

SCHEDULE

Article 4.

PROVIDERS OF SERVICES

Introduction

1. The principal Order shall be amended in accordance with the following provisions of this Schedule.

Interpretation

2.—(1) Article 2(2) (interpretation) shall be amended in accordance with sub-paragraphs (2) to (4).

(2) In the definition of “body concerned” for “this Order” substitute “Article 7”.

(3) After the definition of “the Department” insert—

““general [^{F1}health care]” has the meaning assigned by Article 8(2)(b);

“general [^{F1}health care] provider” has the meaning assigned by Article 8(2)(a);

“general [^{F1}health care] provider concerned”, in relation to an investigation pursuant to a complaint under Article 8, means the general [^{F1}health care] provider providing the services in relation to which the complaint was made;

“health and [^{F2}social care] body” means any of the following bodies—

- (a) health and [^{F2}social care] boards;
- (b) health and [^{F2}social care] councils;
- (c) health and [^{F2}social care] trusts;
- (d) the Mental Health Commission for Northern Ireland;
- (e) the Northern Ireland Central Services Agency for the Health and [^{F3}Social Care]; and
- (f) special health and [^{F2}social care] agencies;

“independent provider” has the meaning assigned by Article 8A(2);

“independent provider concerned”. in relation to an investigation pursuant to a complaint under Article 8A, means the independent provider providing the service in relation to which the complaint was made;” .

(4) For the definition of “person aggrieved” substitute—

““person aggrieved” means the person who claims or is alleged to have sustained such injustice as is mentioned in Article 7(7), 8(5) or 8A(4);” .

F1 Words in Order substituted (1.4.2009) by [Health and Social Care \(Reform\) Act \(Northern Ireland\) 2009](#) (c. 1), ss. 32, 34(3), [Sch. 6 para. 1\(1\)\(b\)](#) (with [Sch. 6 para. 1\(3\)](#)); S.R. 2009/114, [art. 2](#)

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Changes to legislation: There are currently no known outstanding effects for the *The Commissioner for Complaints (Amendment) (Northern Ireland) Order 1997 (revoked)*. (See end of Document for details)

- F2** Words in Order substituted (1.4.2009) by [Health and Social Care \(Reform\) Act \(Northern Ireland\) 2009 \(c. 1\), ss. 32, 34\(3\), Sch. 6 para. 1\(1\)\(a\)](#) (with [Sch. 6 para. 1\(2\)\(3\)](#)); S.R. 2009/114, [art. 2](#)
- F3** Words in Order substituted (1.4.2009) by virtue of [Health and Social Care \(Reform\) Act \(Northern Ireland\) 2009 \(c. 1\), ss. 32, 34\(3\), Sch. 6 para. 1\(1\)\(a\)](#) (with [Sch. 6 para. 1\(2\)\(3\)](#)); S.R. 2009/114, [art. 2](#)

The Commissioner

3. After Article 5 (appointment of acting Commissioner) insert—

“Ineligibility of certain persons for appointment as Commissioner

5A.—(1) A person who is a member of a health and [^{F4}social care] body shall not be appointed as the Commissioner or acting Commissioner, and a person so appointed shall not, during his appointment, become a member of such a body.

(2) A person who is a general [^{F5}health care] provider shall not be appointed as the Commissioner or acting Commissioner, and a person so appointed shall not, during his appointment, become a general [^{F5}health care] provider.”.

- F4** Words in Order substituted (1.4.2009) by [Health and Social Care \(Reform\) Act \(Northern Ireland\) 2009 \(c. 1\), ss. 32, 34\(3\), Sch. 6 para. 1\(1\)\(a\)](#) (with [Sch. 6 para. 1\(2\)\(3\)](#)); S.R. 2009/114, [art. 2](#)
- F5** Words in Order substituted (1.4.2009) by [Health and Social Care \(Reform\) Act \(Northern Ireland\) 2009 \(c. 1\), ss. 32, 34\(3\), Sch. 6 para. 1\(1\)\(b\)](#) (with [Sch. 6 para. 1\(3\)](#)); S.R. 2009/114, [art. 2](#)

4. In Article 6 (staff and expenses) after paragraph (1) insert—

“(1A) To assist him in—

- (a) any investigation pursuant to a complaint under Article 7 where the complaint relates to action taken by or on behalf of a health and [^{F6}social care] body; or
- (b) any investigation pursuant to a complaint under Article 8 or 8A.

the Commissioner may obtain advice from any person who, in his opinion, is qualified to give it.

(1B) The Commissioner may pay to any person from whom he obtains advice under paragraph (1A) such fees or allowances as he may determine with the approval of the Department.”.

