



2001 CHAPTER 3

PART I

SOCIAL CARE WORKERS

Preliminary

The Northern Ireland Social Care Council

1.—(1) There shall be a body corporate to be known as the Northern Ireland Social Care Council (referred to in this Part as “the Council”) which shall have the functions conferred on it by or under this Part or any other statutory provision.

(2) It shall be the duty of the Council to promote—

- (a) high standards of conduct and practice among social care workers; and
- (b) high standards in their training.

(3) The Council shall, in the exercise of its functions, act—

- (a) in accordance with any directions given to it by the Department; and
- (b) under the general guidance of the Department.

(4) Schedule 1 shall have effect with respect to the Council.

“Social care worker”, etc.

2.—(1) This section has effect for the purposes of this Part.

(2) “Social care worker” means a person (other than a person excepted by regulations) who—

Changes to legislation: There are currently no known outstanding effects for the Health and Personal Social Services Act (Northern Ireland) 2001. (See end of Document for details)

- (a) engages in relevant social work (referred to in this Part as a “social worker”);
 - (b) is employed at—
 - (i) a children's home;
 - (ii) a residential care home;
 - (iii) a nursing home;
 - (iv) a day care setting;
 - (v) a residential family centre;
 - (c) manages an establishment of a description mentioned in paragraph (b); or
 - (d) is supplied by a domiciliary care agency to provide personal care in their own homes for persons who by reason of illness, infirmity or disability are unable to provide it for themselves without assistance.
- (3) Regulations may provide that persons of any of the following descriptions shall be treated as social care workers—
- (a) a person engaged in work for the purposes of the [F¹social care] functions of [F²the Department or an][F³HSC trust];
 - (b) a person engaged in the provision of personal care for any person;
 - (c) a person who manages, or is employed in, an undertaking which consists of or includes supplying, or providing services for the purpose of supplying, persons to provide personal care;
 - (d) a person engaged in the provision of services which are similar to services which may or must be provided by [F⁴the Department] or [F⁵HSC trusts] in the exercise of their [F¹social care] functions;
 - (e) a person employed in connection with the discharge of functions of the Department under Article 149 of the Children (Northern Ireland) Order 1995 (NI 2) (inspection of children's homes etc.);
 - (f) a person participating in a course approved by the Council under section 10 for persons wishing to become social workers.
- (4) “Relevant social work” means social work which is required in connection with any health, education, probation or [F¹social care] provided by any person.
- F⁶(5)
- F⁶(6)
- F⁶(7)

<p>F1 Words in Act substituted (1.4.2009) by Health and Social Care (Reform) Act (Northern Ireland) 2009 (c. 1), ss. 32, 34(3), Sch. 6 para. 1(1)(a) (with Sch. 6 para. 1(2)(3)); S.R. 2009/114, art. 2</p>
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Changes to legislation: There are currently no known outstanding effects for the Health and Personal Social Services Act (Northern Ireland) 2001. (See end of Document for details)

- F2** Words in s. 2(3)(a) substituted (1.4.2022) by Health and Social Care Act (Northern Ireland) 2022 (c. 3), s. 8(1)(b), **Sch. 1 para. 189(2)(a)**; S.R. 2022/102, art. 2(b)
- F3** Words in Act substituted (1.4.2009) by Health and Social Care (Reform) Act (Northern Ireland) 2009 (c. 1), ss. 32, 34(3), **Sch. 6 para. 1(1)(d)** (with Sch. 6 para. 1(3)); S.R. 2009/114, **art. 2**
- F4** Words in s. 2(3)(d) substituted (1.4.2022) by Health and Social Care Act (Northern Ireland) 2022 (c. 3), s. 8(1)(b), **Sch. 1 para. 189(2)(b)**; S.R. 2022/102, art. 2(b)
- F5** Words in Act substituted (1.4.2009) by virtue of Health and Social Care (Reform) Act (Northern Ireland) 2009 (c. 1), ss. 32, 34(3), **Sch. 6 para. 1(1)(d)** (with Sch. 6 para. 1(3)); S.R. 2009/114, **art. 2**
- F6** S. 2(5)-(7) omitted (31.12.2020) by virtue of The European Qualifications (Health and Social Care Professions) (Amendment etc.) (EU Exit) Regulations 2019 (S.I. 2019/593), reg. 1(2), **Sch. 10 para. 3** (with reg. 12A, Sch. 10 Pt. 2) (as amended by S.I. 2020/1394, regs. 4, 18); 2020 c. 1, Sch. 5 para. 1(1)

Registration

The register

- 3.—(1)** The Council shall maintain a register of—
 - (a) social workers [^{F7}and] ; ^{F8} . . .
 - (b) social care workers of any other description specified by order made by the Department.; ^{F9}
 - ^{F9}(c)
- ^{F10}(2) There shall be a separate part of the register for—
 - (a) social workers [^{F11}and] ;
 - (b) each description of social care workers specified pursuant to subsection (1) (b); ^{F12}
 - ^{F12}(c)
- (2A) For the purposes of this Part—
 - (a) the part mentioned in subsection (2)(a) is the “principal part” of the register;
 - (b) a part mentioned in subsection (2)(b) is an “added part” of the register;^{F13}
 - ^{F13}(c)]
- (3) The Department may by order provide for a specified part of the register to be closed, as from a date specified by the order, so that on or after that date no further persons can become registered in that part.
- (4) The Department shall consult the Council before making, varying or revoking any order under this section.
- (5) The register may be kept by means of a computer.

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- F7** Word in s. 3(1)(a) inserted (31.12.2020) by [The European Qualifications \(Health and Social Care Professions\) \(Amendment etc.\) \(EU Exit\) Regulations 2019 \(S.I. 2019/593\)](#), reg. 1(2), **Sch. 10 para. 4(a)(i)** (with reg. 12A, Sch. 10 Pt. 2) (as amended by S.I. 2020/1394, regs. 4, 18); 2020 c. 1, Sch. 5 para. 1(1)
- F8** Word in s. 3(1)(a) omitted (3.12.2007) by virtue of [European Qualifications \(Health and Social Care Professions\) Regulations 2007 \(S.I. 2007/3101\)](#), regs. 1(2), **245(a)**
- F9** S. 3(1)(c) and word omitted (31.12.2020) by virtue of [The European Qualifications \(Health and Social Care Professions\) \(Amendment etc.\) \(EU Exit\) Regulations 2019 \(S.I. 2019/593\)](#), reg. 1(2), **Sch. 10 para. 4(a)(ii)** (with reg. 12A, Sch. 10 Pt. 2) (as amended by S.I. 2020/1394, regs. 4, 18); 2020 c. 1, Sch. 5 para. 1(1)
- F10** S. 3(2)(2A) substituted (3.12.2007) for s. 3(2) by [European Qualifications \(Health and Social Care Professions\) Regulations 2007 \(S.I. 2007/3101\)](#), regs. 1(2), **245(b)**
- F11** Word in s. 3(2)(a) inserted (31.12.2020) by [The European Qualifications \(Health and Social Care Professions\) \(Amendment etc.\) \(EU Exit\) Regulations 2019 \(S.I. 2019/593\)](#), reg. 1(2), **Sch. 10 para. 4(a)(i)** (with reg. 12A, Sch. 10 Pt. 2) (as amended by S.I. 2020/1394, regs. 4, 18); 2020 c. 1, Sch. 5 para. 1(1)
- F12** S. 3(2)(c) and word omitted (31.12.2020) by virtue of [The European Qualifications \(Health and Social Care Professions\) \(Amendment etc.\) \(EU Exit\) Regulations 2019 \(S.I. 2019/593\)](#), reg. 1(2), **Sch. 10 para. 4(a)(ii)** (with reg. 12A, Sch. 10 Pt. 2) (as amended by S.I. 2020/1394, regs. 4, 18); 2020 c. 1, Sch. 5 para. 1(1)
- F13** S. 3(2A)(c) omitted (31.12.2020) by virtue of [The European Qualifications \(Health and Social Care Professions\) \(Amendment etc.\) \(EU Exit\) Regulations 2019 \(S.I. 2019/593\)](#), reg. 1(2), **Sch. 10 para. 4(b)** (with reg. 12A, Sch. 10 Pt. 2) (as amended by S.I. 2020/1394, regs. 4, 18); 2020 c. 1, Sch. 5 para. 1(1)

Applications for registration

4.—(1) An application for registration [^{F14} in the principal part, or an added part, of the register ^{F15}...] shall be made to the Council in accordance with rules made by it.

(2) An application under subsection (1) shall specify each part of the register in which registration is sought and such other matters as may be required by the rules.

- F14** Words in s. 4(1) substituted (3.12.2007) by [European Qualifications \(Health and Social Care Professions\) Regulations 2007 \(S.I. 2007/3101\)](#), regs. 1(2), **246**
- F15** Words in s. 4(1) omitted (13.5.2016) by virtue of [Health and Personal Social Services \(Amendment\) Act \(Northern Ireland\) 2016 \(c. 23\)](#), **ss. 6(3), 8**

Grant or refusal of registration

5.—(1) [^{F16}In the case of an application under section 4(1), if the Council] is satisfied that the applicant—

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- (a) is of good character;
- (b) is physically and mentally fit to perform the whole or part of the work of persons registered in any part of the register to which his application relates; and
- (c) satisfies the following conditions,

it shall grant the application, either unconditionally or subject to such conditions as it thinks fit; and in any other case it shall refuse it.

(2) The first condition is that—

- (a) in the case of an applicant for registration as a social worker—
 - (i) he has successfully completed a course approved by the Council under section 10 for persons wishing to become social workers;
 - (ii) he satisfies the requirements of section 11; or
 - (iii) he satisfies any requirements as to training which the Council may by rules impose in relation to social workers;
- (b) in the case of an applicant for registration as a social care worker of any other description, he satisfies any requirements as to training which the Council may by rules impose in relation to social care workers of that description.

(3) The second condition is that the applicant satisfies any requirements as to conduct and competence which the Council may by rules impose.

[^{F17}(4) For the purposes of subsection (1)(a), in considering whether a person is of good character, the Council may have regard to whether he is included in a barred list (within the meaning of the Safeguarding Vulnerable Groups (Northern Ireland) Order 2007).]

F16 Words in s. 5(1) substituted (3.12.2007) by [European Qualifications \(Health and Social Care Professions\) Regulations 2007 \(S.I. 2007/3101\)](#), regs. 1(2), **247**

F17 S. 5(4) added (12.10.2009) by [Safeguarding Vulnerable Groups \(Northern Ireland\) Order 2007 \(S.I. 2007/1351 \(N.I. 11\)\)](#), arts. 1(3), 60(1), **Sch. 7 para. 5** (with arts. 2(4), 53, 57(3), 61(4)); S.R. 2009/346, **art. 3**, Sch.

