

EXPLANATORY MEMORANDUM TO

The Care Tribunal (Amendment) Regulations (Northern Ireland) 2016

2016 No. 274

1. Introduction

- 1.1. This Explanatory Memorandum has been prepared by the Department of Justice to accompany the Statutory Rule (details above) which is laid before the Northern Ireland Assembly.
- 1.2. The Statutory Rule is made under Article 44(2) to (4) of the Health and Personal Social Services (Quality, Improvement and Regulation) (Northern Ireland) Order 2003 and now vested in the Department of Justice under the Departments (Transfer of Functions) Order 2011 and is subject to the negative resolution procedure.

2. Purpose

- 2.1. The purpose of the Statutory Rule is to amend paragraph 1 of Schedule 6 to the Care Tribunal Regulations (Northern Ireland) 2005 ('the Regulations') to (i) specify the types by decision of the Northern Ireland Social Care Council (NISCC) against which the Care Tribunal can receive an appeal, so that they include decisions under Part 3 of the European Communities (Recognition of Professional Qualifications) Regulations 2007 ('the General Systems Regulations'); and (ii) provide that the information required on the application form to the Care Tribunal takes account of decisions made by NISCC under new powers given to it by the Health and Personal Social Services (Amendment) Act (Northern Ireland) 2016 ('the 2016 Act').
- 2.2. The first amendment substitutes a new introductory sub-paragraph that specifies all the types of decision that can be made to the Tribunal. The second amendment updates the requirements for specifying information on the Tribunal application form.

3. Background

- 3.1. The Northern Ireland Social Care Council (NISCC) was established by the Health and Personal Social Services Act (Northern Ireland) 2001 ('the 2001 Act') to regulate the social care workforce. Section 15 of the 2001 Act allows for the appeal of a decision of the NISCC to the Care Tribunal. The Regulations prescribe the practice and procedure of the Care Tribunal.
- 3.2. The 2016 Act amended 2001 Act to provide NISCC with a broader range of measures that it can impose on registered social workers and social care workers. These include new powers to impose conditions on a person's registration for specified periods of time and to give a warning.
- 3.3. The General Systems Regulations provide for the recognition of professional qualifications held by persons from the European Economic Area or Switzerland practising in the UK, and allow authorities such as NISCC to require such persons to complete an aptitude test or an adaption period as a condition of registration. While the 2001 Act was amended to

provide for such appeals, there was no corresponding amendment at the time to the Regulations.

4. Consultation

4.1. A joint consultation by the then Department of Health, Social Services and Public Safety and NISCC on the proposals to reform the model of regulation of the social care workforce in Northern Ireland was carried out from June to October 2012. The consultation attracted a total of 90 responses from a variety of sources, and were overwhelmingly supportive of the proposals.

5. Equality Impact

5.1. An equality impact assessment has not been prepared for this instrument as it is considered that it does not raise any equality or good relations issues under section 75 of the Northern Ireland Act 1998.

6. Regulatory Impact

6.1. A regulatory impact assessment is not considered necessary as the amendment to the Regulations will not lead to costs or savings for the wider business community.

7. Financial Implications

7.1. No financial implications are anticipated.

8. Section 24 of the Northern Ireland Act 1998

8.1. The Department has considered its obligations under section 24 of the Northern Ireland Act 1998 and is satisfied that these Regulations are not incompatible with Convention rights, nor are they incompatible with Community law, do not discriminate against a person or class of person on the grounds of religious belief or political opinion, and do not modify an enactment in breach of section 7 of the Northern Ireland Act 1998.

9. EU Implications

9.1. Not applicable.

10. Parity or Replicatory Measure

10.1. The Statutory Rule amends the Regulations in response to amendments to primary legislation that were designed to ensure that NISCC's regulatory systems keep pace with other models of professional regulation across the UK.

11. Additional Information

11.1. Not applicable.