

## STATUTORY INSTRUMENTS

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# 1972 No. 1265

## Health and Personal Social Services (Northern Ireland) Order 1972

### PART I **N.I.** INTRODUCTORY

#### Title and commencement **N.I.**

1. This Order may be cited as the Health and Personal Social Services (Northern Ireland) Order 1972 ... *Commencement* ...

#### Interpretation **N.I.**

2.—(1) The Interpretation Act (Northern Ireland) 1954 shall apply to Article 1 and the following provisions of this Order as it applies to an Act of the Parliament of Northern Ireland.

(2) In this Order<sup>[F1]</sup> and the 1991 Order]

[<sup>F2</sup>“Article 15B arrangements” means arrangements under Article 15B;]

“the Agency” has the meaning assigned to it by Article 26(1);

“child” means a person who is not over compulsory school age;

*Definition rep. by 1988 NI 23*

“compulsory school age” has the same meaning as in the Education and Libraries (Northern Ireland)<sup>[F3]</sup> Order 1986];

*Definition rep. by 1991 NI 1*

“dental practitioner” means a person registered in the dentists' register under the Dentists Act<sup>[F4]</sup> 1984];

“directions”, except in Articles 9 and 11 and Schedule 11, means directions in writing and—

(a) in respect of functions of the Ministry means directions given by the Ministry;

(b) in respect of functions of the Ministry of Home Affairs<sup>F5</sup>, means directions given jointly by the Ministry and that Ministry;

“disability” includes mental disorder as well as physical disability;

*Definition rep. by 1984 NI 8*

“Education and Library Board” has the same meaning as in the Education and Libraries (Northern Ireland)<sup>[F3]</sup> Order 1986];

“endowment”, in relation to a hospital which was immediately before 5th July 1948 a voluntary hospital or a local authority hospital, means property held immediately before 1st August 1951 or, in the case of the Mater Infirmorum Hospital, 1st January 1972, by the governing body of the hospital or by trustees solely for the purposes of that hospital or, in the case of a local

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authority hospital, by the local authority or other body solely for the purposes of that hospital, being property of the following descriptions—

- (a) interests in or attaching to land (other than such premises as were transferred to and vested in the Northern Ireland Hospitals Authority under section 23(1) or (5) of the Health Services Act (Northern Ireland) 1948 ), and in equipment, furniture or other movable property used on, or in connection with, that land;
- (b) shares, stocks, bonds, debentures and other securities and any other personal property held by way of an investment;
- (c) money, including any credit in a banking account;
- (d) rights under any bill of exchange, promissory note, bond or obligation for the payment of money;

but so that “endowment” does not include any property in respect of which trustees are required or authorised under Article 83 to make payments to a Health and Social Services board;

“equipment” includes any machinery, apparatus or appliance, whether fixed or not, and any vehicle;

“general dental services” has the meaning assigned to it by Article 61(1);

*Definition rep. by 2004 NI 2*

[<sup>F6</sup>“general medical services contract” has the meaning given by Article 57;]

“general ophthalmic services” has the meaning assigned to it by [<sup>F7</sup> Article 62(9)];

“governing body”, in relation to any voluntary hospital, includes any body, whether corporate or unincorporate, having the control and management of the hospital or any part thereof, or otherwise carrying on the business of the hospital or any part thereof;

“government department” means a department of the Government of Northern Ireland;

“grammar school” has the same meaning as in the Education and Libraries (Northern Ireland)[<sup>F3</sup> Order 1986];

“grant-aided”, in relation to a school, has the same meaning as in the Education and Libraries (Northern Ireland)[<sup>F3</sup> Order 1986];

[<sup>F1</sup>“Health and Social Services Board” means a body established under Article 16;

“health and social services contract” has the meaning assigned to it by Article 8(3) of the 1991 Order and “HSS contract” shall be construed accordingly;

“Health and Social Services trust” has the meaning assigned to it by Article 10(1) of the 1991 Order and “HSS trust” shall be construed accordingly;]

“health authority” means a health authority constituted under the Public Health and Local Government (Administrative Provisions) Act (Northern Ireland) 1946 ;

“health services” means any service or services designed to secure any of the objects of Article 4( a) and includes any services which it is the duty of the Ministry to provide or secure under the Mental Health Act;

[<sup>F2</sup>“health services body” has the meaning given in Article 8(2A) of the 1991 Order;]

*Definition rep. by 1992 NI 20*

“hospital” means any institution for the reception and treatment of persons suffering from illness, any maternity home, any institution for the reception and treatment of persons during convalescence or persons requiring medical rehabilitation, any institution for providing dental treatment and maintained in connection with a dental school, and clinics, dispensaries and out-patient departments maintained in connection with any such institution or home;

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“illness” includes mental disorder and any injury or disability requiring medical or dental treatment or nursing;

“independent school” has the same meaning as in the Education and Libraries (Northern Ireland)<sup>F3</sup> Order 1986];

“local authority” means the council of a county or county borough or a new town commission exercising the functions of the council of a county borough;

“management committees” means management committees within the meaning of the Health Services Act (Northern Ireland) 1971 and the Mental Health Act;

“managers”, where used in relation to a voluntary school, has the same meaning as in the Education and Libraries (Northern Ireland)<sup>F3</sup> Order 1986];

“medical” includes surgical;

<sup>F8c</sup>“medical practitioner” means a registered person within the meaning of<sup>F9</sup> the Medical Act 1983];

<sup>F10</sup> “medicine” includes such chemical reagents as are included in a list for the time being approved by the Department for the purposes of Article 63;]

“mental disorder” has the same meaning as in the Mental Health Act;

<sup>F11</sup>“Mental Health Order” means the Mental Health (Northern Ireland) Order 1986;]

“the Minister” means the Minister of Health and Social Services;

“the Ministry” means the Ministry of Health and Social Services;

“modify” means making additions, omissions, amendments, adaptations, applications, extensions, restrictions and substitutions;

“notice” means notice in writing;

“officer” includes servant;

<sup>F12c</sup>“operational area”, in relation to an HSS trust, shall be construed in accordance with paragraph 3A of Schedule 3 to the 1991 Order;]

<sup>F1i</sup>“operational date”, in relation to an HSS trust, shall be construed in accordance with paragraph 3(1)(e) of Schedule 3 to the 1991 Order;]

<sup>F13c</sup>“ophthalmic optician” means a person registered in the register of optometrists maintained under section 7 of the Opticians Act 1989 or a body corporate registered in the register of bodies corporate maintained under section 9 of that Act carrying on business as an optometrist.]

“order” means—

- (a) in respect of functions of the Ministry, an order made by the Ministry;
- (b) in respect of functions of the Ministry of Home Affairs<sup>F5</sup>, an order made jointly by the Ministry and that Ministry;

<sup>F1i</sup>“the 1991 Order” means the Health and Personal Social Services (Northern Ireland) Order 1991;]

“owner” means the person for the time being receiving the rack rent of the land in connection with which the word is used, whether on his own account or as agent or trustee for any other person, or who would so receive the same if the land were let at a rack rent;

“parent” in relation to any child or young person includes<sup>F14</sup> any person who has parental responsibility for or care] of the child or young person;

<sup>F14c</sup>“parental responsibility” has the same meaning as in the Children (Northern Ireland) Order 1995;]

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[<sup>F15</sup>“Part VI services” means general medical services, general dental services, general ophthalmic services or pharmaceutical services;]

“patient” includes an expectant or nursing mother and a lying-in woman;

“person in need” means a person who—

- (a) is in need of care and attention arising out of infirmity or age; or
  - (b) suffers from illness or is substantially handicapped by any deformity or disability; or
- Sub-para. (c) rep. by 1988 NI 23*
- (d) being a person who has asked for assistance, is, in the opinion of the Ministry, a person to whom any of the personal social services provided by it may be made available;

[<sup>F8</sup>“personal social services” means any service or services designed to secure any of the objects of Article 4( b)[<sup>F14</sup> (including services provided under the Adoption (Northern Ireland) Order 1987 or the Children (Northern Ireland) Order 1995)];

“pharmacist” has the same meaning as in the Medicines Act 1968 ;

“pharmaceutical services” has the meaning assigned to it by Article 63(1);

“prescribed” means prescribed by regulations;

[<sup>F6</sup>“primary medical services” means services which are primary medical services for the purposes of Part VI (see Article 56);]

“public body” means a body established by or under any transferred provision;

“regulations” means—

- (a) in respect of functions of the Ministry, regulations made by the Ministry;
- (b) in respect of functions of the Ministry of Home Affairs<sup>F5</sup>, regulations made jointly by the Ministry and that Ministry;

“relative” means a spouse[<sup>F16</sup> or civil partner] or a lineal ancestor or lineal descendant, or lineal descendant of an ancestor not more remote than great-grandfather or great-grandmother;

[<sup>F17</sup>“special agency” means a special health and social services agency established under the Health and Personal Social Services (Special Agencies) (Northern Ireland) Order 1990;]

*Definition rep. by 1991 NI 1*

“statutory instrument” has the meaning assigned to it by section 1( d) of the Interpretation Act (Northern Ireland) 1954 ;

[<sup>F12</sup>“statutory provision” has the meaning assigned to it by section 1(f) of the Interpretation Act (Northern Ireland) 1954;]

[<sup>F2</sup>“statutory provision” has the meaning given in section 1(f) of the Interpretation Act (Northern Ireland) 1954;]

“superannuation benefits” means annual superannuation allowances, gratuities and periodical payments payable on retirement, death or incapacity, and similar benefits;

[<sup>F18</sup>“trade dispute” has the same meaning as in section 27 of the Social Security Contributions and Benefits (Northern Ireland) Act 1992;]

“transferred provision” has the meaning assigned to it by section 1( g) of the Interpretation Act (Northern Ireland) 1954;

“the Tribunal” mean the Tribunal mentioned in Schedule 11;

“voluntary organisation” means any association carrying on or proposing to carry on any activities otherwise than for the purpose of gain by the association or by individual members thereof;

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“waters forming part of a port” includes all harbours, docks, basins, wharves, bays, creeks, channels, rivers, weirs and streams which abut on or flow into those waters;

“welfare authority” means a welfare authority constituted under the Public Health and Local Government (Administrative Provisions) Act (Northern Ireland) 1946 .

(3) For the purposes of this Order—

(a) power to provide any thing includes power to acquire, establish, lay out, erect or construct it and to provide buildings, works, equipment, facilities, services and amenities for or in connection with it and any other thing incidental or ancillary to it and to maintain it;

(b) power to maintain any thing includes power to operate, manage, repair, extend, alter, improve, re-erect and renew it or any such buildings, works, equipment, facility, service, amenity or other thing as aforesaid.

(4) References in this Order to the purposes of a hospital shall be construed as referring both to the general purposes of the hospital and to any specific purpose of the hospital.

<b>F1</b>	<a href="#">1991 NI 1</a>
<b>F2</b>	<a href="#">1997 NI 7</a>
<b>F3</b>	<a href="#">1986 NI 3</a>
<b>F4</b>	<a href="#">1984 c.24</a>
<b>F5</b>	functions transf. by SRO (NI) 1973/504
<b>F6</b>	<a href="#">2004 NI 2</a>
<b>F7</b>	<a href="#">1988 NI 24</a>
<b>F8</b>	prosp. inserted by <a href="#">1997 NI 7</a>
<b>F9</b>	<a href="#">1983 c.54</a>
<b>F10</b>	<a href="#">1978 NI 26</a>
<b>F11</b>	<a href="#">1986 NI 4</a>
<b>F12</b>	<a href="#">1994 NI 2</a>
<b>F13</b>	SI 2005/848
<b>F14</b>	<a href="#">1995 NI 2</a>
<b>F15</b>	<a href="#">2001 c. 3 (NI)</a>
<b>F16</b>	SR 2005/479
<b>F17</b>	<a href="#">1990 NI 3</a>
<b>F18</b>	<a href="#">1992 c.9</a>

*Art.3 rep. by SLR 1976*

## PART II **N.I.**

### MAIN FUNCTIONS OF THE MINISTRY

#### General duty of Ministry **N.I.**

4. It shall be the duty of the Ministry—

(a) to provide or secure the provision of integrated health services in Northern Ireland designed to promote the physical and mental health of the people of Northern Ireland through the prevention, diagnosis and treatment of illness;

(b) <sup>F19</sup>to provide or secure the provision of personal social services in Northern Ireland designed to promote the social welfare of the people of Northern Ireland;

and the Ministry shall so discharge its duty as to secure the effective co-ordination of health and personal social services.

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**F19** 1978 c.53

### Provision of accommodation and medical services, etc. **N.I.**

5.—(1) The Ministry shall provide throughout Northern Ireland, to such extent as it considers necessary, accommodation and services of the following descriptions—

- (a) hospital accommodation, including accommodation within the meaning of<sup>[F20]</sup> Article 110 of the Mental Health Order];
- (b) premises, other than hospitals, at which facilities are available for all or any of the services provided under this Order;
- (c) medical, nursing and other services whether in such accommodation or premises, in the home of the patient or elsewhere.

(2) In addition to its functions under paragraph (1), the Ministry may provide such other accommodation and services not otherwise specifically provided for by this Order as it considers conducive to efficient and sympathetic working of any hospital or service under its control, and, in relation to any person and notwithstanding anything contained in Article 4( a), to provide or arrange for the provision of such accommodation or services, and in connection therewith, to incur such expenditure as is necessary or expedient on medical grounds.

(3) Where accommodation or premises provided under this Article afford facilities for the provision of<sup>[F21]</sup> primary medical services, of general] dental or ophthalmic services or of pharmaceutical services, they shall be made available for those services on such terms and conditions as the Ministry may determine.

(4) The Ministry may permit any person to whom this paragraph applies to use for the purpose of private practice, on such terms and conditions as the Ministry may determine, the facilities available at accommodation or premises provided under this Article.

(5) The persons to whom paragraph (4) applies, being persons who provide services under this Order, are as follows:—

- (a) medical practitioners;
- <sup>[F21]</sup>(aa) persons providing primary medical services under a general medical services contract or in accordance with Article 15B arrangements;]
- (b) dental practitioners;
- (c) ophthalmic<sup>F22</sup> . . . opticians;
- (d) pharmacists; and
- (e) such other persons as the Ministry may determine.

**F20** 1986 NI 4

**F21** 2004 NI 2

**F22** 1984 NI 8

### Provision of general health services **N.I.**

6.—<sup>[F23]</sup>(1) The Ministry shall secure the provision of<sup>[F23]</sup> primary medical services, of general] dental and ophthalmic services and of pharmaceutical services in accordance with Part VI.

<sup>[F23]</sup>(2) Services provided under Article 56(2) or under a general medical services contract are to be regarded as provided by the Department in pursuance of its functions under paragraph (1).]

F23 2004 NI 2

### Prevention of illness, care and after-care **N.I.**

7.—(1) The Ministry shall make arrangements, to such extent as it considers necessary, for the purposes of the prevention of illness, the care of persons suffering from illness or the after-care of such persons.

(2) The Ministry may recover from persons availing themselves of any service provided by the Ministry under this Article, otherwise than in a hospital, such charges (if any) in respect of the service as the Ministry considers appropriate.

[<sup>F24</sup>(3) No arrangements made under paragraph (1) may be given effect to in relation to a person to whom section 115 of the Immigration and Asylum Act 1999 applies solely—

- (a) because he is destitute; or
- (b) because of the physical effects, or anticipated physical effects, of his being destitute.

<sup>F25</sup>(3A) Subsections (3) and (5) to (8) of section 95 of the Immigration and Asylum Act 1999, and paragraph 2 of Schedule 8 to that Act, apply for the purposes of paragraph (3) as they apply for the purposes of that section, but for the references in subsections (5) and (7) of that section and in paragraph 2 of that Schedule to the Secretary of State substitute references to the Department.]

F24 1999 c.33

F25 prosp. subst. by 2002 c. 41

### Care of mothers and young children **N.I.**

8.—(1) The Ministry shall make arrangements, to such extent as it considers necessary, for the care, including in particular the medical and dental care, of expectant and nursing mothers, and of young children.

(2) The Ministry may recover from persons availing themselves of any service provided by the Ministry under this Article, otherwise than in a hospital, such charges (if any) in respect of the service or articles provided in connection with the service as the Ministry considers appropriate.

### Medical and dental inspection, etc., of school children and young persons **N.I.**

9.—(1) Subject to paragraph (4), the Ministry shall provide for the medical<sup>F26</sup> . . . inspection, at appropriate intervals, and for the medical<sup>F26</sup> . . . supervision of persons—

- (a) in full-time attendance at any grant-aided school or for whom special arrangements have been made<sup>F27</sup> under<sup>F28</sup> Article 86 of the Education (Northern Ireland) Order 1998] or Article 10(1)(b) of the Education (Northern Ireland) Order 1996];

*Sub-para. (b) rep. by 1987 NI 2*

[<sup>F26</sup>(1A) Subject to paragraph (4), the Department shall provide, to such extent as it considers necessary to meet all reasonable requirements—

- (a) for the dental inspection of such persons as are mentioned in paragraph (1);
- (b) for the dental supervision of such persons; and
- (c) for the education of such persons in dental health.]

(2) For the purpose of securing the proper medical and dental inspection of persons such as are mentioned in paragraph (1)(a) the Ministry may require the parents of any such persons to submit the persons for medical or dental inspection in accordance with arrangements made by the Ministry,

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and any parent who fails without reasonable excuse to comply with any such requirement shall be guilty of an offence and shall be liable on summary conviction to a fine not exceeding<sup>F29</sup> £50].