Visiting social workers from relevant European States

^{F18}**5A.**

F18 S. 5A omitted (31.12.2020) by virtue of [The European Qualifications \(Health and Social Care Professions\) \(Amendment etc.\) \(EU Exit\) Regulations 2019 \(S.I. 2019/593\)](#), reg. 1(2), **Sch. 10 para. 5** (with reg. 12A, Sch. 10 Pt. 2) (as amended by S.I. 2020/1394, regs. 4, 18); 2020 c. 1, Sch. 5 para. 1(1)

Removal, etc. from register

6.—(1) The Council shall by rules determine circumstances in which, and the means by which—

- (a) a person may be removed from a part of the register, whether or not for a specified period;
- (b) a person who has been removed from a part of the register may be restored to that part;
- (c) a person's registration in a part of the register may be suspended for a specified period;
- (d) the suspension of a person's registration in a part of the register may be terminated;
- [^{F19}(da) a person's registration in a part of the register may be made subject to conditions (whether or not for a specified period);
- (db) the conditions to which a person's registration in a part of the register is subject may be varied or revoked;
- (dc) the duration for which a person's registration in a part of the register is subject to conditions may be varied;
- (dd) an agreement with a registered person that the person will comply with specified undertakings (whether or not for a specified period) may be made;
- (de) an agreement of a kind mentioned in paragraph (dd) may be varied or revoked;
- (df) a warning may be given to a registered person;
- (dg) advice may be given to a registered person;]
- (e) an entry in a part of the register may be removed, altered or restored.

(2) The rules shall make provision as to the procedure to be followed, and the rules of evidence to be observed, in proceedings brought for the purposes of the rules, whether before the Council or any committee of the Council.

(3) The rules shall provide for such proceedings to be in public except in such cases (if any) as the rules may specify.

(4) Where a person's registration in a part of the register is suspended under subsection (1)(c), he shall be treated as not being registered in that part notwithstanding that his name still appears in it.

F19 S. 6(1)(da)-(dg) inserted (13.5.2016) by [Health and Personal Social Services \(Amendment\) Act \(Northern Ireland\) 2016 \(c. 23\)](#), ss. 1, 8

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Rules about registration

7. The Council may by rules make provision about the registration of persons under this Part and, in particular—

- (a) as to the keeping of the register;
- (b) as to the documentary and other evidence to be produced by those applying [^{F20}under section 4(1) for registration or applying] for additional qualifications to be recorded, or for any entry in the register to be altered or restored;
- (c) for a person's registration to remain effective without limitation of time (subject to removal from the register ^{F21}... in accordance with rules made by virtue of section 6) or to lapse after a specified period or in specified cases, or to be subject to renewal as and when provided by the rules.

F20 Words in s. 7(b) substituted (3.12.2007) by [European Qualifications \(Health and Social Care Professions\) Regulations 2007 \(S.I. 2007/3101\)](#), regs. 1(2), **249(a)**

F21 Words in s. 7(c) omitted (31.12.2020) by virtue of [The European Qualifications \(Health and Social Care Professions\) \(Amendment etc.\) \(EU Exit\) Regulations 2019 \(S.I. 2019/593\)](#), reg. 1(2), **Sch. 10 para. 6** (with reg. 12A, Sch. 10 Pt. 2) (as amended by S.I. 2020/1394, regs. 4, 18); 2020 c. 1, Sch. 5 para. 1(1)

[^{F22}Power to obtain information etc

7A.—(1) The power under subsection (2) may be exercised for the purpose of assisting the Council in performing a function under section 5^{F23}... or 6 in respect of a person (“the relevant person”).

(2) If the Council considers that any person (except the relevant person) is able to provide information or produce a document that appears relevant to the performance of the function, it may by notice require the person to provide the information or produce the document.

(3) Subsection (2) does not require or permit any disclosure of information which is prohibited by or under any other statutory provision [^{F24}or the [^{F25}UK GDPR]].

(4) But where information is held in a form in which the prohibition operates because the information is capable of identifying an individual, the Council may, in exercising the power under subsection (2), require that the information be put into a form which is not capable of identifying that individual.

[^{F26}(5) In determining for the purposes of subsection (3) whether a disclosure is prohibited, it is to be assumed for the purposes of paragraph 5(2) of Schedule 2 to the Data Protection Act 2018 and paragraph 3(2) of Schedule 11 to that Act (exemptions from certain provisions of the data protection legislation: disclosures required by law) that the disclosure is required by this section.]

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(6) Subsection (2) does not apply to information or a document which the person could not be compelled to provide or produce in civil proceedings before the county court.

(7) If a person fails to provide any information or produce any document within 14 days of the person being required to do so under this section, the Council may apply to the county court for an order requiring the information to be provided or the document to be produced.

[^{F27}(8) In this section, “the UK GDPR” has the same meaning as in Parts 5 to 7 of the Data Protection Act 2018 (see section 3(10) and (14) of that Act).]

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| F22 | S. 7A inserted (13.5.2016) by Health and Personal Social Services (Amendment) Act (Northern Ireland) 2016 (c. 23), ss. 2(1), 8 |
| F23 | Word in s. 7A(1) omitted (31.12.2020) by virtue of The European Qualifications (Health and Social Care Professions) (Amendment etc.) (EU Exit) Regulations 2019 (S.I. 2019/593), reg. 1(2), Sch. 10 para. 7 (with reg. 12A, Sch. 10 Pt. 2) (as amended by S.I. 2020/1394, regs. 4, 18); 2020 c. 1, Sch. 5 para. 1(1) |
| F24 | Words in s. 7A(3) inserted (25.5.2018) by Data Protection Act 2018 (c. 12), s. 212(1), Sch. 19 para. 77(2) (with ss. 117, 209, 210); S.I. 2018/625, reg. 2(1)(g) |
| F25 | Words in s. 7A(3) substituted (31.12.2020) by The Data Protection, Privacy and Electronic Communications (Amendments etc) (EU Exit) Regulations 2019 (S.I. 2019/419), reg. 1(2), Sch. 3 para. 21(2) (with Sch. 3 para. 112); 2020 c. 1, Sch. 5 para. 1(1) |
| F26 | S. 7A(5) substituted (25.5.2018) by Data Protection Act 2018 (c. 12), s. 212(1), Sch. 19 para. 77(3) (with ss. 117, 209, 210); S.I. 2018/625, reg. 2(1)(g) |
| F27 | S. 7A(8) substituted (31.12.2020) by The Data Protection, Privacy and Electronic Communications (Amendments etc) (EU Exit) Regulations 2019 (S.I. 2019/419), reg. 1(2), Sch. 3 para. 21(3) (with Sch. 3 para. 112); 2020 c. 1, Sch. 5 para. 1(1) |

[^{F28}**Investigations under section 6: information about, and to, a registered person's employers**

7B.—(1) This section applies where a specified kind of investigation under section 6 is being undertaken in respect of a registered person.

(2) The Council may by notice require the registered person to give details of—

- (a) all relevant employers, and
 - (b) any person who was a relevant employer at any time during a period stated in the notice.
- (3) The Council may notify any relevant employer of the investigation.
- (4) Section 7A(3), (5) and (7) apply for the purposes of subsection (2).
- (5) In this section—
- “relevant employer” means—

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- (a) any person who employs the registered person to do relevant work, and
- (b) any person who has an arrangement with the registered person for the registered person to do relevant work;

“relevant work” means—

- (a) anything that, if done by a person, would result in the person being a social care worker, and
- (b) anything done anywhere outside Northern Ireland that, if done in Northern Ireland by a person, would result in the person being a social care worker;

“specified” means specified by rules made by the Council.”.]

F28 S. 7B inserted (13.5.2016) by [Health and Personal Social Services \(Amendment\) Act \(NorthernIreland\) 2016 \(c. 23\), ss. 2\(2\), 8](#)

Registration – enforcement

8.—(1) If a person who is not registered [^{F29}in the register as a social worker ^{F30}...] with intent to deceive another—

- (a) takes or uses the title of social worker;
- (b) takes or uses any title or description implying that he is [^{F31}so registered] , or in any way holds himself out as so registered,

he is guilty of an offence.

(2) A person guilty of an offence under subsection (1) shall be liable on summary conviction to a fine not exceeding level 5 on the standard scale.

(3) The Department may by regulations make provision for prohibiting persons from working in such positions as may be prescribed unless they are registered in, or in a particular part of, [^{F32}the register] .

(4) Regulations under subsection (3) may provide that a contravention of any specified provision of the regulations shall be an offence.

(5) A person guilty of an offence under such regulations shall be liable on summary conviction to a fine not exceeding level 4 on the standard scale.

^{F33}(6)

F29 Words in s. 8(1) substituted (13.5.2016) by [Health and Personal Social Services \(Amendment\) Act \(NorthernIreland\) 2016 \(c. 23\), ss. 3\(2\), 8](#)

F30 Words in s. 8(1) omitted (31.12.2020) by virtue of [The European Qualifications \(Health and Social Care Professions\) \(Amendment etc.\) \(EU Exit\) Regulations 2019 \(S.I. 2019/593\), reg. 1\(2\), Sch. 10 para. 8\(a\)](#) (with reg. 12A, Sch. 10 Pt. 2) (as amended by S.I. 2020/1394, regs. 4, 18); 2020 c. 1, Sch. 5 para. 1(1)

Changes to legislation: There are currently no known outstanding effects for the Health and Personal Social Services Act (Northern Ireland) 2001. (See end of Document for details)

- F31** Words in s. 8(1)(b) substituted (31.12.2020) by [The European Qualifications \(Health and Social Care Professions\) \(Amendment etc.\) \(EU Exit\) Regulations 2019 \(S.I. 2019/593\)](#), reg. 1(2), **Sch. 10 para. 8(b)** (with reg. 12A, Sch. 10 Pt. 2) (as amended by S.I. 2020/1394, regs. 4, 18); 2020 c. 1, Sch. 5 para. 1(1)
- F32** Words in s. 8(3) substituted (13.5.2016) by [Health and Personal Social Services \(Amendment\) Act \(Northern Ireland\) 2016 \(c. 23\)](#), **ss. 3(3)**, 8
- F33** S. 8(6) omitted (13.5.2016) by virtue of [Health and Personal Social Services \(Amendment\) Act \(Northern Ireland\) 2016 \(c. 23\)](#), **ss. 3(4)**, 8

Codes of practice

Codes of practice

9.—(1) The Council shall prepare and from time to time publish codes of practice laying down—

- (a) standards of conduct and practice expected of social care workers; and
- (b) standards of conduct and practice in relation to social care workers, being standards expected of persons employing or seeking to employ them.

(2) The Council shall—

- (a) keep the codes under review; and
- (b) vary their provisions whenever it considers it appropriate to do so.

(3) Before issuing or varying a code, the Council shall consult any persons it considers appropriate to consult.

(4) A code published by the Council shall be taken into account—

- (a) by the Council in making a decision under this Part; and
- (b) in any proceedings on an appeal against such a decision.

(5) A public body making any decision about the conduct of any social care worker employed by it shall, unless the Department otherwise directs, take into account any code published by the Council.

(6) In subsection (5) “public body” means a body established by a statutory provision.

(7) Any person who asks the Council for a copy of a code shall be entitled to have one.

Changes to legislation: There are currently no known outstanding effects for the Health and Personal Social Services Act (Northern Ireland) 2001. (See end of Document for details)

Training

Approval of courses, etc.

10.—(1) The Council may, in accordance with rules made by it, approve courses in relevant social work for persons who are or wish to become social workers.

(2) An approval given under this section may be either unconditional or subject to such conditions as the Council thinks fit.

