

SCHEDULES

SCHEDULE 4

AMENDMENTS

The Superannuation (Northern Ireland) Order 1972 (NI 10)

In Schedule 1 (employments to which Article 3 of that Order applies) at the end there shall be added—

“Employment by the Northern Ireland Health and Personal Social Services Regulation and Improvement Authority.”.

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

In Article 50(1) (power of inspection), for “the Registered Homes (Northern Ireland) Order 1992” substitute “Part III of the Health and Personal Social Services (Quality, Improvement and Regulation) (Northern Ireland) Order 2003”.

The Northern Ireland Assembly Disqualification Act 1975 (c. 25)

In Part II of Schedule 1 (bodies of which all members are disqualified), the following entry shall be inserted at the appropriate place—

“The Northern Ireland Health and Personal Social Services Regulation and Improvement Authority.”.

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

In Article 2(2) (interpretation)—

(a) in the definition of “nursing home” for the words from “Article 16” to the end substitute “Article 11 of the Health and Personal Social Services (Quality, Improvement and Regulation) (Northern Ireland) Order 2003”;

(b) for the definition of “residential care home” substitute—

““residential care home” has the meaning assigned to it by Article 10 of the Health and Personal Social Services (Quality, Improvement and Regulation) (Northern Ireland) Order 2003;”.

The Adoption (Northern Ireland) Order 1987 (NI 22)

In Article 2(2) (interpretation) after the definition of “adoption rules” insert the following definition—

““appropriate voluntary organisation” means a voluntary organisation which is an adoption society in respect of which a person is registered under Part III of the Health and Personal Social Services (Quality, Improvement and Regulation) (Northern Ireland) Order 2003;”.

In Article 3 (The Adoption Service)—

- (a) in paragraph (1) for “registered adoption societies” substitute “appropriate voluntary organisations”;
- (b) in paragraph (3) for “a registered adoption society” substitute “an appropriate voluntary organisation”.

In Article 5(2) (power of Department to make directions where registration of adoption society is cancelled or expires), for the words from the beginning to “expires” substitute “Where, by virtue of the cancellation of the registration of any person under Part III of the Health and Personal Social Services (Quality, Improvement and Regulation) (Northern Ireland) Order 2003, a body has ceased to be an appropriate voluntary organisation”.

In Article 8 (inactive or defunct adoption societies)—

- (a) in paragraph (1) for the words from “registered” to “Article 5,” substitute “body which is or has been an appropriate voluntary organisation”; and
- (b) for “society” in each place where it occurs substitute “organisation”.

In Article 10 (regulation of adoption agencies) after paragraph (1) insert the following paragraph—

“(1A) Regulations under paragraph (1) may in particular make, in relation to an appropriate voluntary organisation any provision which regulations under Article 23(2) or (7) of the Health and Personal Social Services (Quality, Improvement and Regulation) (Northern Ireland) Order 2003 may make in relation to a fostering agency (within the meaning of that Order).”.

In Article 11 (restriction on arranging adoptions and placing children)—

- (a) in paragraph (2) for the words from “registered under Article 4” substitute “an appropriate voluntary organisation”;
- (b) in paragraph (3)(a) for “which is not an adoption agency” substitute
“which is not—
 - (i) a Board or HSS trust; or
 - (ii) a voluntary adoption agency within the meaning of the Health and Personal Social Services (Quality, Improvement and Regulation) (Northern Ireland) Order 2003 in respect of which he is registered;”.

In Article 23 (enquiries to be made of Board etc.)—

- (a) for “a registered adoption society” substitute “an appropriate voluntary organisation”;
- (b) for “the society” in both places where it occurs substitute “the organisation”.

In Article 33(2)(a)(ii) (meaning of “protected child”), for “children’s home or voluntary home” substitute “children’s home in respect of which a person is registered under Part III of the Health and Personal Social Services (Quality, Improvement and Regulation) (Northern Ireland) Order 2003”.

In Article 54(3)(d)(i) (disclosure of birth records of adopted children), for “registered under Article 4” substitute “being an appropriate voluntary organisation”.

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

In section 2(5) for paragraph (d) substitute the following paragraph—

- “(d) in a residential care home or nursing home within the meaning of the Health and Personal Social Services (Quality, Improvement and Regulation) (Northern Ireland) Order 2003; or”.