(3) Subject to paragraph (4), the Ministry shall make such arrangements as are necessary for securing that there are available for persons such as are mentioned in paragraph (1) comprehensive facilities for medical and dental treatment.

(4) [<sup>F26</sup>Paragraphs (1), (1A)] and (3) shall not apply in the case of persons in attendance at any voluntary grammar school the managers of which have, by means of a scheme framed by them and approved by the Ministry, made provision for the medical and dental inspection, supervision and treatment of persons in attendance at that school<sup>F26</sup> and for the education of such persons in dental health].

(5) The managers of a voluntary grammar school to which paragraph (4) applies shall keep such records, and shall make such returns, as the Ministry may prescribe or direct.

(6) In any case where the managers of a voluntary grammar school<sup>F26</sup> make, by means of a scheme approved by the Department, such provision as is mentioned in paragraph (4), then, in respect of each person for whom any service is provided under such provision,] the Ministry shall pay to the managers such sum as it may determine.

(7) The Ministry may, with the consent of the proprietor of any independent school, and on such financial and other terms (if any) as may be agreed between the Ministry and the proprietor of the school, make arrangements for the provision of medical and dental inspection, supervision and treatment of persons in attendance at the school<sup>F26</sup> and for the education of such persons in dental health]; so however that any such arrangements shall be such as to secure, so far as is practicable, that the expense incurred by the Ministry in connection with the provision under the arrangements of any service shall not exceed the expense which would have been incurred by it in the provision thereof if the persons had been persons in attendance at a grant-aided school.

(8) In this Article—

“dental inspection” and “dental supervision” mean, respectively, inspection and supervision by a dental practitioner;

“dental treatment” includes prevention and treatment of dental disease by or (so far as permitted by law) under the direction of a dental practitioner and the supply of appliances on the recommendation of such practitioner, but does not, in relation to any person other than a person for whom special arrangements have been made<sup>F27</sup> as mentioned in paragraph (1)(a)<sup>F30</sup>. . . , include treatment in that person's home;

“medical inspection” and “medical supervision” mean, respectively, inspection and supervision by or under the direction of a medical practitioner;

“medical treatment” includes prevention and treatment of disease by a medical practitioner, and the supply of appliances on the recommendation of such practitioner, but does not, in relation to any person other than a person for whom special arrangements have been made<sup>F27</sup> as mentioned in paragraph (1)(a)<sup>F30</sup>. . . , include treatment in that person's home.

**F26** 1988 NI 24

**F27** 1996 NI 1

**F28** 1998 NI 13

**F29** 1984 NI 3

**F30** 1987 NI 2



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## Ancillary services **N.I.**

10.—(1) Without prejudice to the generality of Article 5 the Ministry shall make arrangements, to such extent as it considers necessary, for—

- (a) providing or securing the provision of ambulances and other means of transport for the conveyance of persons suffering from illness, expectant or nursing mothers or of other persons for whom such transport is reasonably required in order to avail themselves of any service under this Order;
- (b) providing or securing the provision of a laboratory service for the purpose of the prevention or cure or restriction of the incidence of disease, or the promotion of the health of the people;
- (c) providing or securing the provision of a service of diagnostic radiology; and
- (d) making available to medical practitioners and other persons who require them supplies of human blood for the purpose of carrying out blood transfusion or supplies of any other substances or preparations not readily obtainable.

(2) The Ministry shall determine the terms, including terms as to the payment of charges, and conditions on which the several services referred to in paragraph (1) shall be provided.

## Vaccination and immunisation **N.I.**

11.—(1) The Ministry may make arrangements with medical practitioners for the vaccination or immunisation of persons against any disease, either by medical practitioners or by persons acting under their direction and control.

(2) In making arrangements under this Article, the Ministry shall, in so far as is reasonably practicable, give every medical practitioner providing<sup>[F31]</sup> primary medical services] under Part VI<sup>[F32]</sup> and every person providing, and every medical practitioner performing,<sup>[F31]</sup> primary medical services] in accordance with Article 15B arrangements] an opportunity to provide services under this Article.

(3) The Ministry may, either directly or by entering into arrangements with such persons as it thinks fit, supply free of charge to medical practitioners providing services under this Article vaccines, sera or other substances for vaccinating or immunising persons against any disease.

F31 2004 NI 2

F32 1997 NI 7

## Family planning **N.I.**

12.—(1) The Ministry shall make arrangements, to such extent as it considers necessary, for the giving of advice on contraception, the medical examination of persons seeking advice on contraception, the treatment of such persons and the supply of contraceptive substances or appliances.

(2) The Ministry may recover from persons availing themselves of any service under this Article such charges (if any) as the Ministry considers appropriate.

## Educational and research facilities **N.I.**

13. The Ministry shall make available such facilities, in any premises provided by it under this Order, as appear to the Ministry to be reasonably required for under-graduate and post-graduate clinical teaching and research.

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## Health education **N.I.**

14. The Ministry may disseminate, by whatever means it thinks fit, information relating to the promotion and maintenance of health and the prevention of illness.

### [<sup>F33</sup>Arrangements for provision of health services by other bodies or persons **N.I.**

14A.—(1) The Department may make arrangements for the provision by any other body or person of any of the health services on such terms and conditions as may be agreed between the Department and that other body or person.

(2) The Department may assist any body or person carrying out any arrangements under paragraph (1) by—

- (a) permitting that body or person to use premises belonging to the Department;
- (b) making available vehicles, equipment, goods or materials; and
- (c) making available the services of any staff who are employed in connection with the premises or other things which the Department permits the body or person to use,

on such terms and conditions as may be agreed between the Department and that body or person.]

F33 1992 NI 20

## General social welfare **N.I.**

15.—<sup>F34</sup>(1) In the exercise of its functions under Article 4( b) the Ministry shall make available advice, guidance and assistance, to such extent as it considers necessary, and for that purpose shall make such arrangements and provide or secure the provision of such facilities (including the provision or arranging for the provision of residential or other accommodation, home help and laundry facilities) as it considers suitable and adequate.

[<sup>F35</sup>(1A) Arrangements under paragraph (1) may include arrangements for the provision by any other body or person of any of the personal social services on such terms and conditions as may be agreed between the Department and that other body or person.

(1B) The Department may assist any body or person carrying out any arrangements under paragraph (1) by—

- (a) permitting that body or person to use premises belonging to the Department;
- (b) making available vehicles, equipment, goods or materials; and
- (c) making available the services of any staff who are employed in connection with the premises or other things which the Department permits the body or person to use,

on such terms and conditions as may be agreed between the Department and that body or person.]

(2) Assistance under paragraph (1) may be given to, or in respect of, a person in need requiring assistance in kind or, in exceptional circumstances constituting an emergency, in cash; so however that before giving assistance to, or in respect of, a person in cash the Ministry shall have regard to his eligibility for receiving assistance from any other statutory body, and, if he is so eligible, to the availability to him of that assistance in his time of need.

(3) Where under paragraph (1) the Ministry makes arrangements or provides or secures the provision of facilities for the engagement of persons in need (whether under a contract of service or otherwise) in suitable work, the Ministry may assist such persons in disposing of the produce of their work.

(4) <sup>F36</sup> . . . the Ministry may recover in respect of any assistance, help or facilities under this Article such charges (if any) as the Ministry considers appropriate.

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[<sup>F36</sup>(5) In so far as it relates to the provision of accommodation, this Article is subject to Articles 36,<sup>F37</sup> . . . and 99.]

[<sup>F38</sup>(6) Assistance may not be provided under paragraph (1) in respect of any person to whom section 115 of the Immigration and Asylum Act 1999 applies if his need for assistance has arisen solely—

- (a) because he is destitute, or
- (b) because of the physical effects, or anticipated physical effects, of his being destitute.

<sup>F39</sup>(7) Subsections (3) to (8) of section 95 of the Immigration and Asylum Act 1999, and paragraph 2 of Schedule 8 to that Act, apply for the purposes of paragraph (6) as they apply for the purposes of that section, but for references to the Secretary of State in subsections (5) and (7) of that section and in paragraph 2 of that Schedule substitute references to the Department.]

**F34** 1978 NI 26; 1978 c.53  
**F35** 1992 NI 20  
**F36** 1991 NI 1  
**F37** 2002 c. 5 (NI)  
**F38** 1999 c.33  
**F39** prosp. subst. by 2002 c. 41

*Art. 15A. rep. by 2002 c.6(NI)*

[<sup>F40</sup> Provision of primary medical services or personal dental services]

**F40** 2004 N.I. 2

[<sup>F41</sup> **Primary medical services or personal dental services**] **N.I.**

**15B.**—(1) A Health and Social Services Board may make one or more agreements with respect to its area, in accordance with the provisions of regulations under Article 15D, under which—

- (a) [<sup>F42</sup>primary medical services] are provided (otherwise than by the Board); or
- (b) personal dental services are provided (otherwise than by the Board).

(2) An agreement made under this Article—

- (a) may not combine arrangements for the provision of [<sup>F42</sup>primary medical services] with arrangements for the provision of personal dental services; but
- (b) may include arrangements for the provision of health services—
  - (i) which are not [<sup>F42</sup>primary medical services] or personal dental services; but
  - (ii) which may be provided under this Part.

(3) Except to such extent as may be prescribed—  
*sub-para. (a) rep. by 2004 NI 2*

- (b) a patient for whom personal dental services are provided under an agreement made under this Article is not to count as a person for whom arrangements must be made by the Health and Social Services Board concerned under Article 61.

(4) This Order has effect, in relation to <sup>F42</sup> . . . personal dental services provided under an agreement made under this Article, as if those services were provided as a result of the delegation by the Department (by directions given under Article 17) of functions of the Department under this Part.

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(5) The functions of a Health and Social Services Board in relation to an agreement made under this Article are primary functions of the Board for the purposes of Article 9 of the 1991 Order.

(6) For the purposes of this Article—

*Definition rep. by 2004 NI 2*

"personal dental services" means dental services of a kind that may be provided by a general dental practitioner in accordance with arrangements made under Part VI.

- F41** Arts. 15B, 15C and preceding cross-heading inserted (1.4.2004 for certain purposes) by [Health Services \(Primary Care\) \(Northern Ireland\) Order 1997 \(S.I. 1997/1177\)](#), [arts. 1\(2\), 21](#); [S.R. 2004/133](#), [art. 2\(1\)](#)
- F42** [2004 NI 2](#)

**[<sup>F43</sup> Persons with whom agreements may be made N.I.**

**15C.—**(1) A Health and Social Services Board may make an agreement under Article 15B only with one or more of the following—

- (a) an HSS trust;
- (b) in the case of an agreement under which primary medical services are provided—
  - (i) a medical practitioner who satisfies the prescribed conditions;
  - (ii) a health care professional who satisfies the prescribed conditions;
  - (iii) an individual who is providing services—
    - (A) under a general medical services contract;
    - (B) in accordance with Article 15B arrangements, section 28C arrangements or Article 17C arrangements; or
    - (C) under section 28Q of the National Health Service Act 1977 or section 19 of the National Health Service (Scotland) Act 1978;
- or has so provided them within such period as may be prescribed;]
- (c) in the case of an agreement under which personal dental services are provided—
  - (i) a qualifying dental practitioner;
  - (ii) an individual who is providing personal dental services in accordance with Article 15B arrangements;
- (d) an HSS employee or an Article 15B employee;
- (e) a qualifying body.

**[<sup>F44</sup>(1A)** The power under paragraph (1) to make an agreement with a person falling within sub-paragraph (b)(iii), or (in the case of an agreement under which primary medical services are provided), sub-paragraph (d), of that paragraph is subject to such conditions as may be prescribed.]

(2) In this Article—

**[<sup>F44c</sup>"Article 15B employee"** means a person who, in connection with the provision of services in accordance with Article 15B arrangements, is employed by an individual providing or performing those services;]

**[<sup>F44c</sup>"health care professional"** means a member of a profession which is regulated by a body mentioned (at the time the agreement is made) in section 25(3) of the National Health Service Reform and Health Care Professions Act 2002 (c. 17);]

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“HSS employee” means an individual who, in connection with the provision of health services [<sup>F44</sup> in Northern Ireland, England and Wales or Scotland], is employed by—

- (a) an HSS trust [<sup>F44</sup> in Northern Ireland, or an NHS trust or NHS foundation trust in England and Wales];
- (b) [<sup>F44</sup>a Health and Social Services Board in Northern Ireland, a Primary Care Trust in England, a Local Health Board in Wales or a Health Board in Scotland;
- (bb) a person who is providing services under a general medical services contract;
- (bc) an individual who is providing services as specified in paragraph (1)(bc)(iii);]
- (c) in the case of an agreement under which personal dental services are provided—
  - (i) a dental practitioner whose name is included in a list prepared in accordance with regulations made under Article 61(2)(a); or
  - (ii) a dental practitioner who is providing personal dental services in accordance with Article 15B arrangements;

“qualifying body” means—

- (a) a company which is limited by shares all of which are legally and beneficially owned by persons falling within sub-paragraphs (a) to (d) of paragraph (1); and also
- (b) in the case of an agreement under which personal dental services are provided, a body corporate which, in accordance with the provisions of Part IV of the Dentists Act 1984, is entitled to carry on the business of dentistry;

“qualifying dental practitioner” means a dental practitioner who satisfies the conditions imposed by regulations made under Article 15D(2)(b);

<sup>F44</sup> . . .

[<sup>F44</sup>“section 17C employee” means a person who, in connection with the provision of services in accordance with arrangements under section 17C of the National Health Service (Scotland) Act 1978, is employed by an individual providing or performing those services;]

[<sup>F44</sup>“section 28C employee” means a person who, in connection with the provision of services in accordance with arrangements under section 28C of the National Health Service Act 1977, is employed by an individual providing or performing those services;]

<sup>F44</sup> . . .

**F43** Arts. 15B, 15C and preceding cross-heading inserted (1.4.2004 for certain purposes) by [Health Services \(Primary Care\) \(Northern Ireland\) Order 1997 \(S.I. 1997/1177\)](#), **arts. 1(2), 21**; [S.R. 2004/133](#), **art. 2(1)**

**F44** [2004 NI 2](#)

## [<sup>F45</sup>[<sup>F46</sup>**Primary medical services or personal] dental services: regulations** **N.I.**

**15D.**—(1) The Department may make regulations with respect to the provision of services in accordance with Article 15B arrangements.

(2) The regulations must—

- (a) include provision for participants other than Health and Social Services Boards to withdraw from Article 15B arrangements if they wish to do so;
- (b) impose conditions (including conditions as to qualifications and experience) to be satisfied by<sup>F47</sup>. . . dental practitioners performing personal dental services, in accordance with Article 15B arrangements.

*Status: Point in time view as at 01/01/2006. This version of this*

*Order contains provisions that are not valid for this point in time.*

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In sub-paragraph (b) “practitioner” does not include a practitioner who is undergoing training of a prescribed description.

(3) The regulations may, in particular—

- (a) provide that Article 15B arrangements may be made only in prescribed circumstances;
- (b) provide that Article 15B arrangements may be made only in prescribed areas;
- (c) provide that only prescribed services, or prescribed categories of service, may be provided in accordance with Article 15B arrangements;

[ impose conditions (including conditions as to qualifications and experience) to be  
<sup>F48</sup>(ca) satisfied by persons performing primary medical services in accordance with Article 15B arrangements;]

(d) require details of Article 15B arrangements to be published;

(e) make provision with respect to the variation and termination of Article 15B arrangements;  
*sub-paras. (f) and (g) rep. by 2004 NI 2*

(h) provide for parties to Article 15B arrangements to be treated, in such circumstances and to such extent as may be prescribed, as health services bodies for the purposes of Article 8 of the 1991 Order;

(i) provide for directions, as to payments, made under Article 8(8) of the 1991 Order (as it has effect as a result of regulations made by virtue of sub-paragraph (h)) to be enforceable in a county court (if the court so orders) as if they were judgments or orders of that court;

(j) authorise Health and Social Services Boards to make<sup>F49</sup> with respect to the provision of personal dental services] payments of financial assistance for prescribed categories of preparatory work undertaken—

(i) in connection with preparing proposals for Article 15B arrangements; or

(ii) in preparation for the provision of services under proposed Article 15B arrangements.

[  
<sup>F50</sup>(3A) The regulations may also require payments to be made under Article 15B arrangements in accordance with directions given for the purpose by the Department.

(3B) A direction under paragraph (3A) may make provision having effect from a date before the date of the direction, provided that, having regard to the direction as a whole, the provision is not detrimental to the persons to whose remuneration it relates.

(3C) The regulations may also include provision requiring a Health and Social Services Board, in prescribed circumstances and subject to prescribed conditions, to enter into a general medical services contract on prescribed terms with any person providing services under Article 15B arrangements who so requests.

(3D) The regulations may also include provision for the resolution of disputes as to the terms of any proposed Article 15B arrangements, and in particular may make provision—

(a) for the referral of the terms of the proposed arrangements to the Department; and

(b) for the Department, or a person appointed by it, to determine the terms on which the arrangements may be entered into.

(3E) The regulations shall provide for the circumstances in which a person providing primary medical services under Article 15B arrangements—

(a) shall or may accept a person as a patient to whom such services are so provided;

(b) may decline to accept a person as such a patient;

(c) may terminate his responsibility for a patient.