(3) Rules made by virtue of this section may in particular make provision—

- [^{F34}(a) about the provision of courses, including their content and methods of completing them;]
- (b) as to the provision to the Council of information about courses;
- (c) as to the persons who may participate in courses, or in parts of courses specified in the rules;
- (d) as to the numbers of persons who may participate in courses;
- (e) for the award by the Council of certificates of the successful completion of courses;
- (f) about the lapse and renewal of approvals; and
- (g) about the withdrawal of approvals.

(4) The Council may—

- (a) conduct, or make arrangements for the conduct of, examinations in connection with such courses as are mentioned in this section or section 14; and
- (b) carry out, or assist other persons in carrying out, research into matters relevant to training for relevant social work.

(5) A course for persons who wish to become social workers shall not be approved under this section unless the Council considers that it is such as to enable persons completing it to attain the required standard of proficiency in relevant social work.

(6) In subsection (5) “the required standard of proficiency in relevant social work” means the standard described in rules made by the Council.

(7) The Council shall from time to time publish a list of the courses which are approved under this section.

F34 2003 NI 9

[^{F35}Recognition of attainment of standards by social workers

10A.—(1) The Council may—

Changes to legislation: There are currently no known outstanding effects for the Health and Personal Social Services Act (Northern Ireland) 2001. (See end of Document for details)

- (a) make rules describing standards of proficiency that may be attained by persons who are social workers;
 - (b) by rules make provision for and in connection with the recognition by the Council of the attainment of any standard of proficiency described in the rules.
- (2) Rules made by virtue of subsection (1)(b) may—
- (a) provide for the way in which a standard is to be attained in order for it to be recognised (which may be by completing a course or otherwise);
 - (b) provide for the way in which the attainment of a standard is to be recognised (which may be by the award of a certificate or otherwise).
- (3) The Council may conduct, or make arrangements for the conduct of, assessments in connection with the recognition by the Council of the attainment of any standard of proficiency described in the rules.]

F35 S. 10A inserted (13.5.2016) by [Health and Personal Social Services \(Amendment\) Act \(Northern Ireland\) 2016 \(c. 23\), ss. 4\(1\), 8](#)

Qualifications gained outside Northern Ireland

11.—^{F36}(A1)

(1) An applicant for registration [^{F37}in the principal part of the register] satisfies the requirements of this section if—

- (a) ^{F38}
- (b) he has, elsewhere than in Northern Ireland, undergone training in relevant social work and either—
 - (i) that training is recognised by the Council as being to a standard sufficient for such registration; or
 - (ii) it is not so recognised, but the applicant has undergone in Northern Ireland or elsewhere such additional training as the Council may require.

(2) ^{F39}

(3) ^{F39}

(4) ^{F39}

F36 S. 11(A1) omitted (31.12.2020) by virtue of [The European Qualifications \(Health and Social Care Professions\) \(Amendment etc.\) \(EU Exit\) Regulations 2019 \(S.I. 2019/593\), reg. 1\(2\), Sch. 10 para. 9](#) (with reg. 12A, Sch. 10 Pt. 2) (as amended by S.I. 2020/1394, regs. 4, 18); 2020 c. 1, Sch. 5 para. 1(1)

F37 Words in s. 11(1) substituted (3.12.2007) by virtue of [European Qualifications \(Health and Social Care Professions\) Regulations 2007 \(S.I. 2007/3101\), regs. 1\(2\), 251\(b\)\(i\)](#)

Changes to legislation: There are currently no known outstanding effects for the Health and Personal Social Services Act (Northern Ireland) 2001. (See end of Document for details)

- F38** S. 11(1)(a) omitted (3.12.2007) by [European Qualifications \(Health and Social Care Professions\) Regulations 2007 \(S.I. 2007/3101\)](#), regs. 1(2), **251(b)(ii)**
- F39** S. 11(2)-(4) omitted (3.12.2007) by [European Qualifications \(Health and Social Care Professions\) Regulations 2007 \(S.I. 2007/3101\)](#), regs. 1(2), **251(c)**

Post registration training

12.—(1) The Council may make rules requiring persons registered under this Part in any part of the register to undertake further training.

(2) The rules may, in particular, make provision with respect to persons who fail to comply with any requirements of rules made by the Council, including provision for their registration to cease to have effect.

- ^{F40}(2A)
- ^{F40}(2B)
- ^{F40}(2C)
- ^{F40}(2D)

(3) Before making, or varying, any rules by virtue of this section the Council shall take such steps as are reasonably practicable to consult the persons who are registered in the relevant part of the register and such other persons as the Council considers appropriate.

- F40** S. 12(2A)-(2D) omitted (31.12.2020) by virtue of [The European Qualifications \(Health and Social Care Professions\) \(Amendment etc.\) \(EU Exit\) Regulations 2019 \(S.I. 2019/593\)](#), reg. 1(2), **Sch. 10 para. 10** (with reg. 12A, Sch. 10 Pt. 2) (as amended by S.I. 2020/1394, regs. 4, 18); 2020 c. 1, Sch. 5 para. 1(1)

Visitors for certain social work courses

13.—(1) The Council may by rules make provision for the visiting of places at which or institutions by which or under whose direction—

- (a) any relevant course (or part of such a course) is, or is proposed to be, given; or
- (b) any examination is, or is proposed to be, held in connection with any relevant course.

(2) The rules may make provision—

- (a) for the appointment of visitors;
- (b) for reports to be made by visitors on—
- (i) the nature and quality of the instruction given, or to be given, and the facilities provided or to be provided, at the place or by the institution visited; and

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- (ii) such other matters as may be specified in the rules;
 - (c) for the payment by the Council of fees, allowances and expenses to persons appointed as visitors;
 - (d) for such persons to be treated, for the purposes of Schedule 1, as members of the Council's staff.
- (3) In subsection (1) “relevant course” means—
- (a) any course for which approval by the Council has been given, or is being sought, under section 10; or
 - (b) any training which a person registered [^{F41}in the principal part of the register] may be required to undergo after registration.

F41 Words in s. 13(3)(b) substituted (3.12.2007) by [European Qualifications \(Health and Social Care Professions\) Regulations 2007 \(S.I. 2007/3101\)](#), regs. 1(2), **253**

Functions of the Department

- 14.—(1) The Department has the function of—
- (a) ascertaining what training is required by persons who are or wish to become social care workers;
 - (b) ascertaining what financial and other assistance is required for promoting such training;
 - (c) encouraging the provision of such assistance;
 - (d) drawing up occupational standards for social care workers.
- (2) The Department shall encourage persons to take part in courses approved by the Council under section 10 and other courses relevant to the training of persons who are or wish to become social care workers.
- (3) If it appears to the Department that adequate provision is not being made for training persons who are or wish to become social care workers, the Department may provide, or secure the provision of, courses for that purpose.
- (4) The Department may, upon such terms and subject to such conditions as it considers appropriate—
- (a) make grants, and pay travelling and other allowances, to persons resident in Northern Ireland in order to secure their training in the work of social care workers;
 - (b) make grants to organisations providing training in the work of social care workers.
- (5) Any functions of the Department under this section—
- (a) may be delegated by it to the Council; or

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(b) may be exercised by any person, or by employees of any person, authorised to do so by the Department.

(6) Articles 13 to 15 of the Deregulation and Contracting Out (Northern Ireland) Order 1996 (NI 11) apply in relation to an authorisation given under subsection (5)(b) as they apply in relation to an authorisation given under Part III of that Order; and in subsection (5)(b) “employee” has the same meaning as in that Order.

Miscellaneous and supplemental

[^{F42} Appeals to the Care Tribunal

15.—(1) A person may appeal to the Care Tribunal against a relevant decision.

(2) On the appeal, the Care Tribunal may—

- (a) confirm the decision,
- (b) set aside the decision [^{F43}or, in ^{F44}... amended] , or
- (c) substitute for the decision appealed against any other decision that could have been made.

(3) “Relevant decision” means—

(a) a decision under this Part in respect of registration, ^{F45} ...

^{F46}(b)

^{F47}(c)

(4) In subsection (3)(a) the reference to a decision under this Part in respect of registration includes a decision under section 6 to give a warning (but not a decision to enter into, vary or revoke an agreement of a kind mentioned in section 6(1)(dd) or a decision to give advice.)]

F42	S. 15 substituted (13.5.2016 with effect as mentioned in s. 5(2)) by Health and Personal Social Services (Amendment) Act (Northern Ireland) 2016 (c. 23) , ss. 5(1), 8
F43	Words in s. 15(2)(b) inserted (18.11.2016) by The European Qualifications (Health and Social Care Professions) Regulations 2016 (S.I. 2016/1030) , regs. 1, 114(2) (with reg. 155)
F44	Words in s. 15(2)(b) omitted (31.12.2020) by virtue of The European Qualifications (Health and Social Care Professions) (Amendment etc.) (EU Exit) Regulations 2019 (S.I. 2019/593) , reg. 1(2), Sch. 10 para. 11(a) (with reg. 12A, Sch. 10 Pt. 2) (as amended by S.I. 2020/1394, regs. 4, 18); 2020 c. 1, Sch. 5 para. 1(1)
F45	Word in s. 15(3)(a) omitted (18.11.2016) by virtue of The European Qualifications (Health and Social Care Professions) Regulations 2016 (S.I. 2016/1030) , regs. 1, 114(3)(a) (with reg. 155)
F46	S. 15(3)(b) omitted (31.12.2020) by virtue of The European Qualifications (Health and Social Care Professions) (Amendment etc.) (EU Exit) Regulations 2019 (S.I. 2019/593) , reg.

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1(2), **Sch. 10 para. 11(b)** (with reg. 12A, Sch. 10 Pt. 2) (as amended by S.I. 2020/1394, regs. 4, 18); 2020 c. 1, Sch. 5 para. 1(1)

F47 S. 15(3)(c) omitted (31.12.2020) by virtue of [The European Qualifications \(Health and Social Care Professions\) \(Amendment etc.\) \(EU Exit\) Regulations 2019 \(S.I. 2019/593\)](#), reg. 1(2), **Sch. 10 para. 11(b)** (with reg. 12A, Sch. 10 Pt. 2) (as amended by S.I. 2020/1394, regs. 4, 18); 2020 c. 1, Sch. 5 para. 1(1)

Publication, etc. of register

16.—(1) The Council shall publish the register in such manner, and at such times, as it considers appropriate.

(2) Any person who asks the Council for a copy of, or of an extract from, the register shall be entitled to have one.

[^{F48}Publication etc of information about fitness to practise

16A.—(1) If it considers it is in the public interest to do so, the Council may publish or disclose to any person—

- (a) information relating to a particular registered person's fitness to practise, or
- (b) information of a particular description relating to the fitness to practise of—
 - (i) every registered person, or
 - (ii) every registered person of a particular description.

(2) For the purposes of subsection (1)(b) the Council need not consider whether it is in the public interest to publish or disclose the information in question in relation to each registered person to whom it relates.

(3) In this section “information” includes—

- (a) information relating to, or arising, before a person's registration (as well as after it), and
- (b) information arising outside the United Kingdom (as well as in it).

(4) In this section references to a registered person include a person who has at any time been a registered person.]

F48 S. 16A inserted (13.5.2016) by [Health and Personal Social Services \(Amendment\) Act \(Northern Ireland\) 2016 \(c. 23\)](#), ss. **2(3)**, 8

Cesser of functions of CCETSW

17. The Central Council for Education and Training in Social Work shall cease to exercise in relation to Northern Ireland the functions conferred on it

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by or under section 10 of the Health and Social Services and Social Security Adjudications Act 1983 (c. 41).