The Children (Northern Ireland) Order 1995 (NI 2)

In Article 2(2) (interpretation)—

- (a) after the definition of “Adoption Order” insert the following definition—
 - ““appropriate children’s home” has the meaning given in Article 27(10);”;
- (b) after the definition of “care order” insert the following definition—
 - ““Care Tribunal” means the tribunal established by Article 44 of the Health and Personal Social Services (Quality, Improvement and Regulation) (Northern Ireland) Order 2003;”;
- (c) in the definition of “children’s home” for the words from “given” to the end substitute “assigned to it by Article 9 of the Health and Personal Social Services (Quality, Improvement and Regulation) (Northern Ireland) Order 2003”;
- (d) in the definition of “nursing home” for the words from “Article 16” to the end substitute “Article 11 of the Health and Personal Social Services (Quality, Improvement and Regulation) Act (Northern Ireland) 2003”;
- (e) after the definition of “prescribed” insert the following definition—
 - ““private children’s home” means a children’s home—
 - (a) in respect of which a person is registered under Part III of the Health and Personal Social Services (Quality, Improvement and Regulation) (Northern Ireland) Order 2003; and
 - (b) which is not a home provided under Part VII or a voluntary home;”;
- (f) after the definition of “registered children’s home” insert the following definition—
 - ““Regulation and Improvement Authority” means the Northern Ireland Health and Personal Social Services Regulation and Improvement Authority;”;
- (g) in the definition of “residential care home” for the words from “Article 3” to the end substitute “Article 10 of the Health and Personal Social Services (Quality, Improvement and Regulation) (Northern Ireland) Order 2003”;

In Article 27 (accommodation and maintenance for children looked after by an authority)—

- (a) in paragraph (2), for sub-paragraphs (b) to (e) substitute the following sub-paragraph—
 - “(aa) maintaining him in an appropriate children’s home;”;
- (b) after paragraph (9) add the following paragraph—
 - “(10) In this Order “appropriate children’s home” means a children’s home in respect of which a person is registered under Part III of the Health and Personal Social Services (Quality, Improvement and Regulation) (Northern Ireland) Order 2003.”.

In Article 35 (advice and assistance for certain children) as it has effect before the commencement of the Children (Leaving Care) Act (Northern Ireland) 2002, in paragraph (2)(c) for “registered” substitute “private”.

In Article 35 (persons qualifying for advice and assistance) as it has effect after the commencement of the Children (Leaving Care) Act (Northern Ireland) 2002, in paragraph (2)(c) for “registered” substitute “private”.

In Article 35C (information), in paragraph (2)(a) for “registered” substitute “private”.

In Article 37 (supplementary), in paragraph (4)(a) for “registered” substitute “private”.

In Article 70(1) (refuges for children at risk), for “registered” substitute “private”.

In Article 74(1) (definition of “voluntary home”, etc.), for the definition of “voluntary home” substitute the following definition—

- ““voluntary home” means a children’s home which is carried on by a voluntary organisation;”.

In Article 75(1) (provision of accommodation for children by voluntary organisations), for sub-paragraphs (b) to (e) substitute the following sub-paragraph—

“(aa) maintaining him in an appropriate children’s home;”.

In Article 77 (duties of an authority in relation to children provided with accommodation by voluntary organisations) in paragraph (5)(c), for “Article 89” substitute “Article 23 of the Health and Personal Social Services (Quality, Improvement and Regulation) (Northern Ireland) Order 2003”.

In Article 78 (persons disqualified from carrying on, or being employed in, voluntary homes)—

- (a) in paragraphs (1)(a) and (2)(a), for “authority” substitute “Regulation and Improvement Authority”;
- (b) in paragraphs (1)(b) and (2)(b), for “the consent of the authority” substitute “its consent”;
- (c) in paragraph (3)—
 - (i) for “an authority” substitute “the Regulation and Improvement Authority”;
 - (ii) for “the authority” substitute “it”;
 - (iii) for sub-paragraph (b) substitute—
 - “(b) the applicant’s right to appeal under Article 78A against the refusal to the Care Tribunal; and”.

After Article 78 insert—

“Appeal against refusal of consent under Article 78

78A.—(1) An appeal against a decision of the Regulation and Improvement Authority under Article 78 shall lie to the Care Tribunal.

(2) On an appeal the Care Tribunal may confirm the decision of the Regulation and Improvement Authority or direct it to give the consent in question.”.

In the heading to Part IX, before “CHILDREN'S HOMES” insert “PRIVATE”.

In Article 90(3) (references to an authority), before “children’s home” insert “private”.