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(3F) The regulations shall make provision as to the right of patients to choose the persons from whom they are to receive services under Article 15B arrangements.]

*Para. (4) rep. by 2001 c.3 (NI)*

*Para. (5) rep. by 2004 NI 2*

(6) Regulations which impose conditions on persons performing<sup>F51</sup> primary medical services] or persons performing personal dental services (whether made by virtue of paragraph (2)(b) or otherwise) may, in particular, include provision of a kind that may be made by regulations under Article 8 of the Health and Personal Social Services (Northern Ireland) Order 1978.

*Para. (7) rep. by 2004 NI 2]*

F45 1997 NI 7  
F46 2004 NI 2  
F47 2004 NI 2  
F48 2004 NI 2  
F49 2004 NI 2  
F50 2004 NI 2  
F51 2004 NI 2

*Art. 15E rep. by 2004 NI 2*

### <sup>F52</sup>Right to choose dental practitioner **N.I.**

**15F.**—(1) Provision shall be made in regulations for conferring a right on any person to choose the dental practitioner from whom he is to receive primary dental services, subject to the consent of the practitioner concerned.

(2) The regulations shall, in particular, prescribe the procedure for choosing a practitioner.

(3) In this Article “primary dental services” means dental services which are—

- (a) provided, in accordance with Article 15B arrangements, as personal dental services; or
- (b) provided under Part VI as general dental services.]

F52 1997 NI 7

## PART III **N.I.**

### HEALTH AND SOCIAL SERVICES BOARDS, ETC.

#### Establishment of Health and Social Services Boards **N.I.**

**16.**—(1) The Ministry shall by order establish bodies to be called Health and Social Services Boards, for such areas as it may by order determine.

(2) An order under paragraph (1) determining the area of any Health and Social Services Board may include in the area any waters forming part of a port established for the purposes of the enactments relating to the customs of the United Kingdom and abutting on that area.

(3) The constitution of a Health and Social Services Board shall be as provided in that behalf in Part I of Schedule 1 and the supplementary provisions contained in Part II of that Schedule shall have effect with respect to a Health and Social Services Board.

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## Functions of Health and Social Services Boards **N.I.**

17.—<sup>F53</sup>(1) The Health and Social Services Boards shall—

(a) exercise on behalf of the Ministry such functions (including functions imposed under an order of any court) with respect to the administration of such health and personal social services as the Ministry may direct;

(b) make arrangements, on behalf of the Ministry, for the provision of services under Part VI;

*Sub-para. (c) rep. by 1995 NI 2*

*Sub-para. (cc) rep. by 1995 NI 2*

<sup>F54</sup>(d) provide such facilities and accommodation for persons training with a view to qualification for registration as nurses and midwives as the National Board for Nursing, Midwifery and Health Visiting for Northern Ireland may require in discharging functions under section 6(1)(a) of the Nurses, Midwives and Health Visitors Act 1979 ;]

and shall do so in accordance with regulations and directions.

*Para. (1A) rep. by 1994 NI 2*

[<sup>F55</sup>(1ZA) A Health and Social Services Board shall, in accordance with regulations and directions, perform such functions in relation to Article 15B arrangements as may be prescribed.

(1ZB) Regulations under paragraph (1ZA) may, in particular—

(a) prescribe functions in relation to training;

(b) provide for appeals to the Department or a prescribed body in relation to functions prescribed by the regulations.]

(2) Where a function is conferred on a Health and Social Services Board by any other transferred provision, that function shall be deemed to be a function which the Ministry has directed the Health and Social Services Board to exercise under paragraph (1).

**F53** 1978 NI 15; 1980 NI 5

**F54** 1979 c.36

**F55** 1997 NI 7

## Schemes **N.I.**

18.—(1) A Health and Social Services Board shall, within such period as the Ministry may specify, submit to the Ministry a scheme for the exercise of its functions.

(2) A scheme under paragraph (1) shall be made in accordance with regulations and directions.

(3) The Ministry may, by order, approve a scheme submitted to it under paragraph (1), with or without modifications, and the Health and Social Services Board shall give effect to any scheme so approved.

(4) A Health and Social Services Board may at any time, and if directed by the Ministry shall within such period as the Ministry may specify, submit a new scheme under this Article and paragraph (3) shall apply to any such new scheme.

(5) If a Health and Social Services Board fails to submit any scheme which it is required under this Article to submit within a period specified by the Ministry, the Ministry may make a scheme which shall have effect as if it had been submitted and approved under this Article.



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## Joint committees **N.I.**

19. Where it appears to the Ministry to be expedient in the interests of efficiency that a joint committee should be established for the areas of two or more Health and Social Services Boards for the purpose of exercising some but not all of their functions, the Ministry may by order—

- (a) constitute such a joint committee;
- (b) provide for the exercise by that committee of such functions as may be specified in the order;
- (c) apply to that committee any provision of this Order, subject to the modifications (if any) specified in the order;
- (d) provide for the winding-up and dissolution of that committee;
- (e) make such other provision in connection with that committee as the Ministry thinks fit.

*Art. 20 rep. by 1991 NI 1*

## University Liaison Committees **N.I.**

21.—(1) The Ministry may by order establish for the area of a Health and Social Services Board or for the areas of two or more Boards, a University Liaison Committee for the purpose of advising that Board or those Boards on the administration of the health services in the area or areas in relation to the provision of facilities for undergraduate or post-graduate clinical teaching or for research, and for the purpose of advising that Board or those Boards and the university or universities concerned on any matter of common interest to them.

(2) An order under paragraph (1) may—

- (a) constitute such a University Liaison Committee;
- (b) provide for the exercise by that Committee of such functions as may be specified in the order;
- (c) apply to that Committee any provision of this Order, subject to the modifications (if any) specified in the order;
- (d) provide for the winding-up and dissolution of that Committee;
- (e) make such other provision in connection with that Committee as the Ministry thinks fit.

## PART IV **N.I.**

### CENTRAL BODIES

*Arts. 22, 23 rep. by 1986 NI 24*

#### Advisory committees

## Central advisory committees **N.I.**

24.—(1) The Minister may appoint a central advisory committee for any profession or professions engaged in the provision of services under this Order or for a particular service provided under this Order, and may, at any time after consultation with that committee, dissolve that committee.

(2) A central advisory committee shall advise<sup>[F56]</sup> the Department on the provision of any service with which that committee is concerned and shall undertake such investigation as the Department thinks fit.]

*Para. (3) rep. by 1986 NI 24*

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(4) A central advisory committee shall consist of a chairman appointed by the Minister and such other members as the Minister may consider necessary, appointed after consultation with such interests as appear to the Minister to be concerned; and the Minister may at any time appoint an additional member or fill a vacancy created by the death or resignation of a member.

(5) A central advisory committee may appoint sub-committees, whether jointly with another central advisory committee or otherwise, and may appoint to such sub-committees persons who are not members of the central advisory committee or committees concerned.

(6) A central advisory committee may regulate its own quorum and procedure.

F56 1986 NI 24

### Other advisory committees **N.I.**

25.—(1) For the purpose of obtaining advice upon any matter arising in connection with the performance of the duty of the Ministry under Article 4, other than a matter in relation to which a central advisory committee has been appointed, the Minister may appoint such other advisory committees as he considers necessary, and may, after any such committee has performed the functions for which it was appointed, or at any other time after consultation with that committee, dissolve that committee.

(2) An advisory committee shall consist of a chairman and such other members as the Minister may consider necessary for the purposes of the committee; and the Minister may at any time appoint an additional member or fill a vacancy created by the death or resignation of a member.

(3) An advisory committee may regulate its own quorum and procedure.

The Agency

### Northern Ireland Central Services Agency for the Health and Social Services **N.I.**

26.—(1) There shall be established a body to be called the Northern Ireland Central Services Agency for the Health and Social Services (in this Order referred to as “the Agency”).

(2) The constitution of the Agency shall be as provided in that behalf in Part I of Schedule 3, and the supplementary provisions contained in Part II of that Schedule shall have effect with respect to the Agency.

### Functions of the Agency **N.I.**

27.—(1) The Agency shall exercise such of the Ministry's functions under this Order as the Ministry may direct.

(2) After consultation with the Health and Social Services Boards and any other interests which appear to it to be concerned, the Ministry may, where the Ministry considers it expedient for the efficient discharge of the functions of the Boards, direct that the performance of such functions as the Ministry may determine shall be referred to the Agency and be discharged by it on behalf of any or all of the Boards.

[<sup>F57</sup>(3) Paragraph (2) applies to HSS trusts as it applies to Health and Social Services Boards.]

(4) In carrying out its functions the Agency shall act in accordance with regulations and directions.

F57 1994 NI 2

## PART V **N.I.**

### OTHER FUNCTIONS OF THE MINISTRY

#### **Provision of vehicles for persons suffering from physical defect or disability **N.I.****

**30.**—(1) The Ministry may provide invalid carriages for persons appearing to it to be suffering from severe physical defect or disability, and, at the request of such a person, may provide for him a vehicle other than an invalid carriage.

(2) The Ministry may, in the case of an invalid carriage or other vehicle provided by it for, or belonging to, any such person as is mentioned in paragraph (1), on such terms and subject to such conditions as it may determine—

- (a) adapt the vehicle for the purpose of making it suitable for the circumstances of that person;
- (b) maintain and repair the vehicle;
- (c) take out insurance policies relating to the vehicle and pay the duty (if any) with which the vehicle is chargeable under<sup>[F58]</sup> the Vehicle Excise and Registration Act 1994;
- (d) provide a structure for the keeping of the vehicle therein and provide all material and execute all works necessary for the erection of the structure.

(3) The Ministry may, on such terms and subject to such conditions as it may determine, make payments by way of grant towards costs incurred by any such person as is mentioned in paragraph (1) in respect of all or any of the following matters in relation to an invalid carriage or other vehicle provided by the Ministry for, or belonging to, that person—

- (a) the taking of any such action as is referred to in paragraph (2);
- (b) the purchase of fuel for the purposes of the vehicle, so far as the cost of the purchase is attributable to duties of excise payable in respect of the fuel;
- (c) the taking of instruction in the driving of the vehicle.

(4) In this Article, “invalid carriage” means a mechanically propelled vehicle specially designed and constructed, and not merely adapted, for the use of a person suffering from some physical defect or disability and used solely by such a person.

**F58** 1994 c.22

#### **[F59] Accommodation and services for private patients **N.I.****

**31.**—(1) If the Department is satisfied, in the case of a hospital vested in it, that it is reasonable to do so, it may authorise accommodation and services at the hospital in question to be made available, to such extent as it may determine, for patients who give undertakings (or for whom undertakings are given) to pay, in respect of the accommodation and services made available, such charges as the Department may determine and may make and recover such charges as it may determine in respect of such accommodation and services and calculate them on any basis that it considers to be the appropriate commercial basis; but the Department shall do so only if and to the extent that it is satisfied that to do so—

- (a) will not to a significant extent interfere with the performance by it of any duty imposed on it by this Order to provide accommodation or services of any kind; and
- (b) will not to a significant extent operate to the disadvantage of persons seeking or afforded admission or access to accommodation or services at hospitals vested in the Department (whether as resident or non-resident patients) otherwise than under this Article.

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(2) The Department may allow accommodation and services to which an authorisation under paragraph (1) relates to be made available in connection with treatment, in pursuance of arrangements made by a medical practitioner or dental practitioner serving (whether in an honorary or paid capacity) on the staff of a hospital vested in it for the treatment of private patients of that practitioner.

(3) The Department shall revoke an authorisation under this Article only if and to the extent that it is satisfied that sufficient accommodation and facilities for the private practice of medicine and dentistry are otherwise reasonably available (whether privately or at hospitals vested in it) to meet the reasonable demand for them in the area served by the hospital in question.]

F59 1988 NI 24

### Hospital accommodation made available on part payment **N.I.**

33.—(1) Where there is provided in any hospital vested in the Ministry accommodation in single rooms or small wards, the Ministry may authorise any such accommodation which is not for the time being needed by any patient on medical grounds to be made available for patients<sup>F60</sup> to such extent as it may determine, and may recover such charges as it may determine in respect of such accommodation and calculate them on any basis that it considers to be the appropriate commercial basis.]

*Para. (2) rep. by 1988 NI 24*

F60 1988 NI 24

### Cleanliness of school children **N.I.**

34. The Ministry may, by regulations, make provision with respect to the examination and cleanliness of the persons and clothing of pupils in attendance at grant-aided schools and, in particular, where action for the examination or cleansing of a pupil cannot immediately take place, may provide for the exclusion from school of such pupil.

*Art. 35 rep. by 1992 NI 20*

### [<sup>F61</sup>Provision of accommodation in premises maintained by voluntary organisations, etc. **N.I.**

36.—[

<sup>F62</sup>(1) Subject to paragraph (2), arrangements must not be made under Article 15 for the provision of accommodation together with nursing or personal care for persons such as are mentioned in Article 10(1) of the Health and Personal Social Services (Quality, Improvement and Regulation) (Northern Ireland) Order 2003 (residential care homes) unless —

- (a) the accommodation is to be provided, under the arrangements, in a residential care home or nursing home (within the meaning of that Order); and
- (b) a person carrying on or managing the home is registered in respect of it under that Order.]

[

<sup>F62</sup>(2) The Department may by regulations make provision for or in connection with the making of arrangements under Article 15 for the provision of the accommodation in Great Britain, the Channel Islands or the Isle of Man.]

(3) Any arrangements made by virtue of this Article shall provide for the making by the Department to the other party thereto of payments in respect of the accommodation provided at

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such rates as may be determined by or under the arrangements; and, subject to paragraph (7), the Department shall recover from each person for whom accommodation is provided under the arrangements the amount of the refund which he is liable to make in accordance with the following provisions of this Article.

[  
F63(4) Subject to the following provisions of this Article, a person for whom accommodation is provided under any such arrangements shall refund to the Department—

- (a) where the payments made in respect of him under paragraph (3) include any amount in respect of nursing care by a registered nurse, the amount of such payments less any amount paid in respect of such nursing care;
- (b) in any other case, the amount of the payments made in respect of him under paragraph (3).

(4A) In paragraph (4) "nursing care by a registered nurse" means any services provided by a nurse registered under Article 5 of the Nursing and Midwifery Order 2001 (SI 2002 / 253) and involving—

- (a) the provision of care, or
- (b) the planning, supervision or delegation of the provision of care,

other than any services which, having regard to their nature and the circumstances in which they are provided, do not need to be provided by a nurse so registered.]

(5) Where a person for whom accommodation is provided, or proposed to be provided, under any such arrangements satisfies the Department that he is unable to make a refund at the full rate determined under<sup>F63</sup> paragraph (4)(a) or (b)], the Department shall assess his ability to pay, and accordingly determine at what lower rate he shall be liable to make a refund.

(6) Regulations may make provision for the assessment, for the purposes of paragraph (5), of a person's ability to pay.

(7) Where accommodation in any home or premises is provided for any person under arrangements made by virtue of this Article and the Department, the person concerned and the voluntary organisation or other person managing the home or premises (in this paragraph referred to as "the provider") agree that this paragraph shall apply—

- (a) so long as the person concerned makes the payments for which he is liable under sub-paragraph (b), he shall not be liable to make any refund under paragraph (4) or (5) and the Department shall not be liable to make any payment under paragraph (3) in respect of the accommodation provided for him;
- (b) the person concerned shall be liable to pay to the provider such sums as he would otherwise (under paragraph (4) or (5)) be liable to pay by way of refund to the Department; and
- (c) the Department shall be liable to pay to the provider the difference between the sums paid by virtue of sub-paragraph (b) and the payments which, but for sub-paragraph (a), the Department would be liable to pay under paragraph (3).

(8) The Department may, on each occasion when it makes arrangements by virtue of this Article for the provision of accommodation for a person and irrespective of his means, limit to such amount as appears to the Department reasonable for him to pay the refunds required from him for his accommodation during a period commencing when the Department began to make the arrangements for accommodation for him and ending not more than 8 weeks after that.]

**F61** 1991 NI 1

**F62** 2003 NI 9

**F63** 2002 c. 9 (NI)

*Art. 36A rep. by 2002 c. 5 (NI)*

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### Removal to suitable premises of persons in need of care and attention **N.I.**

37. The Ministry shall make arrangements in accordance with Schedule 6 for the purposes of securing the necessary care and attention for persons (other than persons in respect of whom a warrant may be issued under<sup>F64</sup> Article 129 of the Mental Health Order) who—

- (a) are suffering from grave chronic disease or, being aged, infirm or physically incapacitated, are living in insanitary conditions; and
- (b) are unable to devote to themselves, or to receive from persons with whom they reside, or from persons living nearby, proper care and attention.

F64 1986 NI 4

### Protection for property of certain persons **N.I.**

38.—(1) Where a person—

- (a) is admitted as a patient to any hospital or is admitted to other accommodation provided under this Order; or
- (b) is removed to any other place under an order made under Schedule 6;

and it appears to the Ministry that there is danger of loss of, or damage to, any property of his by reason of his temporary or permanent inability to protect or deal with the property, and that other suitable arrangements have not been, or are not being made to prevent or mitigate the loss or damage, the Ministry shall take reasonable steps for that purpose.

(2) Paragraph (1) shall have effect in relation to persons suffering from mental disorder as if—

- (a) the reference to “hospital” included a reference to a private hospital within the meaning of the Mental Health<sup>F65</sup> Order]; and
- (b) after sub-paragraph ( b) there were inserted the following words—

“or

(c) is subject to guardianship under the Mental Health<sup>F65</sup> Order];” .