Rules

18.—(1) Rules made by the Council under this Part may make provision for the payment of reasonable fees to the Council in connection with the discharge of the Council's functions ^{F49}

(2) In particular, the rules may make provision for the payment of such fees in connection with—

- (a) registration (including applications for registration or for amendment of the register ^{F50} ...;
- (b) the approval of courses under section 10;
- [^{F51}(ba) assessments of a kind mentioned in section 10A(3);]
- (c) the provision of training;
- (d) the provision of copies of codes of practice or copies of, or extracts, from the register,

including provision requiring persons registered under this Part to pay a periodic fee to the Council of such amount, and at such time, as the rules may specify.

^{F52}(2A)

(3) No rules shall be made by the Council under this Part without the consent of the Department.

[^{F53}(4) Rules under this Part may contain transitional, transitory or saving provision.

(5) Transitional provision made by rules under section 6 may in particular provide that where a person appeals against a decision made before the coming into operation of the rules (or any amendment of the rules), for the purposes of section 15(2)(c) the rules are (or the amendment is) to be treated as having been in operation at the time of that decision.]

<p>F49 Words in s. 18(1) omitted (31.12.2020) by virtue of The European Qualifications (Health and Social Care Professions) (Amendment etc.) (EU Exit) Regulations 2019 (S.I. 2019/593), reg. 1(2), Sch. 10 para. 12(a) (with reg. 12A, Sch. 10 Pt. 2) (as amended by S.I. 2020/1394, regs. 4, 18); 2020 c. 1, Sch. 5 para. 1(1)</p> <p>F50 Words in s. 18(2)(a) omitted (31.12.2020) by virtue of The European Qualifications (Health and Social Care Professions) (Amendment etc.) (EU Exit) Regulations 2019 (S.I. 2019/593), reg. 1(2), Sch. 10 para. 12(b) (with reg. 12A, Sch. 10 Pt. 2) (as amended by S.I. 2020/1394, regs. 4, 18); 2020 c. 1, Sch. 5 para. 1(1)</p> <p>F51 S. 18(2)(ba) inserted (13.5.2016) by Health and Personal Social Services (Amendment) Act (Northern Ireland) 2016 (c. 23), ss. 4(2), 8</p>

Changes to legislation: There are currently no known outstanding effects for the Health and Personal Social Services Act (Northern Ireland) 2001. (See end of Document for details)

- F52** S. 18(2A) omitted (31.12.2020) by virtue of [The European Qualifications \(Health and Social Care Professions\) \(Amendment etc.\) \(EU Exit\) Regulations 2019 \(S.I. 2019/593\)](#), reg. 1(2), [Sch. 10 para. 12\(c\)](#) (with reg. 12A, Sch. 10 Pt. 2) (as amended by S.I. 2020/1394, regs. 4, 18); 2020 c. 1, Sch. 5 para. 1(1)
- F53** S. 18(4)(5) inserted (13.5.2016) by [Health and Personal Social Services \(Amendment\) Act \(Northern Ireland\) 2016 \(c. 23\)](#), [ss. 6\(4\)](#), 8

Default powers of Department

19.—(1) The powers conferred by this section are exercisable by the Department if it is satisfied that the Council—

- (a) has without reasonable excuse failed to discharge any of its functions; or
- (b) in discharging any of its functions, has without reasonable excuse failed to comply with any directions or guidance given by it under section 1(3) in relation to those functions.

(2) The Department may—

- (a) make an order declaring the Council to be in default; and
- (b) direct the Council to discharge such of its functions, and in such manner and within such period or periods, as may be specified in the direction.

(3) If the Council fails to comply with the Department's direction under subsection (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.

Ss. 20#21 rep. by 2003 NI 9

[^{F54} Interpretation of this Part

22.—[

^{F55}(1)] In this Part “child”, “children's home”, “day care setting”, “domiciliary care agency”, “nursing home”, “personal care”, “registered care home”, “residential family centre”, “school” and “undertaking” have the same meanings as in the Health and Personal Social Services (Quality, Improvement and Regulation) (Northern Ireland) Order 2003.]

[^{F56}(2) In this Part—

“the register” means the register maintained under section 3;

“registered person” means a person registered in a part of the register.]

F54 2003 NI 9

F55 S. 22: renumbered as s. 22(1) (13.5.2016) by [Health and Personal Social Services \(Amendment\) Act \(Northern Ireland\) 2016 \(c. 23\)](#), [ss. 6\(5\)\(a\)](#), 8

Changes to legislation: There are currently no known outstanding effects for the Health and Personal Social Services Act (Northern Ireland) 2001. (See end of Document for details)

F56 S. 22(2) inserted (13.5.2016) by [Health and Personal Social Services \(Amendment\) Act \(Northern Ireland\) 2016 \(c. 23\), ss. 6\(5\)\(b\)](#), 8

F57 PART II

RECOVERY OF CHARGES IN CONNECTION WITH
THE TREATMENT OF ROAD TRAFFIC CASUALTIES

F57 Pt. II (ss. 23-38) repealed (4.12.2006 for certain purposes, otherwise 29.1.2007) by [Recovery of Health Services Charges \(Northern Ireland\) Order 2006 \(S.I. 2006/1944 \(N.I. 13\)\)](#), arts. 1(2), 21(1), **Sch. 2** (with arts. 18, 21(2)); S.R. 2006/484, **art. 2**

Payment for hospital treatment

Payment for hospital treatment of traffic casualties

23. ^{F58}

F58 Pt. II (ss. 23-38) repealed (4.12.2006 for certain purposes, otherwise prosp.) by [Recovery of Health Services Charges \(Northern Ireland\) Order 2006 \(S.I. 2006/1944 \(N.I. 13\)\)](#), arts. 1(2), 21(1), **Sch. 2** (with arts. 18, 21(2)); S.R. 2006/484, **art. 2**

Certificates of health services charges

Applications for certificates of health services charges

24. ^{F59}

F59 Pt. II (ss. 23-38) repealed (4.12.2006 for certain purposes, otherwise prosp.) by [Recovery of Health Services Charges \(Northern Ireland\) Order 2006 \(S.I. 2006/1944 \(N.I. 13\)\)](#), arts. 1(2), 21(1), **Sch. 2** (with arts. 18, 21(2)); S.R. 2006/484, **art. 2**

Information contained in certificates

25. ^{F60}

F60 Pt. II (ss. 23-38) repealed (4.12.2006 for certain purposes, otherwise prosp.) by [Recovery of Health Services Charges \(Northern Ireland\) Order 2006 \(S.I. 2006/1944 \(N.I. 13\)\)](#), arts. 1(2), 21(1), **Sch. 2** (with arts. 18, 21(2)); S.R. 2006/484, **art. 2**

Changes to legislation: There are currently no known outstanding effects for the Health and Personal Social Services Act (Northern Ireland) 2001. (See end of Document for details)

Recovery of health services charges

Payment of health services charges

26. ^{F61}

F61 Pt. II (ss. 23-38) repealed (4.12.2006 for certain purposes, otherwise 29.1.2007) by [Recovery of Health Services Charges \(Northern Ireland\) Order 2006 \(S.I. 2006/1944 \(N.I. 13\)\)](#), arts. 1(2), 21(1), **Sch. 2** (with arts. 18, 21(2)); S.R. 2006/484, **art. 2**

Recovery of health services charges

27. ^{F62}

F62 Pt. II (ss. 23-38) repealed (4.12.2006 for certain purposes, otherwise 29.1.2007) by [Recovery of Health Services Charges \(Northern Ireland\) Order 2006 \(S.I. 2006/1944 \(N.I. 13\)\)](#), arts. 1(2), 21(1), **Sch. 2** (with arts. 18, 21(2)); S.R. 2006/484, **art. 2**

Reviews and appeals

Review of certificates

28. ^{F63}

F63 Pt. II (ss. 23-38) repealed (4.12.2006 for certain purposes, otherwise prosp.) by [Recovery of Health Services Charges \(Northern Ireland\) Order 2006 \(S.I. 2006/1944 \(N.I. 13\)\)](#), arts. 1(2), 21(1), **Sch. 2** (with arts. 18, 21(2)); S.R. 2006/484, **art. 2**

Appeals against a certificate

29. ^{F64}

F64 Pt. II (ss. 23-38) repealed (4.12.2006 for certain purposes, otherwise prosp.) by [Recovery of Health Services Charges \(Northern Ireland\) Order 2006 \(S.I. 2006/1944 \(N.I. 13\)\)](#), arts. 1(2), 21(1), **Sch. 2** (with arts. 18, 21(2)); S.R. 2006/484, **art. 2**

Appeal tribunals

30. ^{F65}

F65 Pt. II (ss. 23-38) repealed (4.12.2006 for certain purposes, otherwise prosp.) by [Recovery of Health Services Charges \(Northern Ireland\) Order 2006 \(S.I. 2006/1944 \(N.I. 13\)\)](#), arts. 1(2), 21(1), **Sch. 2** (with arts. 18, 21(2)); S.R. 2006/484, **art. 2**

Changes to legislation: There are currently no known outstanding effects for the Health and Personal Social Services Act (Northern Ireland) 2001. (See end of Document for details)

Appeal to the court on point of law

31. ^{F66}

F66 Pt. II (ss. 23-38) repealed (4.12.2006 for certain purposes, otherwise prosp.) by [Recovery of Health Services Charges \(Northern Ireland\) Order 2006 \(S.I. 2006/1944 \(N.I. 13\)\)](#), arts. 1(2), 21(1), **Sch. 2** (with arts. 18, 21(2)); S.R. 2006/484, **art. 2**

Reviews and appeals: supplementary

32. ^{F67}

F67 Pt. II (ss. 23-38) repealed (4.12.2006 for certain purposes, otherwise prosp.) by [Recovery of Health Services Charges \(Northern Ireland\) Order 2006 \(S.I. 2006/1944 \(N.I. 13\)\)](#), arts. 1(2), 21(1), **Sch. 2** (with arts. 18, 21(2)); S.R. 2006/484, **art. 2**

Information

Provision of information

33. ^{F68}

F68 Pt. II (ss. 23-38) repealed (4.12.2006 for certain purposes, otherwise prosp.) by [Recovery of Health Services Charges \(Northern Ireland\) Order 2006 \(S.I. 2006/1944 \(N.I. 13\)\)](#), arts. 1(2), 21(1), **Sch. 2** (with arts. 18, 21(2)); S.R. 2006/484, **art. 2**

Use of information held by the Department

34. ^{F69}

F69 Pt. II (ss. 23-38) repealed (4.12.2006 for certain purposes, otherwise 29.1.2007) by [Recovery of Health Services Charges \(Northern Ireland\) Order 2006 \(S.I. 2006/1944 \(N.I. 13\)\)](#), arts. 1(2), 21(1), **Sch. 2** (with arts. 18, 21(2)); S.R. 2006/484, **art. 2**

Payments to hospitals

Payment of health services charges to hospitals

35. ^{F70}

F70 Pt. II (ss. 23-38) repealed (4.12.2006 for certain purposes, otherwise prosp.) by [Recovery of Health Services Charges \(Northern Ireland\) Order 2006 \(S.I. 2006/1944 \(N.I. 13\)\)](#), arts. 1(2), 21(1), **Sch. 2** (with arts. 18, 21(2)); S.R. 2006/484, **art. 2**

Changes to legislation: There are currently no known outstanding effects for the Health and Personal Social Services Act (Northern Ireland) 2001. (See end of Document for details)

Miscellaneous and general

Regulations governing payments into court, etc.

