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STATUTORY INSTRUMENTS

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**2003 No. 431**

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

PART III

REGULATION OF ESTABLISHMENTS AND AGENCIES

*Preliminary*

**Regulated establishments and agencies: general interpretation**

8.—(1) Any reference to a description of establishment in the following provisions of this Order is a reference to—

- (a) a children's home;
- (b) a day care setting;
- (c) an independent clinic;
- (d) an independent hospital;
- (e) a nursing home;
- (f) a residential care home;
- (g) a residential family centre; or
- (h) such other establishment as may be specified by order under paragraph (3),

and a reference to any establishment is a reference to an establishment of any of those descriptions.

(2) Any reference to a description of agency in the following provisions of this Order is a reference to—

- (a) a domiciliary care agency;
- (b) a fostering agency;
- (c) an independent medical agency;
- (d) a nursing agency; or
- (e) a voluntary adoption agency; or
- (f) such other agency as may be specified by order under paragraph (3),

and a reference to any agency is a reference to an agency of any of those descriptions.

(3) The Department may by order specify establishments for the purposes of paragraph (1) and agencies for the purposes of paragraph (2).

(4) The Department shall not make an order under paragraph (1) or (2) unless a draft of the order has been laid before, and approved by resolution of, the Assembly.

### Children's homes

9.—(1) Paragraphs (2) to (5) have effect for the purposes of this Order.

(2) An establishment is a children's home (subject to paragraphs (3) and (4)) if it provides care and accommodation wholly or mainly for children.

(3) An establishment is not a children's home merely because a child is cared for and accommodated there by a parent or relative of his or by a foster parent.

(4) An establishment is not a children's home if it is—

- (a) a hospital;
- (b) a school;
- (c) a residential care home;
- (d) a nursing home;
- (e) a juvenile justice centre;
- (f) used primarily for the accommodation of homeless persons; or
- (g) used primarily for or in connection with the provision of cultural, recreational, leisure, social or physical activities,

or if it is of a description excepted by regulations.

(5) For the purposes of this Article a person is a foster parent in relation to a child if—

- (a) he is an authority foster parent in relation to the child;
- (b) he is a foster parent with whom a child has been placed by a voluntary organisation under Article 75(1)(a) of the Children Order; or
- (c) he fosters the child privately.

### Residential care homes

10.—(1) For the purposes of this Order, an establishment is a residential care home if it provides or is intended to provide, whether for reward or not, residential accommodation with both board and personal care for persons in need of personal care by reason of—

- (a) old age and infirmity;
- (b) disablement;
- (c) past or present dependence on alcohol or drugs; or
- (d) past or present mental disorder.

(2) But an establishment is not a residential care home if it is—

- (a) a hospital which is vested in the Department or managed by an HSS trust;
- (b) a private hospital as defined in Article 90(2) of the [Mental Health \(Northern Ireland\) Order 1986 \(NI 4\)](#);
- (c) an establishment which is used, or is intended to be used, solely as a nursing home;
- (d) a children's home;
- (e) a university, or an institution of further education, college of education or school;

or if it is of a description excepted by regulations.

(3) In paragraph (1)—

“disablement”, in relation to persons, means that they are substantially and permanently handicapped by illness, congenital deformity, sensory impairment or any other prescribed disability;

“personal care” includes the provision of appropriate assistance in counteracting or alleviating the effects of any of the matters mentioned in paragraph (1)(a) to (d) and, in particular, includes—

- (a) action taken to promote rehabilitation;
- (b) assistance with physical or social needs; and
- (c) counselling,

but does not include any prescribed activity.

### **Nursing homes**

**11.**—(1) For the purposes of this Order “nursing home” means, subject to paragraph (2), any premises used, or intended to be used, for the reception of, and the provision of nursing for, persons suffering from any illness or infirmity.

(2) The definition in paragraph (1) does not include—

- (a) a hospital which is vested in the Department or managed by an HSS trust;
- (b) a private hospital as defined in Article 90(2) of the Mental Health (Northern Ireland) Order 1986;
- (c) a children’s home;
- (d) any sanatorium provided at a school or educational establishment and used, or intended to be used, solely by persons at, or members of staff of, that school or establishment or members of their families;
- (e) any first aid or treatment room provided at premises to which the Factories Act (Northern Ireland) 1965 (c. 20) or the Office and Shop Premises Act (Northern Ireland) 1966 (c. 26) applies or at a sports ground, show ground or place of public entertainment;
- (f) any premises used, or intended to be used, wholly or mainly—
  - (i) by a medical practitioner for the purpose of consultations with his patients;
  - (ii) by a dental practitioner or chiropodist for the purpose of treating his patients; or
  - (iii) for the provision of occupational health facilities;
- (g) any premises used, or intended to be used, wholly or mainly as a private dwelling; or
- (h) any other premises excepted from that definition by regulations.