

SCHEDULES

SCHEDULE 1

Article 3(2)

THE NORTHERN IRELAND HEALTH AND PERSONAL SOCIAL SERVICES REGULATION AND IMPROVEMENT AUTHORITY

Status

1. The Regulation and Improvement Authority shall not be regarded as the servant or agent of the Crown or as enjoying any status, immunity or privilege of the Crown; and its property shall not be regarded as property of, or property held on behalf of, the Crown.

General powers

2.—(1) Subject to any directions given by the Department, the Regulation and Improvement Authority may do anything which appears to it to be necessary or expedient for the purpose of, or in connection with, the exercise of its functions.

(2) That includes, in particular—

- (a) co-operating with other public authorities in the United Kingdom;
- (b) acquiring and disposing of land and other property; and
- (c) entering into contracts.

General duty

3. The Regulation and Improvement Authority shall carry out its functions effectively, efficiently and economically.

Membership

4. The Regulation and Improvement Authority shall consist of a chairman and other members appointed by the Department.

Appointment, procedure etc.

5. The Department may by regulations make provision as to—

- (a) the appointment of the chairman and other members (including the number, or limits on the number, of members who may be appointed and any conditions to be fulfilled for appointment);
- (b) the tenure of office of the chairman and other members (including the circumstances in which they cease to hold office or may be removed or suspended from office);
- (c) the appointment of, constitution of and exercise of functions by committees and sub-committees (including committees and sub-committees which consist of or include persons who are not members of the Regulation and Improvement Authority); and

- (d) the procedure of the Regulation and Improvement Authority and any committees or sub-committees (including the validation of proceedings in the event of vacancies or defects in appointment).

Remuneration and allowances

6.—(1) The Regulation and Improvement Authority may pay to its chairman, to any other member of the Authority and to any member of a committee or sub-committee who is not a member of the Authority, such remuneration and allowances as the Department may determine.

(2) If the Department so determines, the Regulation and Improvement Authority shall make provision for the payment of such pension, allowance or gratuities as the Department may determine to or in respect of a person who is or has been the chairman or any other member of the Authority.

(3) If the Department determines that there are special circumstances that make it right for a person ceasing to hold office as chairman of the Regulation and Improvement Authority to receive compensation, the Authority shall pay to him such compensation as the Department may determine.

(4) Any determination of the Department under this paragraph shall be subject to the approval of the Department of Finance and Personnel.

Chief executive

7.—(1) There shall be a chief executive of the Regulation and Improvement Authority who shall be a member of its staff and shall be responsible to it for the general exercise of its functions.

(2) The first chief executive shall be appointed by the Department on such terms and conditions as the Department may determine.

(3) Subject to paragraph 8(3), any chief executive subsequent to the first shall be appointed by the Regulation and Improvement Authority on such terms and conditions as the Authority may determine.

(4) An appointment under sub-paragraph (3) requires the approval of the Department.

Staff

8.—(1) The Regulation and Improvement Authority may appoint such other staff as it considers appropriate.

(2) Subject to sub-paragraph (3), appointments under this paragraph shall be on such terms and conditions as the Regulation and Improvement Authority may determine.

(3) The Department may give directions as to—

- (a) the appointment of staff under this paragraph and paragraph 7(3) (including any conditions to be fulfilled for appointment); and
- (b) the terms and conditions of appointment of staff under the provisions mentioned in head (a).

(4) Different directions may be given under sub-paragraph (3) in relation to different categories of staff.

Delegation of functions

9. The Regulation and Improvement Authority may arrange for the discharge of any of its functions by a committee, sub-committee, member or member of staff of the Authority or any other person.

Arrangements for the use of staff

10. The Department may by regulations provide for arrangements under which—
- (a) members of staff of the Regulation and Improvement Authority are placed at the disposal of a prescribed person for the purpose of discharging, or assisting in the discharge of, prescribed functions of that person; or
 - (b) members of staff of a prescribed person are placed at the disposal of the Regulation and Improvement Authority for the purpose of discharging, or assisting in the discharge of, any functions of the Authority.

Payments to the Regulation and Improvement Authority

11. The Department may make payments to the Regulation and Improvement Authority of such amounts, at such times and on such conditions (if any) as it considers appropriate.

