
DRAFT STATUTORY INSTRUMENTS

2003 No.

**The Health and Personal Social Services (Quality,
Improvement and Regulation) (Northern Ireland) Order 2003**

PART III

REGULATION OF ESTABLISHMENTS AND AGENCIES

Registration

Requirement to register

12.—(1) Any person who carries on or manages an establishment or agency of any description without being registered under this Part in respect of it (as an establishment or, as the case may be, agency of that description) shall be guilty of an offence.

(2) The reference in paragraph (1) to an agency does not include a reference to a voluntary adoption agency.

(3) The Department may by regulations make provision about the keeping of registers by the Regulation and Improvement Authority for the purposes of this Part.

(4) A person guilty of an offence under this Article shall be liable on summary conviction—

- (a) if paragraph (5) does not apply, to a fine not exceeding level 5 on the standard scale;
- (b) if paragraph (5) applies, to imprisonment for a term not exceeding six months, or to a fine not exceeding level 5 on the standard scale, or to both.

(5) This paragraph applies if—

- (a) the person was registered in respect of the establishment or agency at a time before the commission of the offence but the registration was cancelled before the offence was committed; or
- (b) the conviction is a second or subsequent conviction of the offence and the earlier conviction, or one of the earlier convictions, was of an offence in relation to an establishment or agency of the same description.

Applications for registration

13.—(1) A person seeking to be registered under this Part shall make an application to the Regulation and Improvement Authority.

(2) The application shall give—

- (a) the prescribed information about prescribed matters;
- (b) any other information which the Regulation and Improvement Authority reasonably requires the applicant to give,

and shall be accompanied by a fee of the prescribed amount.

(3) Only an individual may apply for registration as the manager of an establishment or agency.

(4) A person who carries on or manages, or wishes to carry on or manage, more than one establishment or agency shall make a separate application in respect of each of them.

Grant or refusal of registration

14.—(1) Paragraphs (2) to (4) apply where an application under Article 13 has been made with respect to an establishment or agency in accordance with the provisions of this Part.

(2) If the Regulation and Improvement Authority is satisfied that—

- (a) the requirements of regulations under Article 23; and
- (b) the requirements of any other statutory provision which appears to the Regulation and Improvement Authority to be relevant,

are being and will continue to be complied with (so far as applicable) in relation to the establishment or agency, it shall grant the application; otherwise it shall refuse it.

(3) The application may be granted either unconditionally or subject to such conditions as the Regulation and Improvement Authority thinks fit.

(4) On granting the application, the Regulation and Improvement Authority shall issue a certificate of registration to the applicant.

(5) The Regulation and Improvement Authority may at any time—

- (a) vary or remove any condition for the time being in force in relation to a person's registration; or
- (b) impose an additional condition.

Cancellation of registration

15.—(1) The Regulation and Improvement Authority may at any time cancel the registration of a person in respect of an establishment or agency—

- (a) on the ground that that person has been convicted of a relevant offence;
- (b) on the ground that any other person has been convicted of such an offence in relation to the establishment or agency;
- (c) on the ground that the establishment or agency is being, or has at any time been, carried on otherwise than in accordance with the relevant requirements;
- (d) on any ground specified by regulations.

(2) For the purposes of this Article the following are relevant offences—

- (a) an offence under this Order or regulations made under it;
- (b) an offence under any statutory provision repealed by this Order or regulations made under it;
- (c) an offence under the Children Order or regulations made under it;
- (d) an offence under the [Mental Health \(Northern Ireland\) Order 1986 \(NI 4\)](#);
- (e) in relation to a voluntary adoption agency, an offence under regulations under Article 10(2) of the [Adoption \(Northern Ireland\) Order 1987 \(NI 22\)](#) or section 1(3) of the Adoption (Intercountry Aspects) Act (Northern Ireland) 2001 (c. 11).

(3) In this Article “relevant requirements” means—

- (a) any requirements or conditions imposed by or under this Part; and

- (b) the requirements of any other statutory provision which appear to the Regulation and Improvement Authority to be relevant.

Applications by registered persons

16.—(1) A person registered under this Part may apply to the Regulation and Improvement Authority—

- (a) for the variation or removal of any condition relating to the registration; or
- (b) for the cancellation of the registration.

(2) But a person may not make an application under paragraph (1)(b)—

- (a) if the Regulation and Improvement Authority has given him notice under Article 18(4)(a) of a proposal to cancel the registration, unless the Regulation and Improvement Authority has decided not to take that step; or
- (b) if the Regulation and Improvement Authority has given him notice under Article 20(3) of its decision to cancel the registration and the time within which an appeal may be brought has not expired or, if an appeal has been brought, it has not been determined.

(3) An application under paragraph (1) shall be made in such manner and state such particulars as may be prescribed and, if made under paragraph (1)(a), shall be accompanied by a fee of such amount as may be prescribed.

(4) If the Regulation and Improvement Authority decides to grant an application under paragraph (1)(a) it shall serve notice in writing of its decision on the applicant (stating, where applicable, the condition as varied) and issue a new certificate of registration.

(5) If different amounts are prescribed under paragraph (3), the regulations may provide for the Regulation and Improvement Authority to determine which amount is payable in a particular case.

Regulations about registration

17.—(1) Regulations may make provision about the registration of persons under this Part in respect of establishments or agencies, and in particular about—

- (a) the making of applications for registration;
- (b) the contents of certificates of registration.

(2) Regulations may provide that no application for registration under this Part may be made in respect of a fostering agency, or a voluntary adoption agency, which is an unincorporated body.

(3) Regulations may also require persons registered under this Part to pay to the Regulation and Improvement Authority an annual fee of such amount, and at such a time, as may be prescribed.

(4) A fee payable by virtue of this Article may, without prejudice to any other method of recovery, be recovered summarily as a civil debt.