In Article 91(4) (circumstances in which a person may foster more than three children without being treated as carrying on a children’s home), after “treated” insert “for the purposes of this Order and the Health and Personal Social Services (Quality, Improvement and Regulation) (Northern Ireland) Order 2003”.

In Article 92 (duties of person carrying on children’s home)—

- (a) in the heading,
- (b) in paragraph (1), and
- (c) in paragraph (4),

before “children’s home” insert “private”.

In Article 93 (duties of an authority)—

- (a) in paragraphs (1), (2), (3)(a), (4) and (5)(a), before “children’s home” insert “private”;
- (b) in paragraph (5)(c) for “Article 105” substitute “Article 23 of the Health and Personal Social Services (Quality, Improvement and Regulation) (Northern Ireland) Order 2003”.

In Article 94 (persons disqualified from carrying on, or being employed in, children’s homes)—

- (a) in the heading before “children’s homes” insert “private”;
- (b) in paragraphs (1)(a) and (2)(a), for “authority” substitute “Regulation and Improvement Authority”;
- (c) in paragraphs (1)(b) and (2)(b), for “the consent of the authority” substitute “its consent”;

(d) in paragraph (3)—

- (i) for “an authority” substitute “the Regulation and Improvement Authority”;
- (ii) for “the authority” substitute “it”;
- (iii) for sub-paragraph (b) substitute—
 - “(b) the applicant’s right to appeal under Article 94A against the refusal to the Care Tribunal; and”.

After Article 94 insert the following Article—

“Appeal against refusal of consent under Article 94

94A.—(1) An appeal against a decision of the Regulation and Improvement Authority under Article 94 shall lie to the Care Tribunal.

(2) On an appeal the Care Tribunal may confirm the decision of the Regulation and Improvement Authority or direct it to give the consent in question.”.

In Article 105(1)(a) (regulations as to placing of children), for “registered” substitute “private”.

In Article 106 (interpretation)—

- (a) in paragraph (1) in the definition of “privately fostered child” after “accommodation” insert “in their own home”;
- (b) in paragraph (2)(a) for “, 91 and 95” substitute “and 91”;
- (c) after paragraph (3) add the following paragraph—

“(3A) The Department may by regulations make provision as to the circumstances in which a person who provides accommodation to a child is, or is not, to be treated as providing him with accommodation in the person’s own home.”.

In Article 107(3) (privately fostered children further defined)—

- (a) sub-paragraph (b) shall cease to have effect;
- (b) for “sub-paragraphs (b)” in both places where it occurs substitute “sub-paragraphs (c)”.

In Article 149(5) (persons required to furnish information, etc.), after sub-paragraph (i) add the following sub-paragraph—

“(j) any person carrying on a fostering agency (within the meaning of the Health and Personal Social Services (Quality, Improvement and Regulation) (Northern Ireland) Order 2003)”.

In Article 153(2) (representations concerning child care training), for sub-paragraph (a) substitute the following sub-paragraph—

“(a) the Northern Ireland Social Care Council;”.

In Article 176 (children accommodated in schools)—

- (a) in paragraph (2) for “within the area of an authority, the authority” substitute “the Regulation and Improvement Authority”;
- (b) in paragraph (3)—
 - (i) for “an authority” substitute “it”;
 - (ii) for “within the authority’s area, the authority” substitute “the Regulation and Improvement Authority”;
- (c) for paragraph (4) substitute the following paragraph—

“(4) Where accommodation is, or is to be, provided for a child by any school, a person authorised by the Regulation and Improvement Authority may, for the purpose of enabling

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that Authority to discharge its duty under this Article, enter at any time any premises which are, or are to be, premises of the school.”.

In Schedule 5 (foster parents: limits on number of foster children), in paragraph 5(1) after “treated” insert “for the purposes of this Order and the Health and Personal Social Services (Quality, Improvement and Regulation) (Northern Ireland) Order 2003”.

The Commissioner for Complaints (Northern Ireland) Order 1996 (NI 7)

In Schedule 2 (bodies subject to investigation), the following entry shall be inserted at the appropriate place—

“The Northern Ireland Health and Personal Social Services Regulation and Improvement Authority.”.

The Health and Personal Social Services Act (Northern Ireland) 2001 (c. 3)

In section 15 (appeals to the Social Care Tribunal)—

- (a) in subsections (2), (3) and (5) for “a Social” substitute “the”;
- (b) in subsection (4), for “A Social” substitute “The”.

