislation Committee

17 December 2002