36. ^{F71}

F71 Pt. II (ss. 23-38) repealed (4.12.2006 for certain purposes, otherwise prosp.) by [Recovery of Health Services Charges \(Northern Ireland\) Order 2006 \(S.I. 2006/1944 \(N.I. 13\)\)](#), arts. 1(2), 21(1), **Sch. 2** (with arts. 18, 21(2)); S.R. 2006/484, **art. 2**

Interpretation of this Part

37. ^{F72}

F72 Pt. II (ss. 23-38) repealed (4.12.2006 for certain purposes, otherwise prosp.) by [Recovery of Health Services Charges \(Northern Ireland\) Order 2006 \(S.I. 2006/1944 \(N.I. 13\)\)](#), arts. 1(2), 21(1), **Sch. 2** (with arts. 18, 21(2)); S.R. 2006/484, **art. 2**

Consequential amendments

38. ^{F73}

F73 Pt. II (ss. 23-38) repealed (4.12.2006 for certain purposes, otherwise 29.1.2007) by [Recovery of Health Services Charges \(Northern Ireland\) Order 2006 \(S.I. 2006/1944 \(N.I. 13\)\)](#), arts. 1(2), 21(1), **Sch. 2** (with arts. 18, 21(2)); S.R. 2006/484, **art. 2**

PART III

HEALTH AND [^{F74}SOCIAL CARE]– GENERAL

F74 Words in Act substituted (1.4.2009) by virtue of [Health and Social Care \(Reform\) Act \(Northern Ireland\) 2009 \(c. 1\)](#), ss. 32, 34(3), **Sch. 6 para. 1(1)(a)** (with Sch. 6 para. 1(2)(3)); S.R. 2009/114, **art. 2**

Fund-holding practices

Repeal of law about fund-holding practices

39. In the 1991 Order, Articles 17 to 20 (which make provision in relation to fund-holding practices) shall cease to have effect.

Changes to legislation: There are currently no known outstanding effects for the Health and Personal Social Services Act (Northern Ireland) 2001. (See end of Document for details)

Local administration

Remuneration for Part VI services

40.—(1) For Article 64A of the principal Order (regulations as to remuneration for Part VI services) there shall be substituted—

“Remuneration for Part VI services

64A.—(1) The remuneration to be paid to persons who provide general medical services, general dental services, general ophthalmic services or pharmaceutical services under this Part shall be determined by determining authorities (and they may also determine the remuneration to be paid to persons providing those services in respect of the instruction of any person in matters relating to those services).

(2) For the purposes of this Article and Article 64B determining authorities are—

- (a) the Department; and
- (b) so far as authorised by the Department to exercise the functions of determining authorities, any Health and Social Services Board or other person appointed by the Department in an instrument (referred to in this Article and Article 64B as an instrument of appointment).

(3) An instrument of appointment—

- (a) may contain requirements with which a determining authority appointed by that instrument must comply in making determinations; and
- (b) may be contained in regulations.

(4) Subject to this Article and Article 64B, regulations may make provision about determining remuneration under paragraph (1) and may in particular impose requirements with which determining authorities must comply in making, or in connection with, determinations (including requirements as to consultation and publication).

(5) Regulations may provide—

- (a) that determinations may be made by reference to any of the following—
 - (i) rates or conditions of remuneration of any persons or any descriptions of persons which are fixed or determined, or to be fixed or determined, otherwise than by way of a determination under paragraph (1);
 - (ii) scales, indices or other data of any description specified in the regulations;

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- (b) that any determination which in accordance with regulations made by virtue of sub-paragraph (a)(ii) falls to be made by reference to a scale or an index or to any other data may be made not only by reference to that scale or index or those data in the form current at the time of the determination but also by reference to the scale, index or data in any subsequent form attributable to amendment or revision taking effect after that time or to any other cause.
- (6) Regulations may—
- (a) provide that determining authorities may make determinations which have effect in relation to remuneration in respect of a period beginning on or after a date specified in the determination, which may be the date of the determination or an earlier or later date, but may be an earlier date only if, taking the determination as a whole, it is not detrimental to the persons to whose remuneration it relates;
 - (b) provide that any determination which does not specify such a date shall have effect in relation to remuneration in respect of a period beginning—
 - (i) if it is required to be published, on the date of publication;
 - (ii) if it is not so required, on the date on which it is made.
- (7) A reference in this Article or Article 64B to a determination is to a determination of remuneration under paragraph (1).

Part VI remuneration: supplementary

- 64B.**—(1) Before a determination is made by the Department which relates to all persons who provide services of, or of a category falling within, one of the descriptions of services mentioned in Article 64A(1), the Department—
- (a) shall consult a body appearing to it to be representative of persons to whose remuneration the determination would relate; and
 - (b) may consult such other persons as it considers appropriate.
- (2) Determinations may make different provision for different cases including different provision for any particular case, class of case or area.
- (3) Determinations may—
- (a) be made in more than one stage;
 - (b) be made by more than one determining authority;
 - (c) be varied or revoked by subsequent determinations.
- (4) A determination may be varied—
- (a) to correct an error; or
 - (b) where it appears to the determining authority that it was made in ignorance of or under a mistake as to a relevant fact.

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(5) Determinations may, in particular, provide that the whole or any part of the remuneration—

- (a) is payable only if the determining authority is satisfied as to certain conditions; or
- (b) is to be applied for certain purposes or is otherwise subject to certain conditions.

(6) Subject to Article 57(1), remuneration under Article 64A may consist of payments by way of—

- (a) salary;
- (b) fees;
- (c) allowances;
- (d) reimbursement (in full or in part) of expenses incurred or expected to be incurred in connection with the provision of the services or instruction,

and may be determined from time to time.

(7) At the time a determination is made or varied, certain matters which require determining may be reserved to be decided at a later time.

(8) The matters which may be reserved include in particular—

- (a) the amount of remuneration to be paid in particular cases;
- (b) whether any remuneration is to be paid in particular cases.

(9) Any determination shall be made after taking into account all the matters which are considered to be relevant by the determining authority and such matters may include in particular—

- (a) the amount or estimated amount of expenses (taking into account any discounts) incurred in the past or likely to be incurred in the future (whether or not by persons to whose remuneration the determination will relate) in connection with the provision of services of the description in Article 64A(1) to which the determination will relate or of any category falling within that description;
- (b) the amount or estimated amount of any remuneration paid or likely to be paid to persons providing such services;
- (c) the amount or estimated amount of any other payments or repayments or other benefits received or likely to be received by any such persons;
- (d) the extent to which it is desirable to encourage the provision, either generally or in particular places, of the description or category of services to which the determination will relate;
- (e) the desirability of promoting services which are—

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- (i) economic and efficient; and
- (ii) of an appropriate standard.

(10) If the determination is of remuneration for a category of services falling within one of the descriptions of services mentioned in Article 64A(1), the reference in paragraph (9)(a) to a category of services is a reference to the same category of services or to any other category of services falling within the same description.”

(2) This section and the associated repeals in Schedule 5 have effect in relation to—

- (a) the making of determinations after the coming into operation of this section; and
- (b) the variation or revocation after the coming into operation of this section of determinations whenever made,

and in this subsection “determinations” means determinations under Part VI of the principal Order of the remuneration to be paid to persons who provide services mentioned in Article 64A(1) of that Order.

Indemnity cover for Part VI services

41.—(1) After Article 64B of the principal Order there shall be inserted the following Article—

“Indemnity cover

64C.—(1) Regulations may make provision for the purpose of securing that, in prescribed circumstances, prescribed Part VI practitioners hold approved indemnity cover.

(2) The regulations may, in particular, make provision as to the consequences of a failure to hold approved indemnity cover, including provision—

- (a) for securing that a person is not to be added to any list unless he holds approved indemnity cover;
- (b) for the removal from a list prepared by a Health and Social Services Board of a Part VI practitioner who does not within a prescribed period after the making of a request by the Board in the prescribed manner satisfy that Board that he holds approved indemnity cover.

(3) For the purposes of this Article—

“approved body” means a person or persons approved in relation to indemnity cover of any description, after such consultation as may be prescribed, by the Department or by such other person as may be prescribed;

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“approved indemnity cover” means indemnity cover made—

- (a) on prescribed terms; and
- (b) with an approved body;

“indemnity cover”, in relation to a Part VI practitioner (or person who proposes to provide Part VI services), means a contract of insurance or other arrangement made for the purpose of indemnifying him and any person prescribed in relation to him to any prescribed extent against any liability which—

- (a) arises out of the provision of Part VI services in accordance with arrangements made by him with a Health and Social Services Board under this Part; and
- (b) is incurred by him or any such person in respect of the death or personal injury of a person;

“list” has the same meaning as in paragraph 1(8) of Schedule 11;

“Part VI practitioner” means a person whose name is on a list;

“personal injury” means any disease or impairment of a person's physical or mental condition and includes the prolongation of any disease or such impairment;

and a person holds approved indemnity cover if he has entered into a contract or arrangement which constitutes approved indemnity cover.

(4) The regulations may provide that a person of any description who has entered into a contract or arrangement which is—

- (a) in a form identified in accordance with the regulations in relation to persons of that description; and
- (b) made with a person or persons so identified,

is to be treated as holding approved indemnity cover for the purposes of the regulations.”.

(2) In Article 2(2) of the principal Order (interpretation) after the definition of “parental responsibility” there shall be inserted—

““Part VI services” means general medical services, general dental services, general ophthalmic services or pharmaceutical services;” .

(3) In Article 61(2)(b) of the principal Order (arrangements for general dental services) after “paragraphs (2A) and (2AA)” there shall be inserted “, to any provision made under Article 64C”.

(4) In Article 62(2)(b) of the principal Order (arrangements for general ophthalmic services) after “subject” there shall be inserted “to any provision made under Article 64C and”.

Changes to legislation: There are currently no known outstanding effects for the Health and Personal Social Services Act (Northern Ireland) 2001. (See end of Document for details)

Local representative committees

42. For Article 55 of the principal Order (local representative committees) there shall be substituted—

“Recognition of local representative committees

55.—(1) A Health and Social Services Board may recognise a committee formed for its area which it is satisfied is representative of—

- (a) the medical practitioners providing general medical services or general ophthalmic services in that area;
- (b) those medical practitioners and the deputy medical practitioners for that area; or
- (c) the medical practitioners mentioned in—
 - (i) sub-paragraph (a); or
 - (ii) sub-paragraph (b),and the Article 15B medical practitioners for that area,

and any committee so recognised shall be called the Local Medical Committee for the area.

(2) A Health and Social Services Board may recognise a committee formed for its area which it is satisfied is representative of—

- (a) the dental practitioners providing general dental services in that area;
- (b) those dental practitioners and the deputy dental practitioners for that area; or
- (c) the dental practitioners mentioned in—
 - (i) sub-paragraph (a); or
 - (ii) sub-paragraph (b),and the Article 15B dental practitioners for that area,

and any committee so recognised shall be called the Local Dental Committee for the area.