(3) For the purpose of discharging the duty of the Ministry under paragraph (1), a person authorised in writing by the Ministry may, at all reasonable times, enter any premises which, immediately before the person mentioned in that paragraph was admitted or removed as aforesaid, were his place of residence or usual place of residence and may deal with any property of his in any way which is reasonably necessary to prevent or mitigate loss thereof or damage thereto.

(4) The Ministry may recover from a person admitted or removed as aforesaid, or from any person who, for the purposes of this Order, is liable to maintain him, any reasonable expenses incurred by it in relation to him under the foregoing provisions of this Article.

F65 1986 NI 4

### Burial or cremation of the dead **N.I.**

39.—(1) The Ministry may cause to be buried or cremated the body of a deceased person who, immediately before his death, was being provided with accommodation under this Order by the Ministry.

(2) The Ministry may recover from the estate of such deceased person, or from any person who, for the purposes of this Order, was liable to maintain the deceased person immediately before his death, expenses incurred under paragraph (1),<sup>F66</sup> . . . .

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(3) Where the relatives of any deceased person are not known or are, by reason of their absence, poverty or otherwise, unable to defray all or part of the expenses of burying or cremating that person, the Ministry may defray the whole or part of such expenses.

(4) Nothing in this Article shall affect any enactment regulating or authorising the burial, cremation or anatomical examination of the body of a deceased person; and a body shall not be cremated under this Article where the Ministry has reason to believe that cremation would be contrary to the wishes of the deceased.

F66 1986 NI 18

Art. 40 rep. by 1988 NI 23

#### **Availability or provision of services, otherwise than for purposes of the Order** **N.I.**

41. The Ministry may allow persons to make use, on such terms and conditions as it thinks fit, of any services the provision of which is involved in the provision of<sup>F67</sup> personal social] services under this Order; and it may, in the case of services the provision of which is so involved, provide them to an extent greater than that necessitated by the provision of<sup>F67</sup> personal social] services under this Order if it thinks it expedient to do so in order to allow persons to make use of them.

F67 1988 NI 24

#### **Provision of services to persons not ordinarily resident in Northern Ireland** **N.I.**

42.—(1) The Ministry may make available any services provided under this Order to such persons or classes of persons not ordinarily resident in Northern Ireland to such an extent and subject to such conditions as may be prescribed.

(2) Where services are provided under paragraph (1) the Ministry may, subject to such exemptions as may be prescribed, determine charges for such services and recover them in accordance with paragraphs 3 and 4 of Schedule 15.

#### **Powers of Ministry to conduct or assist research** **N.I.**

43. The Ministry may conduct or promote, or assist (by grant or otherwise) any person in conducting, research into—

- (a) any matter relating to the causation, prevention, diagnosis or treatment of illness, or into such other matters relating to the health services as it thinks fit;
- (b) any matter relating to the personal social services.

#### **Provisions relating to training** **N.I.**

44.—(1) The Ministry may, either directly or by entering into arrangements with others,—

- (a) provide training for persons with a view to, or in the course of, their employment or use of their services in the health or personal social services in Northern Ireland, in a related service in Great Britain, or by a voluntary organisation approved by the Ministry;
- (b) allow training provided under this paragraph to be given to persons other than persons described in sub-paragraph ( a ), and may, under this paragraph, provide such training to an extent greater than that necessitated by the requirements of persons so described if it is thought expedient to do so in order to allow such other persons to receive such training;

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- (c) provide material and premises necessary for, or in connection with, the provision of any training referred to in sub-paragraph ( a ) or ( b );
  - (d) provide training under this paragraph on such terms as the Ministry thinks fit.
- (2) The Ministry may, subject to such conditions as it may determine,—
- (a) make grants towards any fees or expenses incurred by, or
  - (b) defray or contribute towards the cost of maintenance of,
- persons undergoing training for any of the purposes of this Order.
- (3) The Ministry may, subject to such conditions as it may determine, pay the fees of, or make grants to, any body or persons providing training under paragraph (1).

#### **Travelling expenses of patients, etc. N.I.**

**45.**—(1) The Ministry may, by regulations, provide for the payment<sup>[F68]</sup> by the Department or an HSS trust] in accordance with prescribed scales and in such circumstances as may be prescribed, of the whole or part of any travelling or other out-of-pocket expenses necessarily incurred—

- (a) by any person<sup>[F69]</sup> of a prescribed description] for the purpose of availing himself of such services under this Order<sup>[F68]</sup> or the 1991 Order] as may be prescribed;
- (b) by any person accompanying such person as is mentioned in paragraph ( a );
- (c) by any relative<sup>[F69]</sup> being a person of a prescribed description,] visiting a person availing himself of services under this Order.

<sup>[F68]</sup>and such regulations may provide for the reimbursement by the Department to an HSS trust of payments made by the trust by virtue of this paragraph.]

<sup>[F69]</sup>(2) Paragraph 1B of Schedule 15 (powers to prescribe descriptions of persons) shall have effect in relation to paragraph (1) as it has effect in relation to paragraph 1(b) of that Schedule.]

**F68** 1991 NI 1

**F69** 1988 NI 2

#### **Provision of residential accommodation for officers N.I.**

**46.** The Ministry may provide, on such terms and conditions as may be agreed, residential accommodation for—

- (a) officers employed for the purposes of any of its functions under this Order;
- (b) officers employed by a voluntary organisation for the purposes of any services provided under this Order.

#### **Loans to certain officers N.I.**

**47.** The Ministry may make loans to such officers employed for the purposes of any of the health or personal social services and subject to such conditions as the Ministry, with the approval<sup>F70</sup> . . . of the Ministry of Finance, may determine to facilitate such officers in the purchase of motor cars or motor cycles essential to the efficient carrying out of their official duties.

**F70** 1982 NI 6



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## Acquisition and disposal of land **N.I.**

**48.**—(1) The Ministry may acquire by agreement or compulsorily in accordance with the following provisions of this Article any land which in its opinion is required for the purposes of any of the health or personal social services, and any land held by it for those purposes may, if in the opinion of the Ministry it is no longer required for those purposes, be disposed of by it or be appropriated by it for other purposes of the Ministry.

[<sup>F71</sup>(1A) Where the Department proposes to dispose of any land and is of the opinion that it is necessary, in order to facilitate that disposal, to acquire land adjoining that land, then, notwithstanding that the acquisition of that adjoining land is not required for the purposes of any of the health or personal social services, the Department may acquire by agreement that adjoining land.]

(2) Where the Ministry in exercise of the power conferred by paragraph (1) desires to acquire any land otherwise than by agreement, the Ministry may make an order (in this Article referred to as a “vesting order”) vesting the land in the Ministry.

(3) Schedule 6 to the Local Government Act (Northern Ireland) 1972 shall, subject to the modifications thereof specified in Schedule 7 to this Order, apply for the purposes of the acquisition of land by means of a vesting order made under this Article in the same manner as it applies to the acquisition of land by means of a vesting order under that Act.

(4) The power to make a vesting order in respect of land—

- (a) which is the property of any public body which has power under any transferred provision to acquire land compulsorily, or
- (b) which is declared by or under any transferred provision to be inalienable,

shall not, where representations objecting to the proposal for making the order have been duly made by the owner of the land and have not been withdrawn, be exercised in relation to that land unless the proposal for making the order has been approved by a resolution of each House of Parliament.

(5) Nothing in this Article shall authorise the Ministry to acquire, without the consent of the Ministry of Finance<sup>F72</sup>, any land on or in which there is, to the knowledge of the Ministry, any historic monument or archaeological object.

(6) In paragraph (5), “historic monument” and “archaeological object” have the same meanings as in<sup>F73</sup> the Historic Monuments and Archaeological Objects (Northern Ireland) Order 1995].

**F71** 1986 NI 24

**F72** SR 1976/80

**F73** 1995 NI 9

## Power to enter on lands **N.I.**

**49.**—(1) A person authorised in writing by the Ministry (in this Article and in Article 50 referred to as an “authorised person”) may, on production if required of his credentials, at any reasonable time enter any land for the purpose of survey, valuation or examination—

- (a) where the Ministry proposes to acquire the land otherwise than by agreement, or
- (b) where it appears to the Ministry that survey, valuation or examination is necessary in order to determine whether any functions of the Ministry under Article 48 should be exercised on or with respect to the land.

(2) A power of entry under paragraph (1) shall not be exercisable in relation to any land except—

- (a) with consent given by the occupier of the land; or
- (b) after at least twenty-four hours' notice of the intended entry has been served on the occupier or owner of the land.

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(3) If any person, other than the owner or occupier of the land, knowingly prevents an authorised person from carrying out anything which the authorised person is duly authorised to do or obstructs the authorised person in carrying out any such thing, he shall be guilty of an offence and shall be liable on summary conviction to a fine not exceeding<sup>[F74]</sup> level 2 on the standard scale].

(4) If any person, being the owner or occupier of land, knowingly prevents an authorised person from duly carrying into effect any survey, valuation or examination of such land or obstructs the authorised person in doing any such survey, valuation or examination, a court of summary jurisdiction on proof thereof may order him to permit to be done on the land all things requisite for carrying into effect such survey, valuation or examination; and, if he fails to comply with the order, he shall be guilty of an offence and shall, for every day during which the failure continues, be liable on summary conviction to a fine not exceeding<sup>[F74]</sup> level 2 on the standard scale].

(5) Where under this Article an authorised person enters any land, he shall ensure that the land is not left less secure by reason of the entry, and the Ministry shall make good or pay compensation for any damage to property caused by, or in consequence of, the authorised person exercising any right or failing to perform any duty under this Article.

(6) Any question of disputed compensation under this Article shall be referred to and determined by the Lands Tribunal.

(7) Any reference in this Article to an occupier or to an owner shall be construed as including a reference to a person appointed in writing by the occupier or owner as his representative for purposes including all or any of the purposes of this Article.

(8) Any power conferred by this Article shall be construed as including power to search and bore for the purpose of ascertaining the course of any sewers or drains or of ascertaining the nature of the subsoil therein and to take and carry away for examination specimens of the subsoil found therein.

F74 1984 NI 3

### <sup>[F75]</sup> **Power of inspection** **N.I.**

**50.**—(1) Any person authorised by the Department may at any reasonable time enter and inspect any premises (other than premises in respect of which any person is registered under<sup>[F76]</sup> Part III of the Health and Personal Social Services (Quality, Improvement and Regulation) (Northern Ireland) 2003]) in which services are, or are proposed to be, provided by any person or body under arrangements made with the Department under this Order.

(2) Any person inspecting any premises under this Article may—

- (a) make such examination into the state and management of the premises and the services provided therein as he thinks fit;
- (b) inspect any records (in whatever form they are held) relating to the premises, or any person for whom services have been or are to be provided there; and
- (c) require the owner of, or any person employed in, the premises to furnish him with such information as he may request.

(3) Any person exercising the power to inspect records conferred by paragraph (2)(b)—

- (a) shall be entitled at any reasonable time to have access to, and inspect and check the operation of, any computer and any associated apparatus or material which is or has been in use in connection with the records in question; and
- (b) may require—
  - (i) the person by whom or on whose behalf the computer is or has been so used; or

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- (ii) any person having charge of or otherwise concerned with the operation of the computer, apparatus or material,  
to give him such reasonable assistance as he may require.
- (4) Any person inspecting any premises under this Article—
  - (a) may interview any person residing there in private—
    - (i) for the purpose of investigating any complaint as to those premises or the services provided there, or
    - (ii) if he has reason to believe that the services being provided there for that person are not satisfactory; and
  - (b) may examine any such person in private.
- (5) No person may—
  - (a) exercise the power conferred by paragraph (2)(b) so as to inspect medical records; or
  - (b) exercise the power conferred by paragraph (4)(b),  
unless he is a medical practitioner and, in the case of the power conferred by paragraph (2)(b), the records relate to medical treatment given at the premises in question.
- (6) Any person exercising the power of entry under paragraph (1) shall, if so required, produce some duly authenticated document showing his authority to do so.
- (7) Any person who intentionally obstructs another in the exercise of that power shall be guilty of an offence and liable on summary conviction to a fine not exceeding level 3 on the standard scale.
- (8) In this Article “services” includes facilities and accommodation.]

F75 1992 NI 20  
F76 2003 NI 9

### **Powers of Ministry where services are inadequate** **N.I.**

**51.** If the Ministry is satisfied, after such investigation as it thinks fit, that any list prepared under this Order—

- (a) of medical practitioners undertaking to provide<sup>[F77]</sup> primary medical services]; or
- (b) of dental practitioners undertaking to provide general dental services; or
- (c) of persons undertaking to provide general ophthalmic services; or
- (d) of persons undertaking to provide pharmaceutical services; or
- (e) of persons undertaking to provide any other services;

is not such as to secure the adequate provision of the services in question, or that for any other reason any considerable number of persons are not receiving satisfactory services under the arrangements in force under this Order, the Ministry may authorise a Health and Social Services Board to make such other arrangements as the Ministry may approve, or may itself make such other arrangements as appear to the Ministry to be necessary.

F77 2004 NI 2

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## Powers of Ministry in emergency **N.I.**

**52.**—<sup>[F78]</sup>(1) If the Ministry is of the opinion that an emergency exists and thinks it necessary to do so in order to secure the effective continuance of any service under<sup>[F78]</sup> the health and personal social services legislation], the Ministry may direct that any functions conferred by or under<sup>[F78]</sup> the health and personal social services legislation] on any body or person shall during the period of the emergency be performed by such other body or person as the Ministry may specify in the direction.

<sup>[F79]</sup>(2) In this Article and Article 53 “the health and personal social services legislation” means—

- (a) this Order;
- (b) the Adoption (Northern Ireland) Order 1987;
- (c) the Health and Personal Social Services (Special Agencies) (Northern Ireland) Order 1990;
- (d) the 1991 Order;
- (e) the Health and Personal Social Services (Northern Ireland) Order 1994; and
- (f) the Children (Northern Ireland) Order 1995.]

<sup>[F80]</sup>(g) the Health Services (Primary Care) (Northern Ireland) Order 1997.]

**F78** 1991 NI 1

**F79** 1995 NI 2

**F80** 1997 NI 7

## Default powers of Ministry **N.I.**

**53.**—(1) <sup>[F81]</sup>Where the Department is of opinion, on representations made to it or otherwise, that any Health and Social Services Board, special agency or HSS trust or the Agency has failed to discharge any functions conferred or imposed on it under the health and personal social services legislation], or has in carrying out those functions failed to comply with any regulations, schemes, proposals or directions relating thereto, the Ministry may after holding an inquiry make an order declaring it to be in default.

(2) When such an order is made the members of the body shall forthwith vacate their office and the order shall provide for the appointment, in accordance with<sup>[F81]</sup> the appropriate provisions of the health and personal social services legislation], of new members of the body, and may contain such provisions as seem to the Ministry expedient for authorising any person to act in the place of the body in question pending the appointment of the new members.

(3) An order under this Article may contain such supplementary and incidental provisions as appear to the Ministry to be necessary or expedient.

**F81** 1991 NI 1

*Art. 54 rep. by 2005 c. 12*

## PART VI **N.I.**

### GENERAL HEALTH SERVICES

#### Local representative committees

#### **[<sup>F82</sup>Recognition of<sup>F83</sup> Local Dental Committees, Local Optical Committees and Local Pharmaceutical Committees] **N.I.****

*Para. (1) rep. by 2004 NI 2*

(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 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)—

*Sub-paras. (a) and (b) rep. by 2004 NI 2*

- (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<sup>F83</sup> . . . 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

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

F82 2001 c. 3 (NI)  
F83 2004 NI 2

### Functions of<sup>F84</sup> Local Dental Committees, Local Optical Committees and Local Pharmaceutical Committees] **N.I.**

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

- (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<sup>F84</sup> Article 55(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<sup>F84</sup> paragraph (2)(b) or (c)] of Article 55 shall, in respect of each year, determine the amount of its administrative expenses for that year attributable—*Sub-paras. (a) and (b) rep. by 2004 NI 2*

- (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<sup>F84</sup>. . . , 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<sup>F84</sup>. . . , 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.

(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.

F84 2004 NI 2

<sup>[F85]</sup> **Local Medical Committees** **N.I.**

**55B.**—(1) A Health and Social Services Board may recognise a committee formed for its area, or for its area and that of one or more other Health and Social Services Boards, which it is satisfied is representative of—

- (a) the persons to whom paragraph (2) applies; and
- (b) the persons to whom paragraph (3) applies.

(2) This paragraph applies to—

- (a) every medical practitioner who, under a general medical services contract entered into by him, is providing primary medical services in the area for which the committee is formed; and
- (b) every medical practitioner who is providing general ophthalmic services in that area.

(3) This paragraph applies to every other medical practitioner—

- (a) who is performing primary medical services in the area for which the committee is formed;
  - (i) pursuant to Article 56(2)(a);
  - (ii) in accordance with Article 15B arrangements; or
  - (iii) under a general medical services contract; and
- (b) who has notified the Health and Social Services Board that he wishes to be represented by the committee (and has not notified it that he wishes to cease to be so represented).

(4) A committee recognised under this Article shall be called the Local Medical Committee for the area for which it is formed.

(5) Any such committee may delegate any of its functions, with or without restrictions or conditions, to sub-committees composed of members of that committee.