Accounts

- 12.—(1) The Regulation and Improvement Authority shall—
- (a) keep proper accounts and proper records in relation to the accounts; and
 - (b) prepare a statement of accounts in respect of each financial year.
- (2) The statement of accounts shall—
- (a) be in such form; and
 - (b) contain such information,
- as the Department may, with the approval of the Department of Finance and Personnel, direct.
- (3) The Regulation and Improvement Authority shall, within such period after the end of each financial year as the Department may direct, send copies of the statement of accounts relating to that year to—
- (a) the Department; and
 - (b) the Comptroller and Auditor General for Northern Ireland.
- (4) The Comptroller and Auditor General shall—
- (a) examine, certify and report on every statement of accounts sent to him by the Regulation and Improvement Authority under this paragraph; and
 - (b) send a copy of his report to the Department.
- (5) The Department shall lay a copy of the statement of accounts and of the Comptroller and Auditor General's report before the Assembly.
- (6) In this paragraph "financial year" means—
- (a) the period beginning with the date on which the Regulation and Improvement Authority is established and ending with the next 31st March following that date; and
 - (b) each successive period of twelve months ending with 31st March.

Application of seal and evidence

13. The application of the seal of the Regulation and Improvement Authority shall be authenticated by the signature—
- (a) of any member of the Regulation and Improvement Authority; or

- (b) of any other person who has been authorised by the Regulation and Improvement Authority (whether generally or specifically) for that purpose.

14. A document purporting to be duly executed under the seal of the Regulation and Improvement Authority or to be signed on its behalf shall be received in evidence and, unless the contrary is proved, taken to be so executed or signed.

Default powers of Department

15.—(1) The powers conferred by this paragraph are exercisable by the Department if it is satisfied that the Regulation and Improvement Authority—

- (a) has without reasonable excuse failed to discharge any of its functions; or
- (b) in discharging any of its functions, has without reasonable excuse failed to comply with any directions given to it under Article 6(2) in relation to those functions.

(2) The Department may—

- (a) make an order declaring the Council to be in default; and
- (b) direct the Council to discharge such of its functions, and in such manner and within such period or periods, as may be specified in the direction.

(3) If the Regulation and Improvement Authority fails to comply with the Department's direction under sub-paragraph (2), the Department may—

- (a) discharge the functions to which the direction relates itself; or
- (b) make arrangements for any other person to discharge those functions on its behalf.

Transfer of staff to the Regulation and Improvement Authority

16.—(1) The Department may by order make a scheme for the transfer to the Regulation and Improvement Authority of any eligible employee.

(2) The scheme may apply to all eligible employees or to such of them as are specified in the scheme.

(3) The Department shall not make an order under this paragraph unless such requirements as may be prescribed about consultation have been complied with in relation to each of the employees to be transferred under the scheme.

(4) The contract of employment of an employee transferred under the scheme—

- (a) is not terminated by the transfer; and
- (b) has effect from the date of transfer as if originally made between the employee and the Regulation and Improvement Authority.

(5) Where an employee is transferred under the scheme—

- (a) all the rights, powers, duties and liabilities of Boards under or in connection with the contract of employment are by virtue of this sub-paragraph transferred to the Regulation and Improvement Authority on the date of transfer; and
- (b) anything done before that date by or in relation to Boards in respect of that contract or the employee is to be treated from that date as having been done by or in relation to the Regulation and Improvement Authority.

(6) Sub-paragraph (5) does not prejudice the generality of sub-paragraph (4).

(7) This paragraph does not prejudice any right of an employee to terminate his contract of employment if a substantial change is made to his detriment in his working conditions; but no such

right arises by reason only that, by virtue of this paragraph, the identity of his employer changes unless the employee shows that, in all the circumstances, the change is a significant change and is to his detriment.

(8) In this paragraph—

“date of transfer” means the date of transfer determined under the scheme in relation to the employee;

“eligible employee” means a person who is employed under a contract of employment with a Health and Social Services Board on work which would have continued but for the provisions of this Order.

(9) An order under this paragraph shall not be a statutory rule for the purposes of the [Statutory Rules \(Northern Ireland\) Order 1979 \(NI 12\)](#).

Transfer of assets and liabilities to the Regulation and Improvement Authority

17.—(1) The Department may by order transfer or provide for the transfer to the Regulation and Improvement Authority, with effect from such date as may be specified in the order, of such of the assets and liabilities of the Department or of a Health and Social Services Board as, in the Department’s opinion, need to be transferred to the Regulation and Improvement Authority for the purpose of enabling it to carry out its functions.