(3) Where a Health and Social Services Board is satisfied that a committee formed for its area is representative—

- (a) of the ophthalmic opticians providing general ophthalmic services in that area, or
- (b) of the persons providing pharmaceutical services in that area,

the Health and Social Services Board may recognise that committee; and any committee so recognised shall be called the Local Optical Committee

Changes to legislation: There are currently no known outstanding effects for the Health and Personal Social Services Act (Northern Ireland) 2001. (See end of Document for details)

or the Local Pharmaceutical Committee, as the case may be, for the area concerned.

(4) Any committee recognised under this Article may with the approval of the Health and Social Services Board delegate any of its functions, with or without restrictions or conditions, to sub-committees composed of members of that committee.

(5) For the purposes of this Article and Article 55A, a person who meets the condition in paragraph (6)—

- (a) is a deputy medical practitioner for the area of a Health and Social Services Board if he is a medical practitioner who assists a medical practitioner providing general medical services in that area in the provision of those services but is not himself on a list;
- (b) is an Article 15B medical practitioner for the area of a Health and Social Services Board if he is a medical practitioner who provides or performs personal medical services in accordance with arrangements made under Article 15B by the Health and Social Services Board (whether with himself or another);
- (c) is a deputy dental practitioner for the area of a Health and Social Services Board if he is a dental practitioner who assists a dental practitioner providing general dental services in that area in the provision of those services but is not himself on a list;
- (d) is an Article 15B dental practitioner for the area of a Health and Social Services Board if he is a dental practitioner who provides or performs personal dental services in accordance with arrangements made under Article 15B by the Health and Social Services Board (whether with himself or another).

(6) The condition referred to in paragraph (5) is that the person concerned has notified the Health and Social Services Board that he wishes to be represented under this Article by the appropriate committee for its area (and has not notified it that he wishes to cease to be so represented).

(7) For the purposes of paragraph (5)—

- (a) a person is to be treated as assisting a medical practitioner or dental practitioner in the provision of services if he is employed by that practitioner for that purpose or if he acts as his deputy in providing those services; and
- (b) “list” has the same meaning as in paragraph 1(8) of Schedule 11.

Functions of local representative committees

55A.—(1) Regulations may require a Health and Social Services Board—

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- (a) in the exercise of its functions under this Part to consult committees recognised by it under Article 55;
- (b) in the exercise of any of its functions which relate to arrangements under Article 15B to consult committees recognised by it under Article 55(1)(c) or (2)(c),

on such occasions and to such extent as may be prescribed.

(2) The power conferred by paragraph (1) is without prejudice to any other power to require a Health and Social Services Board to consult any committee recognised under Article 55.

(3) Committees recognised under Article 55 shall exercise such other functions as may be prescribed.

(4) A committee recognised for an area under paragraph (1)(b) or (c) or (2)(b) or (c) of Article 55 shall, in respect of each year, determine the amount of its administrative expenses for that year attributable—

- (a) in the case of a committee recognised under paragraph (1)(b) or (c) (ii) of that Article, to the deputy medical practitioners for the area;
- (b) in the case of a committee recognised under paragraph (1)(c) of that Article, to the Article 15B medical practitioners for the area;
- (c) in the case of a committee recognised under paragraph (2)(b) or (c) (ii) of that Article, to the deputy dental practitioners for the area;
- (d) in the case of a committee recognised under paragraph (2)(c) of that Article, to the Article 15B dental practitioners for the area.

(5) A Health and Social Services Board may, on the request of any committee recognised under Article 55 for its area, allot to that committee such sums for defraying the committee's administrative expenses as may be determined by the Board.

(6) Any sums so allotted shall be out of the moneys available to the Health and Social Services Board for the remuneration of persons of whom the committee so recognised is representative and who provide general medical services, general dental services, general ophthalmic services or pharmaceutical services, as the case may be, under this Part.

(7) The amount of any such sums shall be deducted from the remuneration of those persons in such manner as may be determined by the Health and Social Services Board.

(8) Where a committee has made a determination under paragraph (4), it shall apportion the amount so determined among the deputy medical practitioners, Article 15B medical practitioners, deputy dental practitioners or Article 15B dental practitioners, as the case may be, for the area and each such practitioner shall pay in accordance with the committee's directions the amount so apportioned to him.

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(9) References in this Article to administrative expenses of a committee include references to travelling and subsistence allowances payable to its members; but the reference in paragraph (5) to a committee's administrative expenses does not include so much of the committee's administrative expenses as are determined under paragraph (4) to be attributable to any practitioners mentioned in that paragraph.”.

[^{F75}Health and Social Care trusts]

F75 Words in Act substituted (1.4.2009) by virtue of [Health and Social Care \(Reform\) Act \(Northern Ireland\) 2009 \(c. 1\)](#), ss. 32, 34(3), [Sch. 6 para. 1\(1\)\(c\)](#) (with [Sch. 6 para. 1\(3\)](#)); [S.R. 2009/114](#), [art. 2](#)

Establishment orders

43.—(1) In Article 10 of the 1991 Order (^{F76}HSC trusts]) for paragraphs (1) and (2) there shall be substituted—

“(1) Subject to paragraph (2), the Department may by order establish bodies, to be known as [^{F77}Health and Social Care trusts] (in this Order referred to as [^{F76}HSC trusts])—

- (a) to provide goods and services for the purposes of the health and [^{F78}social care]; or
- (b) to exercise, on behalf of Health and Social Services Boards, such functions as are so exercisable by virtue of authorisations for the time being in operation under Article 3(1) of the Health and Personal Social Services (Northern Ireland) Order 1994.

(2) Before making an order under paragraph (1), the Department shall consult—

- (a) such Health and Social Services Councils; and
- (b) such other persons and bodies,

as the Department considers appropriate.” .

(2) In Article 10 of the 1991 Order (^{F76}HSC trusts]) for paragraph (5) there shall be substituted—

“(5) The functions which may be specified in an order under paragraph (1) include a duty to provide goods or services so specified at or from a hospital or other establishment or facility so specified.” .

(3) In Article 2(2) of the 1991 Order (interpretation) after the definition of “the principal Order” there shall be inserted—

““provide” includes manage;” .

(4) Any order under Article 10(1) of that Order—

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- (a) is to be treated as always having had effect with the omission of any obligation for the [^{F79}HSC trust] to which the order relates to own land specified in the order; and
- (b) so far as any functions specified in it could have been specified under that provision as amended by this Act, is to be treated as having been made under that provision as so amended.

(5) Any restriction preventing the acquisition of any land by any [^{F79}HSC trust] (including an [^{F79}HSC trust] dissolved before the coming into operation of this section) merely because the land did not comprise a hospital or other establishment or facility previously managed or provided by a relevant body (within the meaning of Article 10(3) of the 1991 Order) is to be treated as never having had effect.

(6) An order under section 58 may—

- (a) provide for any provision made by it for the purposes of, in consequence of or for giving full effect to this section to be treated as having had effect from a time before the coming into operation of this section;
- (b) make such provision about an [^{F79}HSC trust] dissolved before the coming into operation of this section.

(7) In Article 16(1) of the 1991 Order (trust funds and trustees for [^{F76}HSC trusts]) for “which is owned and managed” there shall be substituted “at or from which services are provided”.

(8) In paragraph 3(2) of Schedule 3 to that Order (establishment orders), for “assume responsibility for the ownership and management of” there shall be substituted “provide services at”.

(9) In paragraph 16(c) of that Schedule (general powers of [^{F76}HSC trusts]) for “which is owned and managed” there shall be substituted “at or from which services are provided”.

(10) The 1991 Order is to be treated as always having had effect subject to the amendments made by this section.

F76 Words in Act substituted (1.4.2009) by virtue of [Health and Social Care \(Reform\) Act \(Northern Ireland\) 2009 \(c. 1\)](#), ss. 32, 34(3), [Sch. 6 para. 1\(1\)\(d\)](#) (with [Sch. 6 para. 1\(3\)](#)); [S.R. 2009/114, art. 2](#)

F77 Words in Act substituted (1.4.2009) by virtue of [Health and Social Care \(Reform\) Act \(Northern Ireland\) 2009 \(c. 1\)](#), ss. 32, 34(3), [Sch. 6 para. 1\(1\)\(c\)](#) (with [Sch. 6 para. 1\(3\)](#)); [S.R. 2009/114, art. 2](#)

F78 Words in Act substituted (1.4.2009) by [Health and Social Care \(Reform\) Act \(Northern Ireland\) 2009 \(c. 1\)](#), ss. 32, 34(3), [Sch. 6 para. 1\(1\)\(a\)](#) (with [Sch. 6 para. 1\(2\)\(3\)](#)); [S.R. 2009/114, art. 2](#)

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F79 Words in Act substituted (1.4.2009) by [Health and Social Care \(Reform\) Act \(Northern Ireland\) 2009 \(c. 1\), ss. 32, 34\(3\), Sch. 6 para. 1\(1\)\(d\)](#) (with [Sch. 6 para. 1\(3\)](#)); S.R. 2009/114, [art. 2](#)

Exercise of powers

44.—(1) For Article 10(8) of the 1991 Order (restrictions on exercise of certain powers) there shall be substituted—

“(8) A power conferred by paragraph 14 or 15 of Part II of Schedule 3 may only be exercised—

- (a) to the extent that its exercise does not to any significant extent interfere with the performance by the [^{F80}HSC trust] of its functions or of its obligations under [^{F81}HSC contracts]; and
- (b) in circumstances specified in directions under paragraph 6 of that Schedule, with the consent of the Department.”.

(2) In Schedule 3 to the 1991 Order ([^{F82}HSC trusts]) for paragraph 6 there shall be substituted—

“6.—(1) An [^{F80}HSC trust] shall carry out effectively, efficiently and economically the functions for the time being conferred on it by an order under Article 10(1) and by the provisions of this Schedule.

(2) An [^{F80}HSC trust] shall comply with any directions given to it by the Department about the exercise of the trust's functions.

(3) Any directions under this paragraph with respect to—

- (a) the power conferred on an [^{F80}HSC trust] by paragraph 1 of Schedule 4; or
- (b) the maximum amount which an [^{F80}HSC trust] may invest in any investments or class of investments,

may be given only with the consent of the Department of Finance and Personnel.”.

(3) Paragraph 16 of that Schedule (general powers of [^{F82}HSC trusts]) shall be renumbered as sub-paragraph (1) of that paragraph, and

- (a) in that sub-paragraph head (d) (general power to employ staff) shall cease to have effect; and
- (b) after that sub-paragraph there shall be added —

“(2) An [^{F80}HSC trust] may employ such staff at it thinks fit.

(3) Subject to any directions given by the Department under paragraph 6, an [^{F80}HSC trust] may—

- (a) pay its staff such remuneration and allowances; and

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(b) employ them on such other terms and conditions, as it thinks fit.” .