(6) Regulations may require a Health and Social Services Board, in the exercise of its functions relating to primary medical services, to consult any committee recognised by it under this Article on such occasions and to such extent as may be prescribed.

(7) A committee recognised under this Article shall have such other functions as may be prescribed.

(8) A committee recognised under this Article shall in respect of each year determine—

- (a) the amount of its administrative expenses for that year attributable to persons of whom it is representative under paragraph (1)(a); and
- (b) the amount of its administrative expenses for that year attributable to persons of whom it is representative under paragraph (1)(b).

(9) A Health and Social Services Board may—

- (a) on the request of a committee recognised by it, allot to that committee such sums for defraying the expenses referred to in paragraph (8)(a) as it may determine; and
- (b) deduct the amount of such sums from the remuneration of persons of whom it is representative under paragraph (1)(a) under the general medical services contracts, or arrangements under Article 62, entered into by them with the Board.

(10) A committee recognised under this Article shall apportion the amount determined by it under paragraph (8)(b) among the persons of whom it is representative under paragraph (1)(b); and each such person shall pay in accordance with the committee's directions the amount so apportioned to him.

(11) References in this Article to the administrative expenses of a committee include the travelling and subsistence allowances payable to its members.]

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F85 2004 NI 2

[<sup>F86</sup> Primary medical services ]

F86 2004 NI 2

[<sup>F87</sup> **Primary medical services** **N.I.**]

56.—(1) Each Health and Social Services Board shall, to the extent that it considers necessary to meet all reasonable requirements, exercise its powers so as to provide primary medical services within its area, or secure their provision within its area.

- (2) A Health and Social Services Board may (in addition to any other power conferred on it)—
- (a) provide primary medical services itself (whether within or outside its area);
  - (b) make such arrangements for their provision (whether within or outside its area) as it thinks fit, and may in particular make contractual arrangements with any person.

(3) Each Health and Social Services Board shall publish information about such matters as may be prescribed in relation to the primary medical services provided under this Part.

(4) A body on which functions are conferred under this Article shall co-operate with any other such body in the discharge of their respective functions relating to the provision of primary medical services under this Part.

(5) Regulations may provide that services of a prescribed description are, or are not, to be regarded as primary medical services for the purposes of this Part.

(6) Regulations under this Article may in particular describe services by reference to the manner or circumstances in which they are provided.]

F87 2004 NI 2

[<sup>F88</sup> General medical services contracts

F88 2004 NI 2

**General medical services contracts: introductory** **N.I.**

57.—(1) A Health and Social Services Board may enter into a contract under which primary medical services are provided in accordance with the following provisions of this Part.

(2) A contract under this Article is called in this Order a “general medical services contract”.

(3) Subject to any provision made by or under this Part, a general medical services contract may make such provision as may be agreed between the Health and Social Services Board and the contractor or contractors in relation to—

- (a) the services to be provided under the contract,
- (b) remuneration under the contract, and
- (c) any other matters.

(4) The services to be provided under a general medical services contract may include—

- (a) services which are not primary medical services;
- (b) services to be provided outside the area of the Health and Social Services Board.



(5) In this Part, “contractor”, in relation to a general medical services contract, means any person entering into the contract with the Health and Social Services Board.

### **Requirement to provide certain primary medical services** **N.I.**

**57A.**—(1) A general medical services contract shall require the contractor or contractors to provide, for his or their patients, primary medical services of such descriptions as may be prescribed.

(2) Regulations under paragraph (1) may in particular describe services by reference to the manner or circumstances in which they are provided.

### **Persons eligible to enter into general medical services contracts** **N.I.**

**57B.**—(1) A Health and Social Services Board may, subject to such conditions as may be prescribed, enter into a general medical services contract with—

- (a) a medical practitioner;
- (b) two or more individuals practising in partnership where the conditions in paragraph (2) are satisfied; or
- (c) a company limited by shares where the conditions in paragraph (3) are satisfied.

(2) The conditions referred to in paragraph (1)(b) in relation to a partnership are that—

- (a) at least one partner is a medical practitioner; and
- (b) any partner who is not a medical practitioner is either—
  - (i) an HSS employee;
  - (ii) an Article 15B employee, a section 28C employee or a section 17C employee;
  - (iii) a health care professional who is engaged in the provision of services under this Order; or
  - (iv) an individual falling within Article 15C(1)(b)(iii).

(3) The conditions referred to in paragraph (1)(c) in relation to a company are that—

- (a) at least one share in the company is legally and beneficially owned by a medical practitioner; and
- (b) any share which is not so owned is legally and beneficially owned by a person referred to in paragraph (2)(b)(i) to (iv).

(4) Regulations may make provision as to the effect, in relation to a general medical services contract entered into by individuals practising in partnership, of a change in the membership of the partnership.

(5) In this Article—

“health care professional” has the same meaning as in Article 15C;

“HSS employee”, “Article 15B employee”, “section 28C employee” and “section 17C employee” have the same meaning as in Article 15C.

### **General medical services contracts: payments** **N.I.**

**57C.**—(1) The Department may give directions as to payments to be made under general medical services contracts.

(2) A general medical services contract must require payments to be made under the contract in accordance with directions for the time being in force under this Article.

(3) Without prejudice to the generality of the power under paragraph (1) directions under that paragraph may—

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- (a) provide for payments to be made by reference to compliance with standards or the achievement of levels of performance;
  - (b) provide for payments to be made by reference to—
    - (i) any scheme or scale specified in the direction; or
    - (ii) a determination made by any person in accordance with factors specified in the direction;
  - (c) provide for the making of payments in respect of individual practitioners;
  - (d) provide that the whole or any part of a payment is subject to conditions (and may provide that payments are payable by a Health and Social Services Board only if it is satisfied as to certain conditions)
  - (e) make provision having effect from a date before the date of the direction, provided that, having regard to the direction as a whole, the provision is not detrimental to the persons to whose remuneration it relates.
- (4) Before giving a direction under paragraph (1), the Department—
- (a) shall consult any body appearing to it to be representative of persons to whose remuneration the direction would relate, and
  - (b) may consult such other persons as it thinks appropriate.
- (5) References in this Article to payments include fees, allowances, reimbursements, loans and repayments.

**General medical services contracts: prescription of drugs, etc. N.I.**

**57D.**—(1) A general medical services contract shall contain provision requiring the contractor or contractors to comply with any directions given by the Department for the purposes of this Article as to the drugs, medicines or other substances which may or may not be ordered for patients in the provision of medical services under the contract.

(2) A direction under this Article shall, subject to paragraph (3), be given by regulations.

(3) A direction under this Article may be given by an instrument in writing where it gives effect to a request made in writing to the Department by a person who is a holder of a Community marketing authorisation or United Kingdom marketing authorisation in respect of the drug, medicine or other substance to which the request relates.

(4) A direction under this Article given by an instrument in writing may be varied or revoked by a further direction under this Article (whether given by an instrument in writing or by regulations).

(5) In this Article “Community marketing authorisation” and “United Kingdom marketing authorisation” have the meanings given by regulation 1 of the Medicines for Human Use (Marketing Authorisations Etc.) Regulations 1994 (S.I. 1994/3144).

**General medical services contracts: other required terms N.I.**

**57E.**—(1) A general medical services contract shall contain such provision as may be prescribed (in addition to the provision required by the preceding provisions of this Part).

(2) Regulations under paragraph (1) may in particular make provision as to—

- (a) the manner in which, and standards to which, services are to be provided;
- (b) the persons who perform services;
- (c) the persons to whom services are to be provided;
- (d) the variation of contract terms (other than terms required by or under this Part);

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- (e) rights of entry and inspection (including inspection of clinical records and other documents);
  - (f) the circumstances in which, and the manner in which, the contract may be terminated;
  - (g) enforcement;
  - (h) the adjudication of disputes.
- (3) Regulations making provision under paragraph (2)(c) shall make provision as to the circumstances in which a contractor or contractors—
- (a) shall or may accept a person as a patient to whom services are provided under the contract; or
  - (b) may decline to accept a person as such a patient; or
  - (c) may terminate his or their responsibility for a patient.
- (4) Regulations under paragraph (2)(d) may—
- (a) make provision as to the circumstances in which a Health and Social Services Board may impose a variation of contract terms;
  - (b) make provision suspending or terminating any duty under the contract to provide services of a prescribed description.
- (5) Regulations making provision of the kind described in paragraph (4)(b) may prescribe services by reference to the manner or circumstances in which they are provided.
- (6) Regulations under paragraph (1) shall make provision as to the right of patients to choose the persons from whom they are to receive services.]

### **General medical services contracts: disputes and enforcement** **N.I.**

**57F.**—(1) Regulations may make provision for the resolution of disputes as to the terms of a proposed general medical services contract.

- (2) Regulations under paragraph (1) may make provision—
- (a) for the referral of the terms of the proposed contract to the Department; and
  - (b) for the Department, or a person appointed by it, to determine the terms on which the contract may be entered into.
- (3) Regulations may make provision for a person or persons entering into a general medical services contract to be regarded as a health and social services body for any purposes of Article 8 of the Health and Personal Social Services (Northern Ireland) Order 1991, in circumstances where he or they so elect.
- (4) Regulations under paragraph (3) may include provision as to the application of Article 8 of that Order in cases where—
- (a) persons practising in partnership elect to become a health and social services body; and
  - (b) there is a change in the membership of the partnership.
- (5) Where—
- (a) by virtue of regulations under paragraph (3), paragraph (8) of Article 8 of that Order applies in relation to a general medical services contract, and
  - (b) a direction as to payments is made under that paragraph in relation to the contract,
- the direction is to be enforceable in a county court (if the court so orders) as if it were a judgment or order of that court.

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## [<sup>F89</sup> Persons performing primary medical services

**F89** 2004 NI 2

### Persons performing primary medical services **N.I.**

<sup>F90</sup>**57G.**—(1) Regulations may provide that a health care professional of a prescribed description may not perform any primary medical service for which a Health and Social Services Board is responsible unless that professional is included in a list maintained under the regulations by the Health and Social Services Board.

(2) For the purposes of this Article—

- (a) “health care professional” has the same meaning as in Article 15C;
- (b) a Health and Social Services Board is responsible for a primary medical service if it provides the service, or secures provision of the service, under or by virtue of Article 56.

(3) Regulations under paragraph (1) may make provision in relation to such lists and in particular as to—

- (a) the preparation, maintenance and publication of a list;
- (b) eligibility for inclusion in a list;
- (c) applications for inclusion (including provision as to the Health and Social Services Board to which an application must be made, and for the procedure for applications and the documents to be supplied on application);
- (d) the grounds on which an application for inclusion may or must be granted or refused;
- (e) requirements with which a person included in a list must comply (including the declaration of financial interests and gifts and other benefits);
- (f) suspension or removal from a list or references to the Tribunal (including the grounds for and consequences of suspension or removal, or reference);
- (g) circumstances in which a person included in a list may not withdraw from it;
- (h) payments to be made in respect of a person suspended from the list (including provision for the amount of, or the method of calculating, the payment to be determined by the Department, or a person appointed by it);
- (i) the criteria to be applied in making decisions under the regulations;
- (j) appeals against decisions made by a Health and Social Services Board under the regulations;
- (k) disclosure of information about applicants for inclusion, refusals of applications, or suspensions, removals or references.

(4) Regulations making provision as to the matters referred to in paragraph (3)(k) may in particular authorise the disclosure of information—

- (a) by a Health and Social Services Board to the Department; and
- (b) by the Department to a Health and Social Services Board.

**F90** mod. by SR 2004/259

### [<sup>F91</sup> Assistance and support **N.I.**

**57H.**—(1) A Health and Social Services Board may provide assistance or support to—

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- (a) any person providing, or proposing to provide primary medical services under a general medical services contract;
  - (b) any person providing, or proposing to provide, such services in accordance with Article 15B arrangements.
- (2) Assistance or support provided by a Health and Social Services Board under paragraph (1) shall be provided on such terms, including terms as to payment, as the Board thinks fit.
- (3) In this Article “assistance” includes financial assistance.]

F91 2004 NI 2

*Art 58 rep. by 1988 NI 24*

### Loans to general medical practitioners **N.I.**

59. The Ministry may, subject to and in accordance with the provisions of Schedule 9, make loans to practitioners providing<sup>F92</sup> primary medical services].

F92 2004 NI 2

### Prohibition of sale of, and compensation for loss of right to sell, medical practices **N.I.**

60. Schedule 10 shall have effect with respect to the prohibition of the sale of, ...<sup>F93</sup>, the goodwill of medical practices.]

F93 1978 NI 26

General Dental Services, General Ophthalmic Services and Pharmaceutical Services

### Arrangements for general dental services **N.I.**

61.—(1) Every Health and Social Services Board shall, in accordance with regulations, make arrangements in respect of its area with dental practitioners under which any person for whom a dental practitioner undertakes in accordance with the arrangements to provide dental treatment and appliances shall receive such treatment and appliances, and the services provided in accordance with the arrangements are in this Order referred to as “general dental services”.

(2) Subject to paragraph (4), regulations may make provisions as to the arrangements to be made under paragraph (1), and shall include provision—

- (a) for the preparation, publication and maintenance of lists of dental practitioners who undertake to provide general dental services;
- (b)<sup>F94</sup> for conferring a right, subject to [<sup>F95</sup>[<sup>F96</sup> paragraphs (2A) and (2AA)]]<sup>F97</sup>, to any provision made under Article 64C]<sup>F98</sup>, to regulations under Article 4 of the Health and Medicines (Northern Ireland) Order 1988] and to] the provisions of this Order relating to the disqualification of persons providing services, on any dental practitioner<sup>F96</sup>. . . who wishes to be included in any such list, to be so included;

*Sub-para. (c) rep. by 1997 NI 7*

- (d) for the making and recovery by persons providing general dental services of charges in respect of—
  - (i) the extra expense involved in the supply, at the request of the person supplied, as part of those services, of any dental appliance which is of a more expensive type

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than that which would normally be supplied, or the replacement or repair of any such appliance; or

- (ii) the replacement or repair of any dental appliance supplied as part of the services aforesaid, if it is determined in the prescribed manner that the replacement or repair is necessitated by an act or omission of the person supplied or (if it occurred when he was under sixteen years of age) of his or of the person having charge of him when it occurred; and

<sup>F99</sup>(e) for [<sup>F100</sup> the determination of] the remuneration of dental practitioners providing general dental services.

<sup>F95</sup>(2A) No dental practitioner who is a national of a member State and is registered by virtue of a qualification granted in a member State shall be entitled to have his name included in the lists mentioned in paragraph (2)(a) unless he satisfies the Health and Social Services Board in whose area his surgery is, or is to be, situated that he has that knowledge of English which, in the interests of himself and his patients, is necessary for the provision of general dental services in the Board's area.]

[<sup>F96</sup>(2AA) Regulations may make the exercise of the right conferred by virtue of sub-paragraph (b) of paragraph (2) subject to any provision made by or under the regulations, and, in such cases as may be prescribed, may confer a right of appeal to a prescribed body in respect of a refusal to include a dental practitioner on such a list as is referred to in sub-paragraph (a) of that paragraph.]

[<sup>F101F102</sup>(2B) Where the registration of a dental practitioner in the dentists register is suspended—

- (a) by an order under section 32 of the Dentists Act 1984 (interim suspension); or
- (b) by a direction or an order of the Health Committee under that Act (health cases),

the suspension shall not terminate any arrangements made with him for the provision of general dental services, but he shall not provide such services in person during the suspension.

(2C) Regulations under paragraph (2)(e) may provide for the making of payments in consequence of suspension to a dental practitioner whose registration is suspended as mentioned in paragraph (2B).]

(3) Subject to paragraph (4), regulations may make provision for the making and recovery of charges (subject to such safeguards as the Ministry may consider necessary) by persons providing general dental services in respect of treatment which, on the ground of the nature of the treatment provided or such other special circumstances (whether related to the nature of the treatment or otherwise) as may be prescribed, justifies an extra charge.

(4) Before making any regulations under this Article, the Ministry shall consult such organisations as appear to the Minister to be representative of the dental profession.

**F94** mod. by SR 2004/259

**F95** SI 1981/432

**F96** 1991 NI 1

**F97** 2001 c. 3 (NI)

**F98** 1988 NI 24

**F99** prosp. rep. by 1984 NI 8

**F100** 1978 NI 26

**F101** 1986 NI 24

**F102** prosp. subst. by SI 2005/2011

## Arrangements for general ophthalmic services **N.I.**

62.—(1) Every Health and Social Services Board shall, in accordance with regulations, make arrangements in respect of its area with medical practitioners having the prescribed qualifications,<sup>[F103]</sup> and ophthalmic opticians for securing the testing<sup>[F104]</sup> by them of the sight—

- <sup>[F104]</sup>(a) of a child;
- (b) of a person whose resources fall to be treated under the regulations as being less than his requirements or as being equal to his requirements; or
- (c) of a person of such other description as may be prescribed.]

and the services provided in accordance with such arrangements are in this Order referred to as “general ophthalmic services”.

