

SCHEDULES

SCHEDULE 1

Article 37.

AMENDMENTS

The Nursing Homes and Nursing Agencies Act (Northern Ireland) 1971 (c. 32)

1. In section 20 in the definition of “the Ministry” for “has the meaning assigned to it by section 6(1)” substitute “means the Department of Health and Social Services”.

The Health and Personal Social Services (Northern Ireland) Order 1972 (NI 14)

2.—(1) After Article 14 insert the following Article—

“Arrangements for provision of health services by other bodies or persons

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.”.

(2) In Article 15 after paragraph (1) insert the following paragraphs—

“(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.”.

(3) In Article 36(1)(a) (as originally enacted) for “Schedule 5 in respect of a home for persons in need” substitute “Part II of the Registered Homes (Northern Ireland) Order 1992 in respect of a residential care home”.

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(4) In Article 36(1)(a) (as substituted by Article 25 of the Health and Personal Social Services (Northern Ireland) Order 1991) for heads (i) and (ii) substitute—

- “(i) manages a residential care home and is registered under Part II of the Registered Homes (Northern Ireland) Order 1992 in respect of the home or is not required to be so registered by virtue of Article 4(4)(a) or (b) of that Order (certain small homes); or
- (ii) manages premises which do not fall within the definition of a residential care home in Article 3 of that Order by reason only of being managed or provided by a body constituted by a statutory provision or incorporated by Royal Charter; or”.

(5) In Article 36(2) (as so substituted) for sub-paragraphs (a) and (b) substitute—

- “(a) in respect of which the organisation or other person is registered under Part III of the Registered Homes (Northern Ireland) Order 1992; or
- (b) which do not fall within the definition of a nursing home in Article 16 of that Order by reason only of being managed or provided by a body constituted by a statutory provision or incorporated by Royal Charter,

for the provision of accommodation in those premises.”.

(6) In Article 36A(1) for sub-paragraphs(a)to(d) substitute—

- “(a) premises in respect of which any person is registered under Part II or III of the Registered Homes (Northern Ireland) Order 1992; or
- (b) premises which do not fall within the definition of a residential care home or a nursing home in that Order by reason only of being managed or provided by a body constituted by a statutory provision or incorporated by Royal Charter; or
- (c) such other premises as may be prescribed.”.

(7) For Article 50 substitute the following Article—

“Power of inspection

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 the Registered Homes (Northern Ireland) Order 1992) 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
 - (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.”.

The Mental Health (Northern Ireland) Order 1986 (NI 4)

3.—(1) In Article 2(2) in the definition of “nursing home” for the words from “section 10(1)” onwards substitute “Article 16 of the Registered Homes (Northern Ireland) Order 1992;”.

(2) In Article 2(2) at the appropriate place in alphabetical order insert—
““residential care home” has the meaning assigned to it by Article 3 of the Registered Homes (Northern Ireland) Order 1992;”.

(3) In Article 86(2)(c), (3)(b) and (c) and (5) for “home for persons in need” substitute “residential care home”.

(4) In Article 107(2) for “home for persons in need” substitute “residential care home”.

The Disabled Persons (Northern Ireland) Act 1989 (c. 10)

4. In section 2(5) for paragraph (d) substitute—
“(d) in a residential care home or nursing home within the meaning of the Registered Homes (Northern Ireland) Order 1992, or in premises which do not fall within the definition of a residential care home or a nursing home in that Order by reason only of being managed or provided by a body constituted by a statutory provision or incorporated by Royal Charter, or”.

The Social Security Contributions and Benefits (Northern Ireland) Act 1992 (c. 7)

5. In section 131(4) for the definitions of “qualifying persons” and “relevant premises” substitute—

““qualifying persons” means any person who falls within paragraph (1) of Article 36A of the Health and Personal Social Services (Northern Ireland) Order 1972 (persons ordinarily resident in residential care or nursing homes immediately before the coming into operation

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of that Article) or who would fall within that paragraph apart from any regulations under paragraph (2) of that Article;

“relevant premises” means premises mentioned in paragraph (1) of the said Article 36A.”.