(2) An order under this paragraph may create or impose such new rights or liabilities in respect of what is transferred or what is retained by the Department or a Health and Social Services Board as appear to the Department to be necessary or expedient.

(3) Nothing in this paragraph affects the power of the Department or any power of a Health and Social Services Board to transfer assets or liabilities to the Regulation and Improvement Authority otherwise than under sub-paragraph (1).

(4) Stamp duty shall not be chargeable in respect of any transfer to the Regulation and Improvement Authority effected by or by virtue of an order under this paragraph.

(5) Where an order under this paragraph provides for the transfer—

(a) of land held on lease from a third party, or

(b) of any other asset leased or hired from a third party or in which a third party has an interest, the transfer shall be binding on the third party notwithstanding that, apart from this sub-paragraph, it would have required his consent or concurrence.

(6) Any assets and liabilities which are to be transferred to the Regulation and Improvement Authority shall be identified by agreement between the Authority and the Department or, in default of agreement, by direction of the Department.

(7) Where, for the purpose of a transfer pursuant to an order under this paragraph, it becomes necessary to apportion any assets or liabilities, the order may contain such provisions as appear to the Department to be appropriate for the purpose; and where any such assets fall within sub-paragraph (5), the order shall contain such provisions as appear to the Department to be appropriate to safeguard the interests of third parties, including, where appropriate, provision for the payment of compensation of an amount to be determined in accordance with the order.

(8) In the case of any transfer made by or pursuant to an order under this paragraph, a certificate issued by the Department that any asset or liability specified in the certificate is vested in the Regulation and Improvement Authority shall be conclusive evidence of that fact for all purposes.

(9) An order under this paragraph may include provision for matters to be settled by arbitration by a person determined in accordance with the order.

(10) In this paragraph “third party” means a person other than the Department or a Health and Social Services Board.

(11) An order under this paragraph shall not be a statutory rule for the purposes of the [Statutory Rules \(Northern Ireland\) Order 1979 \(NI 12\)](#).

SCHEDULE 2

THE CARE TRIBUNAL

Constitution of Care Tribunal

- 1.—(1) There shall be appointed—
- (a) a panel of persons (“the chairmen’s panel”) who may serve as chairmen of the Care Tribunal; and
 - (b) a panel of persons (“the lay panel”) who may serve as the other two members of the Care Tribunal apart from the chairman.
- (2) The Care Tribunal shall consist of—
- (a) a chairman nominated by the First Minister and deputy First Minister acting jointly from the chairmen’s panel; and
 - (b) two other persons nominated by the Department from the lay panel.

Appointment of the panels

- 2.—(1) The members of the chairmen’s panel shall be appointed by the First Minister and deputy First Minister acting jointly.
- (2) No person may be appointed a member of the chairmen’s panel unless he is a barrister or solicitor of at least ten years’ standing.
- (3) The members of the lay panel shall be appointed by the Department.
- (4) No person may be appointed member of the lay panel unless he satisfies such requirements as may be prescribed.

Tenure of office

- 3.—(1) Each member of the chairmen’s panel or lay panel shall hold and vacate office under the terms of the instrument under which he is appointed.
- (2) A member of the chairmen’s panel may resign office by notice in writing to the First Minister and deputy First Minister.
- (3) A member of the chairmen’s panel may be removed from the panel by the First Minister and deputy First Minister acting jointly on the ground of incapacity or misbehaviour.
- (4) A member of the lay panel may resign office by notice in writing to the Department.
- (5) A member of the lay panel may be removed from the panel by the Department on the ground of incapacity or misbehaviour.
- (6) A member of the chairmen’s panel or lay panel is eligible for re-appointment if he ceases to hold office (otherwise than under sub-paragraph (3) or (5)).

Staff and accommodation

4. The Department may, with the consent of the Department of Finance and Personnel, provide such staff and accommodation as the Care Tribunal may require.

Remuneration and expenses

5.—(1) The Department may pay any person, in respect of his service as a member of the Care Tribunal, such remuneration and allowances as the Department may, with the consent of the Department of Finance and Personnel, determine.

(2) The Department may defray the expenses of the Care Tribunal to such amount as the Department may, with the consent of the Department of Finance and Personnel, determine.

Attendance allowances

6. The Department may pay such allowances for the purpose of or in connection with the attendance of persons at the Care Tribunal as the Department may, with the consent of the Department of Finance and Personnel, determine.

