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STATUTORY INSTRUMENTS

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**2003 No. 417**

**The Protection of Children and Vulnerable  
Adults (Northern Ireland) Order 2003**

**PART III**

**PROTECTION OF VULNERABLE ADULTS**

*Supplementary*

**Interpretation of this Part**

- 48.**—(1) In this Part “care worker” means—
- (a) an individual who is or has been employed in a position which is such as to enable him to have regular contact in the course of his duties with adults to whom accommodation is provided at a residential care home or nursing home;
  - (b) an individual who is or has been employed in a position which is such as to enable him to have regular contact in the course of his duties with adults to whom prescribed services are provided by a health services body or at a private hospital;
  - (c) an individual who is or has been employed in a position which is concerned with the provision of any prescribed service in their own homes for persons who by reason of illness, infirmity or disability are unable to provide it for themselves without assistance.
- (2) In this Part “care position”, in relation to an individual, means a position such as is mentioned in paragraph (1)(a), (b) or (c).
- (3) In this Part “harm”—
- (a) in relation to an adult who is not mentally handicapped (within the meaning of the [Mental Health \(Northern Ireland\) Order 1986 \(NI 4\)](#)), means ill-treatment or the impairment of health;
  - (b) in relation to an adult who is mentally handicapped, means ill-treatment or impairment of health or development.
- (4) In this Part “health services body” means a Health and Social Services Board, a Health and Social Services trust or a special health and social services agency.
- (5) In this Part “supply worker”—
- (a) in relation to an employment agency or nursing agency, means an individual supplied by the agency for employment in a care position or for whom the agency has found employment in a care position;
  - (b) in relation to an employment business, means an individual supplied by the business for employment in a care position.
- (6) In this Part “vulnerable adult” means—

- (a) an adult to whom accommodation and nursing or personal care are provided in a residential care home or nursing home;
  - (b) an adult to whom any prescribed service is provided in his own home under arrangements made by a domiciliary care agency or a prescribed person; or
  - (c) an adult to whom prescribed services are provided by a health services body or at a private hospital.
- (7) For the purposes of this Part the persons who provide care for vulnerable adults are—
- (a) any person who carries on a residential care home or nursing home;
  - (b) any person who carries on a domiciliary care agency or is prescribed under paragraph (6) (b);
  - (c) any person who carries on a private hospital which provides prescribed services; and
  - (d) a health services body which provides prescribed services.
- (8) The Department may by regulations—
- (a) add to the list in paragraph (7) any prescribed persons to whom paragraph (9) applies;
  - (b) amend the definitions of “care worker”, “care position” and “vulnerable adults” accordingly.
- (9) This paragraph applies to—
- (a) authorities providing services to adults in the exercise of their personal social services functions;
  - (b) persons who provide to adults services which are similar to services which may or must be provided by health services bodies.
- (10) In its application by virtue of paragraph (8), this Part shall have effect—
- (a) if the regulations so provide, as if “may” were substituted for “shall” in Articles 36(1) and 37(1) and;
  - (b) with such other modifications as may be specified in the regulations.
- (11) In this Part—
- “domiciliary care agency” has the same meaning as in Part I of the Health and Personal Social Services Act (Northern Ireland) 2001 (c. 3);
- “personal care” has the same meaning as in the [Registered Homes \(Northern Ireland\) Order 1992 \(NI 20\)](#).

### **Transitional provisions**

#### **49.—(1) Where—**

- (a) an individual who is or has been employed in a care position has been referred by a provider to the Department for inclusion in the Pre-Employment Consultancy Service Register;
- (b) the reference has not been determined at the commencement of Article 36; and
- (c) any of the conditions mentioned in paragraph (2), or the condition mentioned in paragraph (3), of that Article was fulfilled in relation to the reference,

that Article shall apply as if the reference had been a reference made by the provider under paragraph (1) of that Article.

(2) For the purposes of paragraph (1), a reference of an individual for inclusion in that Register is determined only when, following the reference—

- (a) the individual is included (otherwise than provisionally) in the Register; or

(b) the Department determines that he should not be included in it.

(3) Nothing in Article 36 shall require a person who provides care for vulnerable adults to refer a care worker to the Department in any case where the dismissal, resignation, retirement, redundancy, transfer or suspension mentioned in that Article took place or, as the case may be, the opinion so mentioned was formed before the commencement of that Article.

(4) Nothing in Article 37 shall require a person who carries on an employment agency, nursing agency or employment business to refer a supply worker to the Department in any case where the dismissal, resignation, retirement or redundancy mentioned in that Article took place or, as the case may be, the decision so mentioned was made before the commencement of that Article.

(5) Articles 38 and 39 do not apply to misconduct which occurred before the commencement of those Articles.