For section 22 (interpretation) substitute—

“22 Interpretation of this Part

22. In this Part “child”, “children’s home”, “day care setting”, “domiciliary care agency”, “nursing home”, “personal care”, “registered care home”, “residential family centre”, “school” and “undertaking” have the same meanings as in the Health and Personal Social Services (Quality, Improvement and Regulation) (Northern Ireland) Order 2003.”.

The Adoption (Intercountry Aspects) Act (Northern Ireland) 2001 (c. 11)

In section 2 (Central Authority and accredited bodies)—

- (a) after subsection (2) insert the following subsection—

“(2A) A voluntary adoption agency in respect of which a person is registered under Part III of the Health and Personal Social Services (Quality, Improvement and Regulation) (Northern Ireland) Order 2003 is an accredited body for the purposes of the Convention if, in accordance with the conditions of the registration, the agency may provide facilities in respect of Convention adoptions and adoptions effected by Convention adoption orders.”;

- (b) for subsection (5) substitute the following subsection—

“(5) In this section “voluntary adoption agency” has the same meaning as in the Health and Personal Social Services (Quality, Improvement and Regulation) (Northern Ireland) Order 2003; and expressions which are also used in the [Adoption \(Northern Ireland\) Order 1987 \(NI 22\)](#) (“the 1987 Order”) have the same meaning as in that Order.”.

The Justice (Northern Ireland) Act 2002 (c. 26)

In Schedule 6, in the entry relating to Social Care Tribunals, for “Social Care Tribunals” substitute “the Care Tribunal”.

The Protection of Children and Vulnerable Adults (Northern Ireland) Order 2003 (NI 00)

In Article 2(2) (interpretation: general)—

- (a) for the definitions of “nursing agency” and “nursing home” substitute the following definition—

““nursing agency” and “nursing home” have the same meanings as in the Health and Personal Social Services (Quality, Improvement and Regulation) (Northern Ireland) Order 2003;”;

- (b) for the definition of “private hospital” substitute the following definition—

““the Regulation and Improvement Authority” means the Northern Ireland Health and Personal Social Services Regulation and Improvement Authority;”;

- (c) in the definition of “residential care home”, for the words from “meaning” to the end substitute “same meaning as in the Health and Personal Social Services (Quality, Improvement and Regulation) (Northern Ireland) Order 2003”.

In Article 6 (power of other authorities to refer)—

- (a) in paragraph (2), after sub-paragraph (c) insert the following sub-paragraph—

“(cc) the Regulation and Improvement Authority;”;

- (b) in paragraph (3), after sub-paragraph (c) insert the following sub-paragraph—

“(cc) in relation to the Regulation and Improvement Authority, any of its functions;”.

In the following provisions, for “a Social” substitute “the”—

Article 11(1), (2) and (3) (appeals against inclusion in list);

Article 12(1) (application for removal from list);

Article 13(1) (conditions for applications under Article 12);

Article 15(4), (5)(a) and (6) (list in connection with prohibiting or restricting employment in schools, etc.);

Article 18(2)(g) (accredited organisations);

Article 27(1) (review of disqualification);

Article 42(1) and (2) (appeals against inclusion in list);

Article 43(1) (application for removal from list);

Article 44(1) (conditions for application under Article 43).

In Article 34(1) (interpretation of Chapter II of Part II), in the definition of “children’s home” for the words from “meaning” to the end substitute “same meaning as in the Health and Personal Social Services (Quality, Improvement and Regulation) (Northern Ireland) Order 2003”.

In Article 38 (power of other authorities to refer)—

- (a) in paragraph (2), for sub-paragraph (a) substitute the following sub-paragraph—

“(a) the Regulation and Improvement Authority;”;

- (b) in paragraph (3), for sub-paragraph (a) substitute the following sub-paragraph—

“(a) in relation to the Regulation and Improvement Authority, any of its functions;”.

In Article 48 (interpretation of Part III)—

- (a) in paragraph (1)(b), for “or at a private hospital” substitute “, an independent hospital, an independent clinic or an independent medical agency”;

- (b) in paragraph (6)(c), for “or at a private hospital” substitute “, an independent hospital, an independent clinic or an independent medical agency”;

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(c) in paragraph (7)(c), for “a private hospital” substitute “an independent hospital, independent clinic or independent medical agency”;

(d) for paragraph (11) substitute—

“(11) In this Part the following expressions have the same meaning as in the Health and Personal Social Services (Quality, Improvement and Regulation) (Northern Ireland) Order 2003—

“domiciliary care agency”;

“independent clinic”;

“independent hospital”;

“independent medical agency”.”.