(2) Subject to paragraph (3), regulations may make provision as to the arrangements to be made under this Article, and shall include provision—

- (a) for the preparation and publication of lists of medical practitioners,<sup>[F103]</sup> and ophthalmic opticians respectively who undertake to provide general ophthalmic services;
- (b) <sup>F105</sup> for conferring a right, subject<sup>[F106]</sup> to any provision made under Article 64C and] to the provisions of this Order relating to the disqualification of persons providing services, on any medical practitioner<sup>F107</sup>. . . having the prescribed qualifications,<sup>[F103]</sup> or ophthalmic] optician who wishes to be included in the appropriate list, to be so included;
- (c) for conferring on any medical practitioner, who is dissatisfied with a determination that he does not possess the qualifications prescribed under this Article, a right of appeal to a committee appointed by the Ministry, and for making provision for any matter for which it appears to the Ministry to be necessary or expedient to make provision in consequence of the conferring of that right;
- (d) for conferring on any person a right to choose, in accordance with the prescribed procedure, the medical practitioner or ophthalmic optician by whom his sight is to be tested or from whom any prescription for the supply of optical appliances is to be obtained<sup>F103</sup>. . . ;

*Sub-para. (e) rep. by 1984 NI 8*

- <sup>F108</sup>(f) for <sup>[F109]</sup> the determination of] the remuneration of persons providing or participating in the provision of general ophthalmic services.

(3) Before making any regulations under this Article, the Ministry shall consult such organisations as appear to the Minister to be representative of medical practitioners practising as ophthalmic medical practitioners,<sup>[F103]</sup> and ophthalmic] opticians.

<sup>[F104]</sup>(4) In this Article—

“child” means—

- (a) a person who is under the age of 16 years; or
- (b) a person who is under the age of 19 years and receiving qualifying full#time education; and

“qualifying full#time education” means full-time instruction—

- (a) at an educational establishment recognised by the Department as being, or as comparable to, a school, college or university; or
- (b) by other means accepted as comparable by the Department,

and for the purposes of this definition regulations may prescribe the circumstances in which a person is or is not to be treated as receiving full#time instruction.

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(5) Regulations under this Article may direct how a person's resources and requirements are to be calculated and, without prejudice to the generality of this paragraph, may direct that they shall be calculated—

- (a) by a method set out in the regulations;
- (b) by a method described by reference to a method of calculating or estimating income or capital specified in a transferred provision other than this Article or by reference to such a method but subject to prescribed modifications;
- (c) by reference to an amount applicable for the purposes of a payment under a transferred provision; or
- (d) by reference to the person's being or having been entitled to payment under a transferred provision.

(6) Descriptions of persons may be prescribed for the purposes of paragraph (1) by reference to any criterion and, without prejudice to the generality of this paragraph, by reference to any of the following criteria—

- (a) their age;
- (b) the fact that a prescribed person or a prescribed body accepts them as suffering from a prescribed medical condition;
- (c) the fact that a prescribed person or a prescribed body accepts that a prescribed medical condition from which they suffer arose in prescribed circumstances;
- (d) their receipt of benefit in money or in kind under any transferred provision or their entitlement to receive any such benefit; and
- (e) the receipt of any such benefit by other persons satisfying prescribed conditions or the entitlement of other persons satisfying prescribed conditions to receive such benefits.

(7) Regulations which refer to a transferred provision may direct that the reference is to be construed as a reference to that provision—

- (a) as it has effect at the time when the regulations are made; or
- (b) both as it has effect at that time and as amended subsequently.

(8) Regulations may provide that a person—

- (a) whose sight is tested by a person who provides general ophthalmic services; and
- (b) who is shown during the testing or within a prescribed time after it to fall within paragraph (1),

shall be taken for the purposes of the testing to have so fallen immediately before his sight was tested; and the testing shall be treated—

- (i) for the purposes of any arrangements under this Article;
- (ii) for the purposes of remuneration in respect of the testing; and
- (iii) for any such other purpose as may be prescribed,

as a testing of sight under this Order.

(9) Regulations shall define the services for the provision of which arrangements under this Article are to be made and the services so defined are in this Order referred to as “general ophthalmic services”.]

**F103** 1984 NI 8

**F104** 1988 NI 24

**F105** mod. by SR 2004/259

**F106** 2001 c. 3 (NI)



**F107** 1991 NI 1

**F108** prosp. rep. by 1984 NI 8

**F109** 1978 NI 26

## Arrangements for pharmaceutical services **N.I.**

[<sup>F111</sup> (1) Every Health and Social Services Board shall, in accordance with regulations, make arrangements in respect of its area for the [<sup>F112</sup> provision] to persons who are in that area of—

- (a) proper and sufficient drugs and medicines and listed appliances which are ordered for those persons by a medical practitioner in pursuance of his functions—
  - (i) in providing any service in pursuance of this Order; or
  - (ii) in the health services established in pursuance of section 1 of the National Health Service Act 1977 or section 1 of the National Health Service (Scotland) Act 1978 ; or
  - (iii) in the armed forces of the Crown (excluding forces of a Commonwealth country and forces raised in a colony),<sup>F113</sup> . . .
- (b) listed drugs and medicines which are ordered for those persons by a dental practitioner in pursuance of such functions,<sup>F113</sup> . . .
- (bb) [<sup>F113</sup> listed drugs and medicines and listed appliances which are ordered for those persons by [<sup>F114</sup> a pharmacist or] a prescribed description of registered nurse, midwife or health visitor in pursuance of such functions; and]
- (c) [<sup>F112</sup> such services as may be prescribed;]

[<sup>F115</sup> and the services provided in accordance with the arrangements are, together with additional pharmaceutical services provided in accordance with a direction under Article 63A, referred to in this Order as “pharmaceutical services”.]

[<sup>F116</sup> (2) Regulations shall provide for securing that arrangements made by a Health and Social Services Board under paragraph (1) will enable persons in the Board's area for whom drugs, medicines or appliances mentioned in that paragraph are ordered as there mentioned [<sup>F112</sup>, or to whom services mentioned in paragraph (1)(c) are to be provided] to receive them from persons with whom such arrangements have been made.

(2A) The regulations shall include provision—

- (a) for the preparation, publication and maintenance of lists of persons, other than medical practitioners and dental practitioners, who undertake to provide pharmaceutical services;
- (b) that an application to a Health and Social Services Board for inclusion in such a list shall be made in the prescribed manner and shall state—
  - (i) the [<sup>F112</sup> pharmaceutical] services which the applicant will undertake to provide and, if they consist of or include the supply of appliances, which appliances he will undertake to supply; and
  - (ii) the premises from which he will undertake to provide those [<sup>F112</sup> pharmaceutical] services;
- (c) that, except in prescribed cases—
  - (i) an application for inclusion in such a list by a person not already included; and
  - (ii) an application by a person already included in such a list for inclusion also in respect of [<sup>F112</sup> pharmaceutical] services or premises other than those already listed in relation to him,

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shall be granted only if the Health and Social Services Board is satisfied, in accordance with the regulations, that it is necessary or desirable to grant it in order to secure in the neighbourhood in which the premises are located the adequate provision by persons included in the list of the<sup>F112</sup> pharmaceutical] services or some of the<sup>F112</sup> pharmaceutical] services, specified in the application; and

(d) for the removal of an entry in respect of premises from a list if it has been determined in the prescribed manner that the person to whom the entry relates—

- (i) has never provided from those premises, or
- (ii) has ceased to provide from them,

the<sup>F112</sup> pharmaceutical] services, or any of the<sup>F112</sup> pharmaceutical] services, which he is listed as undertaking to provide from them.

(2B) The regulations may include provision—

- (a) that an application to a Health and Social Services Board may be granted in respect of some only of the<sup>F112</sup> pharmaceutical] services specified in it;
- (b) that an application to a Health and Social Services Board relating to<sup>F112</sup> pharmaceutical] services of a prescribed description shall be granted only if it appears to the Board that the applicant has satisfied such conditions with regard to the provisions of those<sup>F112</sup> pharmaceutical] services as may be prescribed;

<sup>F117</sup>(ba) [ that an application to a Health and Social Services Board by a person who qualified to have his name registered under the Pharmacy (Northern Ireland) Order 1976 by virtue of Article 8(2)(c) of that Order (qualification by European diploma) shall not be granted unless the applicant satisfies the Board that he has the knowledge of English which, in the interests of himself and the persons making use of the<sup>F112</sup> pharmaceutical] services to which the application relates, is necessary for the provision of pharmaceutical services in the Board's area;]

- (c) that the inclusion of a person in a list in pursuance of such an application may be for a fixed period;
- (d) that, where the premises from which an application states that the applicant will undertake to provide<sup>F112</sup> pharmaceutical] services are in an area of a prescribed description, the applicant shall not be included in the list unless his inclusion is approved by a prescribed body and by reference to<sup>F112</sup> prescribed criteria]; and
- (e) that the prescribed body may give its approval subject to conditions.

(2C) The regulations shall include provision conferring on such persons as may be prescribed rights of appeal from decisions made by virtue of paragraph (2A) or (2B).

(2D) The regulations shall be so framed as to preclude—

- (a) a person included in a list published under paragraph (2A)(a); and
- (b) an employee of such a person,

from taking part in the decision whether an application such as is mentioned in paragraph (2A)(c) should be granted or an appeal against such a decision brought by virtue of paragraph (2C) should be allowed.]

(3) Before making any regulations under this Article, the Ministry shall consult such organisations as appear to the Minister to be representative of the pharmaceutical profession.

<sup>F111</sup>(4) In this Article “listed” means included in a list for the time being approved for the purposes of this Article by the Department.]

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**F110** mod. by SR 2004/259  
**F111** 1978 NI 26  
**F112** 1991 NI 1  
**F113** 1992 NI 18  
**F114** 2003 NI 9  
**F115** 1997 NI 7  
**F116** 1986 NI 20  
**F117** SR 1987/457

[<sup>F118</sup>**Arrangements for providing additional pharmaceutical services** **N.I.**]

**63A.**—(1) The Department may—

- (a) give directions to a Health and Social Services Board requiring it to arrange for the provision to persons in its area of additional pharmaceutical services; or
- (b) by giving directions to a Health and Social Services Board authorise it to arrange for such provision if it wishes to do so.

(2) Directions under this Article may make different provision in relation to different services specified in the directions.

(3) The Department must publish any directions under this Article in the Drug Tariff or in such other manner as it thinks appropriate.

(4) In this Article—

“additional pharmaceutical services”, in relation to directions, means such services (of a kind that do not fall within Article 63) as may be specified in the directions; and

“Drug Tariff” means the Drug Tariff published under regulation 40 of the Health and Personal Social Services (General Medical and Pharmaceutical Services) Regulations (Northern Ireland) 1973 or under any corresponding provision replacing, or otherwise derived from, that regulation.]

**F118** 1997 NI 7

[<sup>F119</sup>**Terms and conditions etc.** **N.I.**]

**63B.**—(1) Directions under Article 63A may require the Health and Social Services Board to which they apply, when making arrangements—

- (a) to include, in the terms on which the arrangements are made, such terms as may be specified in the directions;
- (b) to impose, on any person providing a service in accordance with the arrangements, such conditions as may be so specified.

(2) The arrangements must secure that any service to which they apply is provided only by a person whose name is included in a pharmaceutical list.

(3) Different arrangements may be made with respect to—

- (a) the provision of the same service by the same person but in different circumstances; or
- (b) the provision of the same service by different persons.

(4) A Health and Social Services Board must provide details of proposed arrangements (including the remuneration to be offered for the provision of services) to any person who asks for them.

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(5) After making any arrangements, a Health and Social Services Board must publish, in such manner as the Department may direct, such details of the arrangements as the Department may direct.

(6) In this Article, “pharmaceutical list” means, subject to any provision of the directions in question, a list—

- (a) published by the Health and Social Services Board concerned, or by any other Health and Social Services Board, in accordance with regulations made under Article 63(2A)(a); or
- (b) published by any body in accordance with regulations made under section 27(2)(a) of the National Health Service (Scotland) Act 1978 or section 42(2)(a) of the National Health Service Act 1977.]

F119 1997 NI 7

### Persons authorised to provide pharmaceutical services **N.I.**

64.—<sup>F120</sup>(1) Except as provided<sup>F121</sup> by or under regulations], an arrangement shall not be made by a Health and Social Services Board—

- (a) with a medical or dental practitioner, under which he is required or agrees to provide pharmaceutical services to any person to whom he is rendering<sup>F122</sup> primary medical services] or general dental services; or
- (b) with a person who is not a pharmacist, for the dispensing of medicines.

<sup>F123</sup>(1A) Regulations shall provide for the preparation and publication by a Health and Social Services Board of one or more lists of medical practitioners who are required or agree to provide drugs, medicines or listed appliances in the Board's area.

(1B) In paragraph (1A) “listed” has the same meaning as in Article 63.

(1C) The regulations shall include provision for the removal of an entry from a list in prescribed circumstances.]

<sup>F120</sup>(2) No arrangements for the provision of pharmaceutical services falling within Article 63(1) (c)<sup>F123</sup>, or additional pharmaceutical services provided in accordance with a direction under Article 63A,] shall be made with persons other than those who are pharmacists or are of a prescribed description.]

F120 1991 NI 1

F121 1986 NI 20

F122 2004 NI 2

F123 1997 NI 7

VALID FROM 26/03/2008

<sup>F124</sup> Ophthalmic services]

F124 Art. 62 cross-heading inserted (26.3.2008) by Health (Miscellaneous Provisions) Act (Northern Ireland) 2008 (c. 2), ss. 8(1), 18(1)(a)

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**[<sup>F125</sup> Persons providing general ophthalmic services N.I.]**

**62A.**—(1) Regulations may provide that a health care professional of a prescribed description may not provide any general ophthalmic services for which a Health and Social Services Board is responsible unless that professional is included in a list maintained under the regulations by a Health and Social Services Board.

(2) For the purposes of this Article—

- (a) “health care professional” has the same meaning as in Article 15C;
- (b) a Health and Social Services Board is responsible for general ophthalmic services if it secures provision of the services under or by virtue of Article 62.

(3) Paragraphs (3), (3A), (3B) and (4) of Article 57G shall apply for the purposes of regulations made under this Article in the same manner as those paragraphs apply for the purposes of regulations made under paragraph (1) of that Article.]

**F125** Art. 62A inserted (26.3.2008) by [Health \(Miscellaneous Provisions\) Act \(Northern Ireland\) 2008](#) (c. 2), **ss. 8(3)**, 18(1)(a)

VALID FROM 26/03/2008

**[<sup>F126</sup>Pharmaceutical services]**

**F126** Art. 63 cross-heading inserted (26.3.2008) by [Health \(Miscellaneous Provisions\) Act \(Northern Ireland\) 2008](#) (c. 2), **ss. 10(1)**, 18(1)(a)

**[<sup>F127</sup> Persons providing pharmaceutical N.I.]**

**63AA.**—(1) Regulations may provide that a health care professional of a prescribed description may not provide any pharmaceutical services for which a Health and Social Services Board is responsible unless that professional is included in a list maintained under the regulations by a Health and Social Services Board.

(2) Regulations under paragraph (1) shall include provision—

- (a) that an application to a Health and Social Services Board for inclusion in such a list shall be made in the prescribed manner and shall state—
  - (i) the pharmaceutical services which the applicant will undertake to provide and, if they consist of or include the supply of appliances, which appliances he will undertake to supply; and
  - (ii) the premises from which he will undertake to provide those pharmaceutical services;
- (b) that, except in prescribed cases—
  - (i) an application for inclusion in such a list by a person not already included; and
  - (ii) an application by a person already included in such a list for inclusion also in respect of pharmaceutical services or premises other than those already listed in relation to him,

shall be granted only if the Health and Social Services Board is satisfied, in accordance with the regulations, that it is necessary or desirable to grant it in order to secure in the neighbourhood in which the premises are located the adequate provision by persons

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- included in the list of the pharmaceutical services or some of the pharmaceutical services, specified in the application; and
- (c) for the removal of an entry in respect of premises from a list if it has been determined in the prescribed manner that the person to whom the entry relates—
- (i) has never provided from those premises, or
  - (ii) has ceased to provide from them,
- the pharmaceutical services, or any of the pharmaceutical services, which he is listed as undertaking to provide from them.
- (3) Regulations under paragraph (1) may include provision—
- (a) that an application to a Health and Social Services Board may be granted in respect of some only of the pharmaceutical services specified in it;
  - (b) that an application to a Health and Social Services Board relating to pharmaceutical services of a prescribed description shall be granted only if it appears to the Board that the applicant has satisfied such conditions with regard to the provision of those pharmaceutical services as may be prescribed;
  - (c) that an application to a Health and Social Services Board by a person who qualified to have his name registered under the Pharmacy (Northern Ireland) Order 1976 by virtue of Article 8(2)(c) of that Order (qualification by European diploma) shall not be granted unless the applicant satisfies the Board that he has the knowledge of English which, in the interests of himself and the persons making use of the pharmaceutical services to which the application relates, is necessary for the provision of pharmaceutical services in the Board's area;
  - (d) that the inclusion of a person in a list in pursuance of such an application may be for a fixed period;
  - (e) that, where the premises from which an application states that the applicant will undertake to provide pharmaceutical services are in an area of a prescribed description, the applicant shall not be included in the list unless his inclusion is approved by a prescribed body and by reference to prescribed criteria; and
  - (f) that the prescribed body may give its approval subject to conditions.
- (4) For the purposes of this Article—
- (a) “health care professional” has the same meaning as in Article 15C;
  - (b) a Health and Social Services Board is responsible for pharmaceutical services if it secures provision of the services, under or by virtue of Article 63 or 63A.
- (5) Paragraphs (3), (3A), (3B) and (4) of Article 57G apply for the purposes of regulations made under this Article in the same manner as those paragraphs apply for the purposes of regulations made under paragraph (1) of that Article. ]

**F127** Art. 63AA inserted (26.3.2008) by [Health \(Miscellaneous Provisions\) Act \(Northern Ireland\) 2008](#) (c. 2), **ss. 10(3)**, 18(1)(a)

#### Supplementary provisions

..... **F128** 

**F128** prosp. inserted by [1984 NI 8](#)

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..... F129

**N.I.**

F129 prosp. subst. by 2001 c. 3 (NI)

**[<sup>F130</sup>Indemnity cover **N.I.****

**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;

“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.]