Temporary provision

7. Until the commencement of section 5(1) of the Justice (Northern Ireland) Act 2002 (c. 26) references in this Schedule to the First Minister and deputy First Minister or to the First Minister and deputy First Minister acting jointly shall be construed as references to the Lord Chancellor.

SCHEDULE 3

TRANSITIONAL PROVISIONS AND SAVINGS

Fostering agencies

1. The Department may by regulations provide that, if prescribed requirements are satisfied, Article 12 shall apply, during the prescribed period, to a person running a fostering agency who has made an application for registration under Article 13(1) as if that person were unconditionally registered under Part III.

Voluntary adoption agencies

2.—(1) Where a body is, before the commencement of Article 14, registered under Article 4 of the [Adoption \(Northern Ireland\) Order 1987 \(NI 22\)](#) (registration of adoption societies), Part III shall, if prescribed requirements are satisfied, have effect after that commencement as if any person carrying on or managing the body were registered under Part III in respect of it, either—

- (a) unconditionally; or
- (b) subject to such conditions as may be prescribed.

(2) Any application made before the commencement of Article 13 for registration under Article 4 of the [Adoption \(Northern Ireland\) Order 1987](#) shall be treated after that commencement as an application made under Article 13(1) to the Regulation and Improvement Authority for registration under Part III.

(3) The Department may by order subject to negative resolution make such further transitional provision in relation to the repeal by this Order of provisions of the Adoption (Northern Ireland) Order 1987 as it considers appropriate.

Saving for amendments

3. The amendments made by paragraphs 2, 3(3) and (4) and 5 of Schedule 1 to the [Registered Homes \(Northern Ireland\) Order 1992 \(NI 20\)](#) shall continue to have effect notwithstanding the repeal of those paragraphs by this Order, but subject to any further amendments made by this Order.

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

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”;

(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”.”.

SCHEDULE 5

Article 50(2)

REPEALS

Short Title	Extent of repeal
The Nursing Homes and Nursing Agencies Act (Northern Ireland) 1971 (c. 32).	The whole Act.
The Nurses, Midwives and Health Visitors Act 1979 (c. 36).	In Schedule 7 paragraphs 19 to 22.
The Employment (Miscellaneous Provisions) (Northern Ireland) Order 1981 (NI 20).	Article 11(5)(b) and (6).
The Adoption (Northern Ireland) Order 1987 (NI 22).	In Article 2(2) the definition of “registered adoption society”.
	Article 4.
	In Article 5, paragraph (1) and in paragraph (2) the word “concerned”.
	Article 6.
	Article 7.
	Schedule 1.
The Registered Homes (Northern Ireland) Order 1992 (NI 20).	The whole Order.
The Children (Northern Ireland) Order 1995 (NI 2).	In Article 2(2) the definition of “registered children’s home”.
	Article 73(1)(b) and (c) and (2).
	Article 74(2) and (3).
	Articles 79 to 88.

Draft Legislation: This is a draft item of legislation. This draft has since been made as a UK Statutory Instrument: *The Health and Personal Social Services (Quality, Improvement and Regulation) (Northern Ireland) Order 2003 No. 431*

Short Title	Extent of repeal
	Article 89(1)(b) and (c) and (2)(a) to (e) and (g) to (l).
	Article 90(1).
	Article 91(1) to (3).
	Articles 95 to 104.
	Article 105(1)(b) and (c), (2)(a) to (e) and (g) to (k) and (m).
	Article 107(3)(b).
	In Article 152(1)(b) the words “or voluntary home”.
	In Schedule 9 paragraphs 188 to 190.
The Arbitration Act 1996 (c. 23).	In Schedule 3 paragraph 58.
The Nurses, Midwives and Health Visitors Act 1997 (c. 24).	In Schedule 4 paragraph 5.
The Health and Personal Social Services Act (Northern Ireland) 2001 (c. 3).	Section 15(1), (6) and (7). Sections 20 and 21.
The Adoption (Intercountry Aspects) Act (Northern Ireland) 2001 (c. 11).	Section 8.
The Justice (Northern Ireland) Act 2002 (c. 26).	In Schedule 3 paragraphs 26 to 28.
The Protection of Children and Vulnerable Adults (Northern Ireland) Order 2003 (NI 00).	In Article 6(3)(a) the words “and Article 176”.
	In the cross-heading immediately preceding Article 42 the word “Social”.
	Part IV.