- F80** Words in Act substituted (1.4.2009) by [Health and Social Care \(Reform\) Act \(Northern Ireland\) 2009 \(c. 1\), ss. 32, 34\(3\), Sch. 6 para. 1\(1\)\(d\)](#) (with Sch. 6 para. 1(3)); S.R. 2009/114, [art. 2](#)
- F81** Words in Act substituted (1.4.2009) by virtue of [Health and Social Care \(Reform\) Act \(Northern Ireland\) 2009 \(c. 1\), ss. 32, 34\(3\), Sch. 6 para. 1\(1\)\(e\)](#) (with Sch. 6 para. 1(3)); S.R. 2009/114, [art. 2](#)
- F82** Words in Act substituted (1.4.2009) by virtue of [Health and Social Care \(Reform\) Act \(Northern Ireland\) 2009 \(c. 1\), ss. 32, 34\(3\), Sch. 6 para. 1\(1\)\(d\)](#) (with Sch. 6 para. 1(3)); S.R. 2009/114, [art. 2](#)

Public dividend capital

45.—(1) Article 14 of the 1991 Order (originating capital debt of, and other financial provisions relating to, [^{F83}HSC trusts]) shall be amended in accordance with subsections (2) to (6).

(2) In paragraphs (1), (2) and (3), for “originating capital debt” there shall be substituted “originating capital”.

(3) For paragraph (4) there shall be substituted—

“(4) An [^{F83}HSC trust's] originating capital shall be public dividend capital.” .

(4) Paragraphs (5) and (6) shall cease to have effect.

(5) In paragraph (7) for the words from “the terms” to the end there shall be substituted “—

- (a) the dividend which is to be payable at any time on any public dividend capital issued, or treated as issued, under this Order;
- (b) the amount of any such public dividend capital which is to be repaid at any time;
- (c) any other terms on which any public dividend capital is so issued or treated as issued.” .

(6) In paragraph (8) the words “, (5), (6)” shall cease to have effect.

(7) In Schedule 4 to the 1991 Order—

- (a) in paragraph 3 (limits on indebtedness), sub-paragraph (2) shall cease to have effect;
- (b) in paragraph 4 (additional public dividend capital), sub-paragraph (2) shall cease to have effect.

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F83 Words in Act substituted (1.4.2009) by virtue of [Health and Social Care \(Reform\) Act \(Northern Ireland\) 2009 \(c. 1\)](#), ss. 32, 34(3), [Sch. 6 para. 1\(1\)\(d\)](#) (with [Sch. 6 para. 1\(3\)](#)); S.R. 2009/114, [art. 2](#)

Existing [^{F84}HSC trusts]: conversion of initial loan

46.—(1) This section applies to any [^{F85}HSC trust] in existence immediately before commencement.

(2) On commencement so much of the originating capital debt of the [^{F85}HSC trust] as remains outstanding immediately before commencement is to be treated as the originating capital of the [^{F85}HSC trust] and accordingly is public dividend capital.

(3) Any reference in any statutory provision, instrument or other document to the originating capital debt of the [^{F85}HSC trust] is to be construed (except where the context otherwise requires) as a reference to its originating capital.

(4) The Department may with the consent of the Department of Finance and Personnel determine the amount and time for payment of interest on the [^{F84}HSC trust's] initial loan in respect of the period ending with commencement.

(5) In this section—

“commencement” means the coming into operation of this section;

“initial loan” means that part of a trust's originating capital debt other than public dividend capital.

F84 Words in Act substituted (1.4.2009) by virtue of [Health and Social Care \(Reform\) Act \(Northern Ireland\) 2009 \(c. 1\)](#), ss. 32, 34(3), [Sch. 6 para. 1\(1\)\(d\)](#) (with [Sch. 6 para. 1\(3\)](#)); S.R. 2009/114, [art. 2](#)

F85 Words in Act substituted (1.4.2009) by [Health and Social Care \(Reform\) Act \(Northern Ireland\) 2009 \(c. 1\)](#), ss. 32, 34(3), [Sch. 6 para. 1\(1\)\(d\)](#) (with [Sch. 6 para. 1\(3\)](#)); S.R. 2009/114, [art. 2](#)

Borrowing, surplus funds and investment

47.—(1) Schedule 4 to the 1991 Order shall be amended as follows.

(2) In paragraph 1(1) (borrowing powers of [^{F86}HSC trusts]) after “Subject to” there shall be inserted “any direction given by the Department under paragraph 6 of Schedule 3, to”.

(3) In paragraph 1 for sub-paragraphs (3) to (6) there shall be substituted—

“(3) It shall be for the Department, with the consent of the Department of Finance and Personnel, to determine the terms of any loan made by it to an [^{F87}HSC trust] (including terms as to the payment of interest, if any).” .

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- (4) In paragraph 5 (surplus funds)—
- (a) for “amount standing in the reserves of an HSS trust” there shall be substituted “sum held by an HSC trust otherwise than as trustee”;
 - (b) for “that amount” there shall be substituted “that sum”.
- (5) For paragraph 6 (investment) there shall be substituted—

“6. An [^{F87}HSC trust] shall have power to invest money held by it in any investments, including investments which do not produce income, specified in directions under paragraph 6 of Schedule 3, but nothing in this paragraph applies in relation to money held by an [^{F87}HSC trust] as trustee.”.

F86 Words in Act substituted (1.4.2009) by virtue of [Health and Social Care \(Reform\) Act \(Northern Ireland\) 2009 \(c. 1\), ss. 32, 34\(3\), Sch. 6 para. 1\(1\)\(d\)](#) (with Sch. 6 para. 1(3)); S.R. 2009/114, [art. 2](#)

F87 Words in Act substituted (1.4.2009) by [Health and Social Care \(Reform\) Act \(Northern Ireland\) 2009 \(c. 1\), ss. 32, 34\(3\), Sch. 6 para. 1\(1\)\(d\)](#) (with Sch. 6 para. 1(3)); S.R. 2009/114, [art. 2](#)

Evasion of charges, fraud etc.

Evasion of charges etc.

48.—(1) In Schedule 15 to the principal Order (charges in respect of certain services and related matters) for paragraphs 5 to 8 there shall be substituted—

“**5.—(1)** Where goods or services are provided under this Order and either—

- (a) any charge payable by any person under this Order in respect of the provision of the goods or services is reduced, remitted or repaid, but that person is not entitled to the reduction, remission or repayment; or
- (b) any payment under this Order is made to, or for the benefit of, any person in respect of the cost of obtaining the goods or services, but that person is not entitled to, or to the benefit of, the payment,

the amount mentioned in sub-paragraph (2) is recoverable summarily as a debt from the person in question by the responsible authority.

(2) That amount—

- (a) in a case within sub-paragraph (1)(a), is the amount of the charge or (where it has been reduced) reduction;
- (b) in a case within sub-paragraph (1)(b), is the amount of the payment.

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(3) Where two or more persons are liable under paragraph 3 or this paragraph to pay an amount in respect of the same charge or payment, those persons shall be jointly and severally liable.

(4) For the purposes of this paragraph, the circumstances in which a person is to be treated as not entitled to a reduction, remission or repayment of a charge, or to (or to the benefit of) a payment, include in particular those in which it is received (wholly or partly)—

- (a) on the ground that he or another is a person of a particular description, where the person in question is not in fact of that description;
- (b) on the ground that he or another holds a particular certificate, when the person in question does not in fact hold such a certificate or does hold such a certificate but is not entitled to it;
- (c) on the ground that he or another has made a particular statement, when the person in question has not made such a statement or the statement made by him is false.

(5) In this paragraph and paragraph 6, “responsible authority” means—

- (a) in relation to the recovery of any charge under paragraph 3 in respect of the provision of goods or services under this Order, the person by whom the charge is recoverable;
- (b) in relation to the recovery by virtue of this paragraph of the whole or part of the amount of any such charge, the person by whom the charge would have been recoverable;
- (c) in a case within sub-paragraph (1)(b), the person who made the payment.

(6) But the Department may by directions provide for—

- (a) the functions of any responsible authority of recovering any charges under this Order in respect of the provision of goods or services under this Order;
- (b) the functions of any responsible authority under this paragraph and paragraph 6,

to be exercised on behalf of the authority by another [^{F88}health care] body.

6.—(1) Regulations may provide that, where a person fails to pay—

- (a) any amount recoverable from him under paragraph 3 in respect of the provision of goods or services under this Order; or
- (b) any amount recoverable from him under paragraph 5,

a notice (referred to in this paragraph as a penalty notice) may be served on the person by the responsible authority requiring him to pay to the authority, within a prescribed period, that amount together with a charge (referred to in

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this paragraph as a penalty charge) of an amount determined in accordance with the regulations.

(2) The regulations may not provide for the amount of the penalty charge to exceed whichever is the smaller of—

(a) £100;

(b) the amount referred to in sub-paragraph (1)(a) or (b) multiplied by 5.

(3) The Department may by order provide for sub-paragraph (2) to have effect as if, for the sum specified in head (a) or the multiplier specified in head (b) (including that sum or multiplier as substituted by a previous order), there were substituted a sum or (as the case may be) multiplier specified in the order.

(4) Regulations may provide that, if a person fails to pay the amount he is required to pay under a penalty notice within the period in question, he must also pay to the responsible authority by way of penalty a further sum determined in accordance with the regulations.

(5) The further sum must not exceed 50 per cent of the amount of the penalty charge.

(6) Any sum payable under the regulations (including the amount referred to in sub-paragraph (1)(a) or (b)) may be recovered by the responsible authority summarily as a debt.

(7) But a person is not liable by virtue of a penalty notice—

(a) to pay at any time so much of any amount referred to in sub-paragraph (1)(a) or (b) for which he is jointly and severally liable with another as at that time has been paid, or ordered by a court to be paid, by that other; or

(b) to a penalty charge, or a further sum by way of penalty, if he shows that he did not act wrongfully, or with any lack of care, in respect of the charge or payment in question.

(8) No order shall be made under sub-paragraph (3) unless a draft has been laid before, and approved by resolution of the Assembly.

7.—(1) A person is guilty of an offence if he does any act mentioned in paragraph (2) with a view to securing for himself or another—

(a) the evasion of the whole or part of any charge under this Order in respect of the provision of goods or services under this Order;

(b) the reduction, remission or repayment of any such charge, where he or (as the case may be) the other is not entitled to the reduction, remission or repayment;

(c) a payment under this Order (whether to, or for the benefit of, himself or the other) in respect of the cost of obtaining such goods or services,

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where he or (as the case may be) the other is not entitled to, or to the benefit of, the payment.

(2) The acts referred to in sub-paragraph (1) are—

- (a) knowingly making, or causing or knowingly allowing another to make, a false statement or representation; or
- (b) in the case of any document or information which he knows to be false in a material particular, producing or providing it or causing or knowingly allowing another to produce or provide it.

(3) A person guilty of an offence under this paragraph is liable on summary conviction to a fine not exceeding level 4 on the standard scale.

(4) A person, although he is not a barrister or solicitor, may conduct any proceedings under this paragraph before a magistrates' court if he is authorised to do so by the Department.

(5) Proceedings for an offence under this paragraph may be begun within either of the following periods—

- (a) the period of three months beginning with the date on which evidence, sufficient in the opinion of the Department to justify a prosecution for the offence, comes to its knowledge;
- (b) the period of 12 months beginning with the commission of the offence.

(6) For the purposes of sub-paragraph (5), a certificate purporting to be signed by or on behalf of the Department as to the date on which such evidence as is mentioned in head (a) of that sub-paragraph came to its knowledge is conclusive evidence of that date.