F130 2001 c. 3 (NI)

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## Disqualification of persons providing certain services **N.I.**

65. The provisions of Schedule 11 shall have effect in relation to the disqualification of persons providing services.

## Former dispensary property, etc. **N.I.**

66. The provisions of Schedule 12 shall apply to any property which was transferred to and vested in the Northern Ireland General Health Services Board consequent on section 19 of the Health Services Act (Northern Ireland) 1948 and transferred to and vested in the Ministry by virtue of section 6(1)(b) of the Health Services (Amendment) Act (Northern Ireland) 1967.

## PART VII **N.I.**

### CO-OPERATION WITH GOVERNMENT DEPARTMENTS, PUBLIC BODIES AND VOUNTARY ORGANISATIONS, ETC.

## Co-operation between Health and Social Services Boards, district councils, etc. **N.I.**

67. In exercising their respective functions, Health and Social Services Boards<sup>F131</sup>, HSS trusts<sup>F132</sup>, special agencies], district councils, Education and Library Boards, <sup>F133</sup>and] the Northern Ireland Housing Executive ...<sup>F134</sup> shall co-operate with one another in order to secure and advance the health and social welfare of the people of Northern Ireland.

F131 1991 NI 1  
F132 1990 NI 3  
F133 1975 NI 2  
F134 1975 NI 2

## Supply of goods and services to certain persons and bodies **N.I.**

68.—(1) The Ministry may and<sup>F135</sup> a body to which this Article applies] may, and if directed by the Ministry, shall—

- (a) purchase, store and supply to<sup>F136</sup> persons—]
  - <sup>F136</sup>(i) providing general medical services, general dental services, general ophthalmic services or pharmaceutical services, or
  - (ii) providing, in accordance with Article 15B arrangements, personal medical services, personal dental services or other services of a kind that may be provided under Part VI,]
 

such equipment, goods or materials as may be prescribed;
- (b) purchase, store and supply to government departments and public bodies, any equipment, goods or materials of a kind which is used in the health or personal social services;
- (c) provide government departments and public bodies with any administrative, professional or other services of persons employed by the Ministry,<sup>F135</sup> or a body to which this Article applies];
- (d) permit government departments and public bodies to use premises occupied for the purposes of the health or personal social services;

on such terms and conditions as may be agreed.



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(2) In paragraph (1)( a) and ( b), the power to supply equipment, goods and materials includes a power to make arrangements with third parties for the supply by them of those things.

[<sup>F135</sup>(3) This Article applies to the following bodies—

- (a) a Health and Social Services Board;
- (b) the Agency;
- (c) a special agency;
- (d) an HSS trust.]

**F135** 1991 NI 1

**F136** 1997 NI 7

### **Supply of goods and services between Health and Social Services Boards and district councils** **N.I.**

**69.**—[<sup>F137</sup>(1)] For any purpose connected with matters concerning public or environmental health the Ministry may direct[<sup>F137</sup> a body to which this Article applies and a district council]

- (a) to make arrangements such as are mentioned in section 105 of the Local Government Act (Northern Ireland) 1972 in circumstances specified by the Ministry; and
- (b) to furnish to the Ministry or to the other party to the arrangements such information as appears to the Ministry to be expedient for purposes of the arrangements;

and[<sup>F137</sup> that body] and the district council shall comply with any such direction.

[<sup>F137</sup>(2) This Article applies to the following bodies—

- (a) a Health and Social Services Board;
- (b) a special agency;
- (c) an HSS trust.]

**F137** 1991 NI 1

### **Assistance to bodies providing certain housing accommodation, etc.** **N.I.**

**70.** The Ministry may make a contribution of such amount as it considers appropriate towards any expenditure incurred by the Northern Ireland Housing Executive or a housing association in respect of the provision, maintenance and management of housing accommodation for, or the provision of special facilities for, persons in need.

### **Arrangements with and assistance to voluntary organisations** **N.I.**

*Para. (1) rep. by 1992 NI 20*

(2) The Ministry may, on such terms and subject to such conditions as it may, with the approval of the Ministry of Finance, determine, give assistance by way of grant or loan or partly in one way and partly in the other, to a voluntary organisation providing services similar or related to any of the health or personal social services.

*Para. (3) rep. by 1992 NI 20*

*Arts. 72, 73 rep. by 1995 NI 2*

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## PART IX **N.I.**

### DISSOLUTION OF CERTAIN BODIES, ETC.

*Art. 74 rep. by SLR 1980*

#### **Transfer of assets and liabilities** **N.I.**

*Para. (1) rep. by SLR 1980*

(2) In this Article and Article 77 “health or welfare purposes” means the purposes of the following Acts—

- (i) the Health Services Act (Northern Ireland) 1971 ;
- (ii) the Welfare Services Act (Northern Ireland) 1971 ;
- (iii) the Children and Young Persons Act (Northern Ireland) 1968 ;
- (iv) the Adoption Act (Northern Ireland) 1967 ;
- (v) the Public Health Act (Northern Ireland) 1967 ;
- (vi) the Education Act (Northern Ireland) 1947 .

*Para. (3) rep. by SLR 1980*

(4) Stamp duty shall not be chargeable on this Order or on any instrument or other document executed for the purposes of transferring property to the Ministry under paragraph (1).

(5) A certificate issued by the Ministry that any asset or liability has, by virtue of paragraph (1), been transferred to it shall be accepted as evidence of such transfer and, upon lodgment of such a certificate relating to land, the certificate shall be registered in the Registry of Deeds or, in the case of registered land, the title to which the certificate relates shall be registered in the Land Registry.

#### **Supplementary and transitional provisions** **N.I.**

76.—(1) The Ministry may, by order, make such incidental, consequential, transitional or supplemental provision as appears to it to be necessary or expedient for the general or any particular purposes of this Order or in consequence of any of the provisions thereof or for giving full effect thereto including provision for any of the matters set out in Schedule 13, and nothing in any other provision of this Order shall be construed as prejudicing the generality of this paragraph.

(2) Without prejudice to any provision of the Local Government Act (Northern Ireland) 1972 , paragraph (1) and Schedule 13 shall have effect in connection with the dissolution of a health or welfare authority by virtue of that Act.

*Arts. 77, 78 rep. by 1991 NI 1*

## PART X **N.I.**

### ENDOWMENTS AND OTHER TRUST PROPERTY, ETC.

#### **Transfer of endowments, etc., held by management committees** **N.I.**

*Para.(1) rep. by SLR 1980*

(2) Schedule 14 shall apply to all endowments and income thereof transferred to a Health and Social Services Board under paragraph (1).

(3) The property and income, other than that referred to in paragraph (2), transferred to a Health and Social Services Board under paragraph (1) shall be held by that Board—

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- (a) where the property was held by a management committee for a specific purpose, on trust for that purpose;
- (b) where the property was held for the general purposes of a particular hospital or of an establishment maintained for the training of persons requiring special care within the meaning of the Mental Health Act, on trust for the general purposes of that hospital or establishment;
- (c) where the property was not held for a purpose limited as in sub-paragraph ( a ) or ( b ), on trust for such purposes relating to services provided under this Order in or in relation to hospitals as the Board thinks fit; so however that in exercising its discretion under this sub-paragraph the Board shall secure as far as is reasonably practicable that the objects of the trust are not prejudiced.

#### **Transfer of property held on trust by Northern Ireland Hospitals Authority** **N.I.**

*Para.(1) rep. by SLR 1980*

(2) Article 79(3) shall apply to property and income transferred to any Health and Social Services Board under this Article as it applies to property and income transferred to any Health and Social Services Board under that Article.

#### **Transfer of certain property held by health and welfare authorities** **N.I.**

*Para.(1) rep. by SLR 1980*

(2) The property and income transferred under paragraph (1) shall be held by the Health and Social Services Board and administered by that Board in accordance with the terms of the agreement made between the authority concerned and the organisation or, as the case may be, the trustees.

(3) An agreement made under section 42(4)<sup>F138</sup> of, or under section 28<sup>F139</sup> of, the said Acts of 1971 may be varied in the like manner and subject to the like consents and conditions as are provided for in, or by virtue of, that section.

(4) Where the Attorney-General is satisfied that an organisation is no longer in existence or, as the case may be, the trustees are dead, he may consent to the variation of the terms of an agreement under paragraph (3).

**F138** 1971 (c.1)

**F139** 1971 (c.2)

#### **Transfer of other property held on trust by health and welfare authorities** **N.I.**

*Para.(1) rep. by SLR 1980*

(2) The property and income transferred under paragraph (1) shall be held by the Health and Social Services Board—

- (a) where the property was held by a health or welfare authority for a specific purpose, on trust for that purpose;
- (b) where the property was not held for a purpose limited as in sub-paragraph ( a ), on trust for such purposes relating to services provided under this Order as the Board may think fit; so however that in exercising its discretion under this sub-paragraph the Board shall secure as far as is reasonably practicable that the objects of the trust are not prejudiced.

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### **Power of trustees to make payments to Health and Social Services Boards** **N.I.**

**83.**—<sup>F140</sup>(1) Where the terms of a trust instrument authorise or require the trustees, whether immediately or in the future, to apply any part of the capital or income of the trust property for the purposes of any hospital or service administered by a Health and Social Services Board or an HSS trust, the trust instrument shall be construed as authorising or (as the case may be) requiring the trustees to apply the trust property, to the like extent, and at the like times, for the purpose of making payments, whether of capital or income, to the appropriate authority.

(1A) In paragraph (1) “the appropriate authority” means—

- (a) where the hospital or service is administered by a Health and Social Services Board, that Board;
- (b) where the hospital or service is administered by an HSS trust and trustees have been appointed for that trust under Article 16 of the 1991 Order, those trustees;
- (c) where the hospital or service is administered by an HSS trust and sub-paragraph (b) does not apply, the HSS trust.]

(2) Any sums paid to a Health and Social Services Board under paragraph (1) in respect of property held on trust to which section 39 of the Health Services Act (Northern Ireland) 1971 applied shall be applied by it as if such sums were income from endowments transferred to that Board under Article 79 and the provisions of Schedule 14 shall have effect accordingly.

**F140** 1991 NI 1

### **Power of Ministry in cases of difficulty** **N.I.**

**84.** Where any difficulty arises under Articles 79 to 83 in the allocation to Health and Social Services Boards of any property, the Ministry may determine to which Health and Social Services Boards the property or any part thereof shall be transferred.

### **Power of the Health and Social Services Boards to accept property on trust** **N.I.**

**85.**—(1) A Health and Social Services Board<sup>F141</sup> or a special agency] may accept, hold and administer any property on trust for purposes relating to any service which it is<sup>F141</sup> that body's] function to make arrangements for, administer or provide.

<sup>F142</sup>(2) For the purposes of giving effect to the provisions of any will, deed or other like instrument—

- (a) any reference therein to a management committee, a health authority or a welfare authority shall be construed as a reference to the appropriate Health and Social Services Board;
- (b) any reference therein to a hospital or other establishment or facility managed by a Health and Social Services Board shall be construed as a reference to that Board;
- (c) any reference therein to a hospital or other establishment or facility managed by an HSS trust shall be construed as a reference to that trust.]

(3) Nothing in Article 87 shall affect the operation of any such provisions as are referred to in paragraph (2).

**F141** 1990 NI 3

**F142** 1991 NI 1

## Certain property of voluntary organisations **N.I.**

86.—(1) Where any property is—

- (a) vested in any voluntary organisation formed for the purpose of providing any services similar or related to services which Health and Social Services Boards<sup>F143</sup> or HSS trusts] are authorised or required to provide; or
- (b) held by any persons on trust for such an organisation or for any specific purposes connected with such an organisation;

then, notwithstanding any enactment or rule of law or anything contained in the constitution or rules of the organisation or in any order of court, deed, will or other instrument relating to the organisation, that property may, with the approval of the Attorney-General, be transferred to a Health and Social Services Board<sup>F143</sup>, an HSS trust or the trustees for an HSS trust (in this Article referred to as “the transferee”)] on such terms as may be agreed between<sup>F143</sup> the transferee] and the organisation or, as the case may be, the trustees with a view to the property being held or used by<sup>F143</sup> the transferee] for purposes similar to the purposes for which it was previously held or used.

(2) The power to make an agreement under paragraph (1) shall be construed as including power, exercisable in the like manner and subject to the like consents and conditions, to vary the terms of that agreement.

(3) Where the Attorney-General is satisfied that an organisation is no longer in existence or, as the case may be, the trustees are dead, he may consent to the variation of the terms of an agreement under paragraph (2).

F143 1991 NI 1

## PART XI **N.I.**

### FINANCIAL PROVISIONS

#### Expenses of the Health and Social Services Boards, the Agency and Staffs Council **N.I.**

87.—(1) There shall be paid by the Ministry to the Health and Social Services Boards<sup>F144</sup>, the special agencies],[<sup>F145</sup> and the Agency] such sums as may be necessary to defray the expenditure of those bodies, being expenditure approved by the Ministry<sup>F146</sup> . . . .

<sup>F146</sup>(2) In relation to expenditure under the Adoption (Northern Ireland) Order 1987 or the Children (Northern Ireland) Order 1995, paragraph (1) shall have effect with the omission of the words “being expenditure approved by the Ministry”.]

(3) Payments made under this Article shall be made at such times and in such manner, and subject to such conditions as to records, certificates or otherwise, as the Ministry may determine.

F144 1990 NI 3

F145 1991 NI 1

F146 1995 NI 2

#### Regulation of financial arrangements of certain bodies **N.I.**

88.—(1) The Ministry may give directions to each Health and Social Services Board<sup>F147</sup>, each special agency],[<sup>F148</sup> or the Agency] restricting the making of payments by or on behalf of each of

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those bodies otherwise than on such authorisation and subject to such conditions as may be specified in the directions, but such provision may be made subject to such exceptions as may be so specified.

(2) Directions under paragraph (1) may contain such other provisions as to the making and carrying out by all or any of those bodies of such arrangements with respect to financial matters as the Ministry thinks necessary for the purpose of securing that the affairs of such bodies are conducted, so far as reasonably practicable, in such manner as to prevent financial loss and to ensure and maintain efficiency.

F147 1990 NI 3

F148 1991 NI 1

### **Remuneration of members of bodies and certain other persons** **N.I.**

**89.**—(1) The Ministry may pay such remuneration and such allowances as the Ministry may, with the approval of the Ministry of Finance<sup>F149</sup>, determine to—

[<sup>F150</sup>(a) members of—

- (i) any body established or appointed under this Order;
- (ii) a special agency;
- (iii) a Health and Social Services Council established under Article 4 of the 1991 Order;]

(b) such other persons as may be prescribed.

(2) Allowances shall not be paid under paragraph (1) except in connection with the performance of such functions and in such circumstances, as the Ministry may determine.

(3) Any payments made under paragraph (1) shall be made at such times and in such manner, and subject to such conditions as to records, certificates or otherwise, as the Ministry may determine.

(4) In this Article “member” includes a member of a committee or sub-committee of a body, whether he is a member of the body or not.

F149 SR 1976/281

F150 1991 NI 1

### **[<sup>F151</sup>Accounts and audit: health and personal social services bodies** **N.I.**

**90.**—(1) Each body to which this Article applies shall—

- (a) keep proper accounts and proper records in relation to the accounts; and
- (b) prepare a statement of accounts in respect of each financial year.

(2) The statement of accounts shall—

- (a) be in such form; and
- (b) contain such information,

as the Department may, with the approval of the Department of Finance and Personnel, direct.

(3) Each body to which this Article applies shall, within such period after the end of each financial year as the Department may direct, send copies of the statement of accounts relating to that year to—

- (a) the Department; and
- (b) the Comptroller and Auditor General for Northern Ireland.

(4) The Comptroller and Auditor General shall—

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- (a) examine, certify and report on every statement of accounts sent to him under this Article; and
  - (b) send a copy of his report to the Department.
- (5) The Department shall lay a copy of the statement of accounts and of the Comptroller and Auditor General's report before the Assembly.
- (6) This Article applies to—
- (a) Health and Social Services Boards;
  - (b) the Agency;
  - (c) special agencies; and
  - (d) HSS trusts.]

F151 2003 NI 5

#### **Accounts of endowments and other property held on trust** **N.I.**

- 91.**—(1) Each body to which this Article applies shall—
- (a) keep proper accounts of endowments and other property held on trust by the body and proper records in relation to the accounts; and
  - (b) prepare a statement of those accounts in respect of each financial year.
- (2) The statement of accounts shall—
- (a) be in such form; and
  - (b) contain such information,
- as the Department may, with the approval of the Department of Finance and Personnel, direct.
- (3) Each body to which this Article applies shall, within such period after the end of each financial year as the Department may direct, send copies of the statement of accounts relating to that year to—
- (a) the Department; and
  - (b) the Comptroller and Auditor General for Northern Ireland.
- (4) The Comptroller and Auditor General shall—
- (a) examine, certify and report on every statement of accounts sent to him under this Article; and
  - (b) send a copy of his report to the Department.
- (5) The Department shall lay a copy of the statement of accounts and of the Comptroller and Auditor General's report before the Assembly.
- (6) This Article applies to—
- (a) Health and Social Services Boards;
  - (b) special agencies;
  - (c) HSS trusts; and
  - (d) the trustees for an HSS trust appointed in pursuance of Article 16 of the 1991 Order.