- F6** Words in Order substituted (1.4.2009) by [Health and Social Care \(Reform\) Act \(Northern Ireland\) 2009 \(c. 1\), ss. 32, 34\(3\), Sch. 6 para. 1\(1\)\(a\)](#) (with [Sch. 6 para. 1\(2\)\(3\)](#)); S.R. 2009/114, [art. 2](#)

Complaints and investigations

5. In Article 10(3) (complaints made by person other than person aggrieved), after “or other” insert “body or”.

6. In Article 11 (purposes of investigation)—

(a) for paragraph (a) substitute—

“(a) to ascertain if the matters alleged in the complaint—

- (i) may properly warrant investigation by him under this Order;
- (ii) are, in substance, true; and” ;

(b) in paragraph (b)(ii)—

- (i) after “body concerned” insert “, the general [^{F7}health care] provider concerned or the independent provider concerned (as the case may be) ”;
- (ii) after “that body” insert “or provider”.

F7 Words in Order substituted (1.4.2009) by [Health and Social Care \(Reform\) Act \(Northern Ireland\) 2009](#) (c. 1), ss. 32, 34(3), **Sch. 6 para. 1(1)(b)** (with Sch. 6 para. 1(3)); S.R. 2009/114, **art. 2**

7.—(1) Article 12 (procedure in respect of investigations) shall be amended in accordance with sub-paragraphs (2) to (4).

(2) In paragraph (2)—

- (a) in sub-paragraph (a)(i) after “body concerned” insert “, the general [^{F8}health care] provider concerned or the independent provider concerned (as the case may be) ”;
- (b) in sub-paragraph (a) after “that body” insert “or provider”;
- (c) in sub-paragraph (b) after “such body” insert “, provider”.

(3) In paragraph (10) for “under this Order” substitute “pursuant to a complaint under Article 7”.

(4) After paragraph (10) add—

“(11) An investigation pursuant to a complaint under Article 8 or 8A shall not affect any action taken by the general [^{F8}health care] provider or z independent provider concerned, or any power or duty of that provider to take further action with respect to any matters subject to the investigation.”.

F8 Words in Order substituted (1.4.2009) by [Health and Social Care \(Reform\) Act \(Northern Ireland\) 2009](#) (c. 1), ss. 32, 34(3), **Sch. 6 para. 1(1)(b)** (with Sch. 6 para. 1(3)); S.R. 2009/114, **art. 2**

8. In Article 14(3) (obstruction and contempt) after “12(10)” insert “or (11)”.

9. For Article 15 (reports on investigations) substitute—

“Reports on investigations

15.—(1) In any case where the Commissioner conducts an investigation pursuant to a complaint under Article 7 relating to action taken by or on behalf of any body other than a health and [^{F9}social care] body, he shall send a report of the results of the investigation—

- (a) to the person who made the complaint;
- (b) to the body concerned; and
- (c) to any person who is alleged in the complaint to have taken or authorised the action complained of or otherwise to be involved in the allegations made in the complaint.

(2) In any case where the Commissioner conducts an investigation pursuant to a complaint made under Article 7 relating to action taken by or on behalf of a health and [^{F9}social care] body, he shall send a report of the results of the investigation—

- (a) to the person who made the complaint;
- (b) to the health and [^{F9}social care] body which at the time the report is made has the function in relation to which the complaint was made;

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- (c) to any person who is alleged in the complaint to have taken or authorised the action complained of or otherwise to be involved in the allegations made in the complaint.
- (3) In any case where the Commissioner conducts an investigation pursuant to a complaint under Article 8 he shall send a report of the results of the investigation—
 - (a) to the person who made the complaint;
 - (b) to any person by reference to whose action the complaint is made;
 - (c) to the general [^{F10}health care] provider concerned (if that provider does not fall within sub-paragraph (b)); and
 - (d) to any health and [^{F9}social care] body with whom the general [^{F10}health care] provider concerned is subject to an undertaking to provide general [^{F10}health care].
- (4) In any case where the Commissioner conducts an investigation pursuant to a complaint under Article 8A he shall send a report of the results of the investigation—
 - (a) to the person who made the complaint;
 - (b) to any person who is alleged in the complaint to have taken or authorised the action complained of;
 - (c) to the independent provider concerned; and
 - (d) to the health and [^{F9}social care] body or general [^{F10}health care] provider with whom the independent provider concerned made the arrangement to provide the service concerned.
- (5) In any case where the Commissioner decides not to conduct an investigation pursuant to a complaint under Article 7, 8 or 8A he shall send a statement of his reasons for not conducting an investigation to the person who made the complaint.”.

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| F9 | Words in Order substituted (1.4.2009) by Health and Social Care (Reform) Act (Northern Ireland) 2009 (c. 1) , ss. 32, 34(3), Sch. 6 para. 1(1)(a) (with Sch. 6 para. 1(2)(3)); S.R. 2009/114, art. 2 |
| F10 | Words in Order substituted (1.4.2009) by Health and Social Care (Reform) Act (Northern Ireland) 2009 (c. 1) , ss. 32, 34(3), Sch. 6 para. 1(1)(b) (with Sch. 6 para. 1(3)); S.R. 2009/114, art. 2 |

10. In Articles 16(1) (compensation) and 17(1) (application to High Court for relief) for “under this Order” substitute “pursuant to a complaint under Article 7”.

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