(7) Where, in respect of any charge or payment under this Order—

- (a) a person is convicted of an offence under this paragraph; or
- (b) a person pays any penalty charge, and any further sum by way of penalty, recoverable from him under paragraph 6,

he shall not, in a case within head (a), be liable to pay any such penalty charge or further sum by way of penalty or, in a case within head (b), be convicted of such an offence.

(8) Sub-paragraph (4) of paragraph 5 applies for the purposes of this paragraph as it applies for the purposes of that paragraph.”

(2) Paragraphs 5 to 7 of Schedule 15 to the principal Order apply to charges which may be made and recovered under Article 20 of the Health Services (Primary Care) (Northern Ireland) Order 1997 (NI 7) as they apply to charges under the principal Order which may be recovered under paragraph 3 of that Schedule.

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F88 Words in Act substituted (1.4.2009) by [Health and Social Care \(Reform\) Act \(Northern Ireland\) 2009 \(c. 1\)](#), ss. 32, 34(3), **Sch. 6 para. 1(1)(b)** (with Sch. 6 para. 1(3)); S.R. 2009/114, **art. 2**

Disqualification of Part VI practitioners

49. For Schedule 11 to the principal Order there shall be substituted the Schedule set out in Schedule 2.

Miscellaneous

Disclosure of information by the Commissioner for Complaints

F89 **50.**

F89 S. 50 repealed (1.4.2016) by [Public Services Ombudsman Act \(Northern Ireland\) 2016 \(c. 4\)](#), s. 64, **Sch. 9** (with s. 23, 50(3))

Provision of information as to births and deaths

51.—(1) The Registrar General of Births and Deaths in Northern Ireland may provide to the Department [^{F90}, RBSO] any information to which this subsection applies.

(2) Any information provided under subsection (1) shall be provided in such form as appears to the Registrar General appropriate for the purpose of assisting the Department [^{F90}, RBSO] in the performance of its functions in relation to [^{F91}health care].

(3) Subsection (1) applies to any information—

- (a) entered in any register kept under the Births and Deaths Registration (Northern Ireland) Order 1976 (NI 14); or
- (b) which is kept by the Registrar General under any other statutory provision and relates to any birth or death.

(4) The registrar of each district may furnish to [^{F92}the Department] such particulars of each birth and death ^{F93}... as are entered in a register of births and deaths kept for that district.

(5) The Department may by regulations make provision as to the manner in which and the times at which particulars are to be furnished under subsection (4).

F90 Words in s. 51(1)(2) substituted (1.4.2009) by [Health and Social Care \(Reform\) Act \(Northern Ireland\) 2009 \(c. 1\)](#), ss. 32, 34(3), **Sch. 6 para. 18(1)(a)**; S.R. 2009/114, **art. 2**

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- F91** Words in Act substituted (1.4.2009) by [Health and Social Care \(Reform\) Act \(Northern Ireland\) 2009 \(c. 1\), ss. 32, 34\(3\), Sch. 6 para. 1\(1\)\(b\)](#) (with Sch. 6 para. 1(3)); S.R. 2009/114, [art. 2](#)
- F92** Words in s. 51(4) substituted (1.4.2022) by [Health and Social Care Act \(Northern Ireland\) 2022 \(c. 3\), s. 8\(1\)\(b\), Sch. 1 para. 189\(3\)\(a\)](#); S.R. 2022/102, art. 2(b)
- F93** Words in s. 51(4) omitted (1.4.2022) by virtue of [Health and Social Care Act \(Northern Ireland\) 2022 \(c. 3\), s. 8\(1\)\(b\), Sch. 1 para. 189\(3\)\(b\)](#); S.R. 2022/102, art. 2(b)

Liability of officers of Health and Social Services Councils

52. In Article 97(1) of the principal Order (protection for officers of health and [^{F94}social care] bodies acting in execution of duty) after sub-paragraph (d) there shall be inserted—

“or

(e) a Health and Social Services Council,” .

- F94** Words in Act substituted (1.4.2009) by [Health and Social Care \(Reform\) Act \(Northern Ireland\) 2009 \(c. 1\), ss. 32, 34\(3\), Sch. 6 para. 1\(1\)\(a\)](#) (with Sch. 6 para. 1(2)(3)); S.R. 2009/114, [art. 2](#)

Regulations under section 11 of the Medical Act 1983

53. In section 11 of the Medical Act 1983 (c. 54) (supplementary provisions regarding experience required for full registration)—

- (a) in subsection (4) in the definition of “prescribed” for “Secretary of State” there shall be substituted “Department of Health, Social Services and Public Safety”;
- (b) for subsection (7) there shall be substituted—

“(7) The power of the Department of Health, Social Services and Public Safety to make regulations under this section shall be exercisable by statutory rule for the purposes of the Statutory Rules (Northern Ireland) Order 1979 and regulations made by that Department under this section shall be subject to negative resolution within the meaning of section 41(6) of the Interpretation Act (Northern Ireland) 1954 as if they were statutory instruments within the meaning of that Act.” .

Public access to meetings of certain bodies

54.—(1) Sections 23 to 27 of the Local Government Act (Northern Ireland) 1972 (c. 9) (which provide for public access to meetings of a district council and for the publication of information concerning such meetings) shall, with the modifications set out in subsection (2) apply in relation to meetings of—

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- [^{F95}(a) ^{F96}
- (aa) the Regional Agency;
 - (b) RBSO;]
 - (c) a special agency;
 - (d) an [^{F97}HSC trust];
- [^{F98}(e) the Patient and Client Council, and]
- (f) the Northern Ireland Social Care Council,
- as they apply in relation to meetings of a district council.
- (2) The modifications are—
- (a) any reference to a district council shall be read as a reference to a body mentioned in subsection (1); and
 - (b) any reference to councillors or members of the council shall be read as a reference to members of such a body.
- ^{F99}(3)

F95 S. 54(1)(a)(aa)(b) substituted (1.4.2009) for s. 54(1)(a)(b) by [Health and Social Care \(Reform\) Act \(Northern Ireland\) 2009 \(c. 1\), ss. 32, 34\(3\), Sch. 6 para. 18\(2\)\(a\)](#); S.R. 2009/114, [art. 2](#)

F96 S. 54(1)(a) omitted (1.4.2022) by virtue of [Health and Social Care Act \(Northern Ireland\) 2022 \(c. 3\), s. 8\(1\)\(b\), Sch. 1 para. 189\(4\)](#); S.R. 2022/102, [art. 2\(b\)](#)

F97 Words in Act substituted (1.4.2009) by [Health and Social Care \(Reform\) Act \(Northern Ireland\) 2009 \(c. 1\), ss. 32, 34\(3\), Sch. 6 para. 1\(1\)\(d\)](#) (with [Sch. 6 para. 1\(3\)](#)); S.R. 2009/114, [art. 2](#)

F98 S. 54(1)(e) substituted (1.4.2009) by [Health and Social Care \(Reform\) Act \(Northern Ireland\) 2009 \(c. 1\), ss. 32, 34\(3\), Sch. 6 para. 18\(2\)\(b\)](#); S.R. 2009/114, [art. 2](#)

F99 S. 54(3) repealed (1.4.2009) by [Health and Social Care \(Reform\) Act \(Northern Ireland\) 2009 \(c. 1\), ss. 33, 34\(3\), Sch. 7](#); S.R. 2009/114, [art. 2](#)

Sale of medical practices: goodwill

55. For Schedule 10 to the principal Order there shall be substituted the Schedule set out in Schedule 3.

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PART IV

MISCELLANEOUS AND GENERAL

Pharmaceutical chemists

Regulation of the profession of pharmaceutical chemist

56.—(1) The Department may by order make provision modifying the regulation of the profession of pharmaceutical chemist, so far as appears to it to be necessary or expedient for the purpose of securing or improving the regulation of that profession or the services which that profession provides or to which it contributes.

(2) Schedule 4 (which makes further provision about orders under this section) shall have effect.

General

Orders, regulations and directions

57.—(1) Subject to [F100 subsection (2)], any regulations or orders made by the Department under this Act shall be subject to negative resolution.

(2) Subsection (1) does not apply to—

- (a) an order under section 56;
- (b) an order under section 58 which contains only provision for or in connection with the transfer of any property, rights or liabilities; or
- (c) an order under section 61(2).

(3) Regulations or orders under this Act may contain—

- (a) any supplementary, incidental or consequential provision;
- (b) any transitory, transitional or saving provision,

which the Department considers necessary or expedient.

(4) Section 17(2) of the Interpretation Act (Northern Ireland) 1954 (c. 33) shall apply to a direction given by the Department under this Act as if the direction were a statutory instrument.

F100 Words in s. 57(1) substituted (13.5.2016) by [Health and Personal Social Services \(Amendment\) Act \(Northern Ireland\) 2016 \(c. 23\), ss. 6\(6\), 8](#)

Supplementary and consequential provision

58.—(1) The Department may by order make—

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- (a) such supplementary, incidental or consequential provision; or
- (b) such transitory, transitional or saving provision,

as it considers necessary or expedient for the purposes of, in consequence of, or for giving full effect to, any provision of this Act.

(2) The provision which may be made under subsection (1) includes provision amending or repealing any statutory provision, instrument or document.

Interpretation

59.—(1) In this Act “the principal Order” means the Health and Personal Social Services (Northern Ireland) Order 1972 (NI 14).

(2) Except where any provision of this Act otherwise provides, any word or expression to which a meaning is assigned by Article 2(2) [^{F101}or (2A)] of the principal Order has the same meaning in this Act as in that Order.

F101 Words in s. 59(2) inserted (1.4.2009) by [Health and Social Care \(Reform\) Act \(Northern Ireland\) 2009 \(c. 1\), ss. 32, 34\(3\), Sch. 6 para. 18\(3\)](#); S.R. 2009/114, [art. 2](#)

Amendments and repeals

60.—(1) In Article 8(1)(b) of the 1991 Order (health and [^{F102}social care] contracts) for “(f) to (j)” there shall be substituted “(g) to (j)”.

(2) In Article 21(1) of that Order (indicative amount for doctors' practices) for “paragraphs (2) and (8)” there shall be substituted “paragraph (8)”.

(3) The statutory provisions specified in Schedule 5 are repealed to the extent specified in the second column of that Schedule.

F102 Words in Act substituted (1.4.2009) by [Health and Social Care \(Reform\) Act \(Northern Ireland\) 2009 \(c. 1\), ss. 32, 34\(3\), Sch. 6 para. 1\(1\)\(a\)](#) (with Sch. 6 para. 1(2)(3)); S.R. 2009/114, [art. 2](#)

Short title and commencement

61.—(1) This Act may be cited as the Health and Personal Social Services Act (Northern Ireland) 2001.

(2) Parts I to III, sections 56 and 60 and the Schedules to this Act shall come into operation on such day or days as the Department may by order appoint^{F103}; but section 39 shall not be brought into operation by such an order before 1 April 2002.

F103 partly exercised by SRs 2001/128, 324; SRs 2002/73, 180; SR2003/69, SR2004/107, SR 2005/226

Changes to legislation:

There are currently no known outstanding effects for the Health and Personal Social Services Act (Northern Ireland) 2001.