#### **[<sup>F152</sup>Studies for improving economy, etc. in services** **N.I.**

- 92B.**—(1) The Department may [<sup>F153</sup> authorise any person] to undertake comparative or other studies to promote economy, efficiency and effectiveness in the provision of services by a body to which this Article applies.

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- (2) The Department shall—
- (a) consult with the Comptroller and Auditor General for Northern Ireland on the nature and scope of studies to be undertaken under this Article; and
  - (b) on request, furnish to the Comptroller and Auditor General for Northern Ireland all material relevant to any studies undertaken under this Article.

- (3) This Article applies to—
- (a) Health and Social Services Boards;
  - (b) the Agency;
  - (c) special agencies;
  - (d) HSS trusts;

*Sub#para. (e) rep. by 2001 c. 3 (NI)*

- (f) the trustees for an HSS trust appointed in pursuance of Article 16 of the 1991 Order.

(4) Paragraphs (5) to (8) apply to<sup>F153</sup> a person authorised under paragraph (1) ("the authorised person") in undertaking any studies under this Article.

- (5) The<sup>F153</sup> authorised person] shall be entitled—
- (a) to require access at all reasonable times to all such documents relating to a body to which this Article applies as appear to him necessary for the purposes of the studies;
  - (b) to require from any person holding or accountable for any such document such information and explanation as he thinks necessary for the purposes of the studies;
  - (c) without prejudice to sub-paragraph (b), to require any officer or member of a body to which this Article applies to give him such information or explanation as he thinks necessary for the purposes of the studies;
  - (d) to require any such person as is mentioned in sub-paragraph (b) or (c) to attend before him in person to give any such information or explanation as is so mentioned.

*Para. (6) rep. by 2001 c. 3 (NI)*

(7) Without prejudice to paragraph (5), a body to which this Article applies shall provide the<sup>F153</sup> authorised person] with every facility and all information which he may reasonably require for the purposes of the studies.

(8) Any person who without reasonable excuse fails to comply with any requirement of the<sup>F153</sup> authorised person] under paragraph (5) shall be guilty of an offence and liable on summary conviction to a fine not exceeding level 3 on the standard scale and if the failure continues after the conviction he shall be guilty of a further offence and liable on summary conviction to a fine not exceeding one-tenth of level 3 on the standard scale for each day on which the failure continues.]

**F152** 1994 NI 2

**F153** 2003 NI 5

### **Northern Ireland share of expenses of certain United Kingdom Councils, etc. N.I.**

**93.**—(1) The Ministry shall pay to the Council for the Education and Training of Health Visitors and the Central Council for Education and Training in Social Work such sums as may be necessary to defray that portion of the expenditure incurred by each of those Councils, with the approval of the Health Ministers (as defined in the Health Visiting and Social Work (Training) Act 1962), as is deemed to be incurred in relation to Northern Ireland, so far as that expenditure exceeds any income derived from the exercise of the Council's functions and is not met out of money provided by the Parliament of the United Kingdom.



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(2) The Ministry may pay to each of the committees appointed under paragraph (8) of Schedule 2 to the Health Visiting and Social Work (Training) Act 1962 to act as advisory committees in Northern Ireland to each of the Councils established under that Act such sums as may be necessary to defray the expenditure incurred by the committee with the approval of the Ministry.

(3) The Ministry may pay to any other body established by or under any Act of the Parliament of the United Kingdom and exercising any functions in relation to services provided under this Order, such sums as may be necessary to defray that portion of that body's expenditure which may be deemed to be incurred in relation to Northern Ireland and is not met out of money provided by the Parliament of the United Kingdom.

(4) The Ministry shall pay to the Health Education Council Limited such sums as may be necessary to defray that portion of the Council's expenditure which may be deemed to be incurred in relation to Northern Ireland and is not met out of money provided by the Parliament of the United Kingdom.

#### **Expenses of the Ministry** **N.I.**

94.—(1) The expenses incurred by the Ministry under this Order and any increase, attributable to any provision of this Order, in the sums which are to be defrayed under any other enactment may be defrayed out of money hereafter appropriated for the purpose of meeting such expenses or, to such extent (if any) as the Ministry of Finance directs, by means of sums charged on and issued out of the Consolidated Fund.

(2) The Ministry of Finance may borrow money for the purpose of providing money for issues out of the Consolidated Fund under paragraph (1).

## **PART XII** **N.I.**

### **MISCELLANEOUS AND GENERAL**

#### *Miscellaneous*

#### **Exercise, in certain cases, of right of choice of person by whom services are to be provided** **N.I.**

95. Where a right to choose the person by whom services are to be provided under this Order is conferred by or under any provision of this Order, that right shall, in the case of such persons as may be prescribed, be exercisable on their behalf by other prescribed persons.

#### **Preservation of associations of denominational hospitals** **N.I.**

96. Where the character and associations of any hospital through which services are being or are to be provided under this Order are such as to link that hospital with a particular religious denomination, regard shall be had in the general administration of the hospital and in the making of appointments to the Health and Social Services Board administering the hospital to the preservation of the character and associations of the hospital.

#### **Protection for officer acting in execution of duty** **N.I.**

97.—(1) <sup>F154</sup>An officer of—

- (a) a Health and Social Services Board;
- (b) a special agency;

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(c) the Agency;<sup>F155</sup> . . .

(d) an HSS trust,<sup>F155</sup> or]

[<sup>F155</sup> a Health and Social Services Council,  
<sup>F155</sup>(e)]

shall not be personally liable in respect of any act done by him in the execution of any function of any such body] and within the scope of his employment if he acted reasonably and in the honest belief that his duty required or empowered him to do it; but nothing in this paragraph shall be construed as relieving such a body of any liability in respect of acts of its officers.

(2) Where an action has been brought against an officer of a body such as is mentioned in paragraph (1) in respect of an act done by him in the execution or purported execution of any such function and the circumstances are such that he is not legally entitled to require that body to indemnify him, that body may nevertheless indemnify him against the whole or a part of any damages or costs which he may have been ordered to pay or may have incurred, if that body is satisfied that he honestly believed that the act complained of was within the scope of his employment and that his duty required or empowered him to do it.

**F154** 1991 NI 1

**F155** 2001 c. 3 (NI)

### Services free of charge **N.I.**

**98.**—(1) The services provided under this Order<sup>F156</sup> or the 1991 Order<sup>F157</sup> or the Health Services (Primary Care) (Northern Ireland) Order 1997] shall be free of charge, except where any provision contained in or made under this Order<sup>F157</sup> or the Health Services (Primary Care) (Northern Ireland) Order 1997] expressly provides for the making and recovery of charges.

(2) The provisions of Schedule 15 shall have effect in relation to the making and recovery of certain charges and to the other matters mentioned in that Schedule.

**F156** 1991 NI 1

**F157** SR 1999/11

### <sup>F158</sup>Charges in respect of accommodation provided by Department under Article 15 **N.I.**

**99.**—(1) Where a person is provided under Article 15 with accommodation in premises provided by the Department, the Department shall recover from him the amount of the payment which he is liable to make in accordance with the following provisions of this Article.

(2) Subject to the following provisions of this Article, the payment which a person is liable to make for any such accommodation shall be in accordance with a standard rate determined by the Department for that accommodation and that standard rate shall represent the full cost to the Department of providing that accommodation<sup>F159</sup>, other than any costs in respect of nursing care by a registered nurse (within the meaning given by Article 36(4A)) at that accommodation].

(3) Subject to paragraph (4), where a person for whom such accommodation is provided, or proposed to be provided, satisfies the Department that he is unable to pay for the accommodation at the standard rate, the Department shall assess his ability to pay, and accordingly determine at what lower rate he shall be liable to pay for the accommodation.

(4) The liability of any person to pay for accommodation under this Article may be reduced by reason of any work which he performs and which assists materially in the management of the premises.

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(5) Regulations may make provision for the assessment, for the purposes of paragraph (3), of a person's ability to pay.

(6) The Department may, on each occasion when it provides accommodation mentioned in paragraph (1) for any person and irrespective of his means, limit to such amount as appears to the Department reasonable for him to pay the payments required from him for his accommodation during a period commencing when the Department began to provide the accommodation for him and ending not more than 8 weeks after that.]

**F158** [1991 NI 1](#)

**F159** [2002 c. 9 \(NI\)](#)

### **Liability to maintain spouse<sup>[F160]</sup> or civil partner] and children **N.I.****

**100.**—(1) For the purposes of this Order—

- (a) a man shall be liable to maintain his<sup>[F160]</sup> spouse or civil partner] and his children; and
- (b) a woman shall be liable to maintain her<sup>[F160]</sup> spouse or civil partner] and her children.

<sup>[F161]</sup>(2) Any reference in paragraph (1) to a person's children shall be construed in accordance with Article 155 of the Children (Northern Ireland) Order 1995.]

**F160** [SR 2005/479](#)

**F161** [1995 NI 2](#)

### **Recovery of cost of accommodation for persons in need **N.I.****

**101.**—(1) [<sup>F162</sup>Where under Article 15 or 36 accommodation is provided, or proposed to be provided, for any person] (in this Article referred to as a “person accommodated”), the Ministry may bring proceedings upon complaint under<sup>[F163]</sup> Part VIII of the Magistrates' Courts (Northern Ireland) Order 1981] against any other person who, for the purposes of this Order, is liable to maintain the person accommodated.

(2) On hearing a complaint under this Article, the court shall have regard to all the circumstances and, in particular, to the resources of the defendant, and may order the defendant to pay such sum, weekly or otherwise, as the court may consider appropriate.

(3) In this Article, “the court” means the court of summary jurisdiction having jurisdiction in the place where the accommodation was provided or applied for.

(4) Payments under paragraph (2) shall be made—

- (a) to the Ministry, in respect of the cost of accommodation, whether provided before or after the making of the order; or
- (b) to the applicant for accommodation or any other person, being a person accommodated; or
- (c) to such other person as appears to the court expedient in the interests of the person accommodated;

or as to part in one such manner and as to part in another, as may be provided by the order.

(5) The payments to be made pursuant to an order under this Article shall (irrespective of the recipient thereof) inure for the benefit of the Ministry.

**F162** [1991 NI 1](#)

**F163** [1981 NI 26](#)

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**[<sup>F164</sup>Recovery of cost of accommodation where persons have disposed of assets N.I.]**

**101A.**—(1) Subject to the following provisions of this Article, where—

- (a) accommodation is provided under Article 15 or 36 for any person; and
- (b) that person knowingly and with the intention of avoiding charges for the accommodation—
  - (i) has transferred any asset to which this Article applies to some other person or persons not more than 6 months before the date on which he begins to reside in such accommodation; or
  - (ii) transfers any such asset to some other person or persons while residing in the accommodation; and
- (c) either—
  - (i) the consideration for the transfer is less than the value of the asset; or
  - (ii) there is no consideration for the transfer,

the person or persons to whom the asset is transferred by the person for whom the accommodation is provided shall be liable to pay to the Department the difference between the amount assessed as due to be paid for the accommodation by the person for whom the accommodation is provided and the amount which the Department receive from him for it.

(2) This Article applies to cash and any other asset which falls to be taken into account for the purpose of assessing under<sup>F165</sup> Article 36 or 99 the ability of the person for whom accommodation is provided to pay for it or (as the case may be) to make a refund to the Department in respect of it].

(3) Paragraph (1) shall have effect in relation to a transfer by a person who leaves accommodation provided under Article 15 or 36 and subsequently resumes residence in such accommodation as if the period of 6 months mentioned in sub-paragraph (b)(i) were a period of 6 months before the date on which he resumed residence in such accommodation.

[  
<sup>F165</sup>(3A) If the Department so directs, paragraph (1) shall not apply in such cases as may be specified in the direction.]

(4) Where a person has transferred an asset to which this Article applies to more than one person, the liability of each of the persons to whom it is transferred shall be in proportion to the benefit accruing to him from the transfer.

(5) A person's liability under this Article shall not exceed the benefit accruing to him from the transfer.

(6) Subject to paragraph (7), the value of any asset to which this Article applies, other than cash, which has been transferred shall be taken to be the amount of the consideration which would have been realised for it if it had been sold on the open market by a willing seller at the time of the transfer.

(7) For the purpose of calculating the value of an asset under paragraph (6) there shall be deducted from the amount of the consideration—

- (a) the amount of any incumbrance on the asset; and
- (b) a reasonable amount in respect of the expenses of the sale.]

**F164** 1986 NI 24

**F165** 1991 NI 1

*Art. 102 rep. by 1995 NI 2*

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### Failure to maintain **N.I.**

**103.**—(1) Where a person persistently refuses or neglects to maintain himself or any person whom he is liable to maintain for the purposes of this Order and, in consequence of his refusal or neglect, the Ministry provides or secures the provision of accommodation under Article 15 for that person or any other person, he shall be guilty of an offence and shall be liable on summary conviction—

- (a) where the accommodation was provided for him, to imprisonment for a term not exceeding six months;
- (b) in any other case, to a fine not exceeding<sup>[F166]</sup> level 3 on the standard scale] or to imprisonment for a term not exceeding six months, or to both.

(2) For the purposes of this Article, a person shall not be deemed to refuse or neglect to maintain himself or any other person by reason only of anything done or omitted in furtherance of a trade dispute.

**F166** 1984 NI 3

### Administrative and Supplemental

*Art. 104 rep. by 1986 NI 24*

### Arbitration **N.I.**

**105.**—(1) ...<sup>F167</sup>, any matter which is required under this Order to be determined by arbitration shall be determined by a single arbitrator agreed upon by the parties or, in default of such agreement, appointed by the Lord Chief Justice on the application of any of the parties.

*Paras.(2)#(5) rep. by 1978 NI 26*

(6) Subject to <sup>[F168]</sup> paragraph (1)],<sup>[F169]</sup> Part I of the Arbitration Act 1996] shall, in relation to arbitrations under this Order, have effect subject to such modifications as may be prescribed.

**F167** 1978 NI 26

**F168** 1978 NI 26

**F169** 1996 c.23

### Miscellaneous administrative matters **N.I.**

**106.** Regulations may—

- (a) provide for the determination by arbitration, in default of agreement, of any question arising as to whether any asset or liability has been transferred by virtue of section 27 of the Health Services Act (Northern Ireland) 1948 or section 6 of the Health Services (Amendment) Act (Northern Ireland) 1967 or as to the person to whom it has been transferred by virtue of those sections;
- (b) prescribe anything which is necessary or expedient for the purpose of giving due effect to the provisions of this Order.

### Orders, regulations and directions **N.I.**

**107.**—(1) Orders made under Articles 16(1)<sup>[F170]</sup>, 56(2B)] and 108, orders made under Article 76(1) to which paragraph 1( a) to ( e) of Schedule 13 applies and regulations shall be subject to negative resolution.

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(2) Regulations may provide that persons contravening the regulations shall be guilty of an offence and shall be liable on summary conviction to a fine not exceeding an amount specified in the regulations.

(3) The amount which may be specified in regulations as mentioned in paragraph (2) shall not exceed<sup>F171</sup> level 3 on the standard scale].

(4) Section 17(2) of the Interpretation Act (Northern Ireland) 1954 shall apply to a direction given by the Ministry or given jointly by the Ministry and the Ministry of Home Affairs<sup>F172</sup> under this Order as if the direction were a statutory instrument.

(5) All statutory instruments made under any transferred provision repealed by this Order, so far as they are in force immediately before the commencement of this Order, shall with the necessary modifications continue in force until they are revoked by any order or regulations under this Order and shall have the like effect, and the like proceeding may be had thereon and in respect thereof as if they had been made under this Order.

(6) Without prejudice to any other provision of this Order, any power conferred by this Order on the Ministry to make any regulations or orders having a financial implication shall, if the Ministry of Finance so directs, be exercisable only in conjunction with that Ministry.

**F170** 1991 NI 1

**F171** 1984 NI 3

**F172** functions transf. by SRO (NI) 1973/504

### **Amendment and repeal of local Acts and charters** **N.I.**

**108.** Where, immediately before the commencement of this Article, there was in force a local or personal Act or charter containing provisions inconsistent with any of the provisions of this Order or redundant in consequence of any of those provisions, the Ministry may by order modify the local or personal Act or charter so far as may be necessary for the purpose of bringing its provisions into conformity with the provisions of this Order or, as the case may be, for the purpose of removing redundant provisions.

### **Amendments, savings and repeals** **N.I.**

*Para. (1), with Schedule 16, effects amendments*

(2) The saving, temporary and transitional provisions specified in Schedule 17 shall have effect for the purposes of this Order.

*Para. (3), with Schedule 18, effects repeals*

(4) References to any transferred provision repealed by this Article in any deed, instrument or other document giving effect to arrangements made under paragraph 2(2) of Schedule 11 to the Health Services Act (Northern Ireland) 1971 shall be construed as references to the corresponding provision of this Order.

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