
STATUTORY INSTRUMENTS

2003 No. 431

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

PART I

INTRODUCTORY

Title and commencement

1.—(1) This Order may be cited as the Health and Personal Social Services (Quality, Improvement and Regulation) (Northern Ireland) Order 2003.

(2) This Part shall come into operation on the expiration of one month from the day on which this Order is made.

(3) The remaining provisions of this Order shall come into operation on such day or days as the Department may by order appoint.

Interpretation

2.—(1) The Interpretation Act (Northern Ireland) 1954 (c. 33) applies to this Order as it applies to an Act of the Assembly.

(2) In this Order —

“authority”, except in Article 42(1), and “authority foster parent” have the same meanings as in the Children Order;

“Care Tribunal” means the tribunal established under Article 44;

“child” means a person under the age of 18;

“the Children Order” means the [Children \(Northern Ireland\) Order 1995 \(NI 2\)](#);

“day care setting” means, subject to paragraph (8), a place where persons in need of prescribed services may attend for the purposes of assessment, rehabilitation or counselling but where they are not provided with board or accommodation;

“the Department” means the Department of Health, Social Services and Public Safety;

“domiciliary care agency” means, subject to paragraph (8), an undertaking which consists of or includes arranging the provision of prescribed services in their own homes for persons who by reason of illness, infirmity, disability or family circumstances are unable to provide any such service for themselves without assistance;

“employment agency” and “employment business” have the same meanings as in Part II of the [Employment \(Miscellaneous Provisions\) \(Northern Ireland\) Order 1981 \(NI 20\)](#); but no business which is an employment business shall be taken to be an employment agency;

“fostering agency” means, subject to paragraph (8),—

- (a) an undertaking (other than an authority) which consists of or includes discharging functions on behalf of an authority in connection with the placing of children with foster parents; or
- (b) a voluntary organisation which places children with foster parents under Article 75(1) of the Children Order;

“homeless persons” shall be construed in accordance with Part II of the [Housing \(Northern Ireland\) Order 1988 \(NI 23\)](#);

“hospital” means, subject to paragraph (8),—

- (a) an establishment—
 - (i) the main purpose of which is to provide medical or psychiatric treatment for illness or mental disorder or palliative care; or
 - (ii) in which (whether or not other services are also provided) any of the listed services are provided;
- (b) any other establishment in which treatment or nursing (or both) is provided for persons liable to be detained under the [Mental Health \(Northern Ireland\) Order 1986 \(NI 4\)](#);

“illness” includes any injury;

“independent clinic” means, subject to paragraph (8), an establishment of a prescribed kind (not being a hospital) in which services are provided by medical practitioners (whether or not any services are also provided for the purposes of the establishment elsewhere), but an establishment in which, or for the purposes of which, services are provided by medical practitioners in pursuance of the [Health and Personal Social Services \(Northern Ireland\) Order 1972 \(NI 14\)](#) is not an independent clinic;

“independent hospital” means, subject to paragraph (8), a hospital which is not vested in the Department or managed by an HSS trust;

“independent medical agency” means, subject to paragraph (8), an undertaking (not being an independent clinic) which consists of or includes the provision of services by medical practitioners, but if any of the services are provided for the purposes of an independent clinic, or by medical practitioners in pursuance of the Health and Personal Social Services (Northern Ireland) Order 1972, it is not an independent medical agency;

“medical” includes surgical;

“mental disorder” has the same meaning as in the [Mental Health \(Northern Ireland\) Order 1986 \(NI 4\)](#);

“nursing agency” means, subject to paragraph (8), an employment agency or employment business, being (in either case) a business which consists of or includes supplying, or providing services for the purpose of supplying, registered nurses, registered midwives or registered health visitors;

“nursing home” has the meaning given by Article 11;

“parent”, in relation to a child, includes any person who is not a parent of his but who has parental responsibility for him;

“parental responsibility” has the same meaning as in the Children Order;

“personal care” has the meaning given by Article 10(3);

“prescribed” means prescribed by regulations;

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

“regulations” means regulations made by the Department;

“relative” has the same meaning as in the Children Order;

“residential care home” shall be construed in accordance with Article 10;

“residential family centre” means, subject to paragraph (8), any establishment at which—

- (a) accommodation is provided for children and their parents;
- (b) the parents' capacity to respond to the children's needs and to safeguard their welfare is monitored or assessed; and
- (c) the parents are given such advice, guidance or counselling as is considered necessary, and in this definition “parent”, in relation to a child, includes any person who is looking after the child;

“school” has the meaning assigned to it by Article 2(2) of the [Education and Libraries \(Northern Ireland\) Order 1986 \(NI 3\)](#);

“service provider” means a person who provides—

- (a) services in accordance with agreements under Article 15C of the [Health and Personal Social Services \(Northern Ireland\) Order 1972 \(NI 14\)](#); or
- (b) Part VI services (within the meaning of that Order);

“treatment” includes diagnosis;

“undertaking” includes any business or profession and—

- (a) in relation to any public body, includes the exercise of any functions of that body; and
- (b) in relation to any other body of persons, whether corporate or unincorporated, includes any of the activities of that body;

“voluntary adoption agency” means a voluntary organisation which is an adoption society within the meaning of the [Adoption \(Northern Ireland\) Order 1987 \(NI 22\)](#);

“voluntary organisation” has the same meaning as in the [Adoption \(Northern Ireland\) Order 1987 \(NI 22\)](#).

(3) Other expressions used in the Health and Personal Social Services (Northern Ireland) Order 1972 and this Order have the same meaning in this Order as in that Order unless specifically defined elsewhere in this Order.

(4) References in this Order to a person liable to be detained under the [Mental Health \(Northern Ireland\) Order 1986 \(NI 4\)](#) do not include a person absent in pursuance of leave granted under Article 15 of that Order.

(5) For the purposes of this Order, the person who carries on—

- (a) a fostering agency falling within paragraph (b) of the definition of “fostering agency” in paragraph (2), or
- (b) a voluntary adoption agency,

is the voluntary organisation itself.

(6) References in this Order to a person who carries on an establishment or agency include references to a person who carries it on otherwise than for profit.

(7) In the definition of “hospital” in paragraph (2) “listed services” means, subject to paragraph (9),—

- (a) a medical treatment under anaesthesia or sedation;
- (b) dental treatment under anaesthesia or sedation;
- (c) obstetric services and, in connection with childbirth, medical services;
- (d) cosmetic surgery;

- (e) use of prescribed techniques or prescribed technology.
- (8) Regulations may except any description of establishment or undertaking from the following definitions in paragraph (2)—
 - (a) “day care setting”;
 - (b) “domiciliary care agency”;
 - (c) “fostering agency”;
 - (d) “hospital”;
 - (e) “independent clinic”;
 - (f) “independent hospital”;
 - (g) “independent medical agency”;
 - (h) “nursing agency”, and
 - (i) “residential family centre”.
- (9) Regulations may modify the definition of “listed services” in paragraph (7).

PART II

NORTHERN IRELAND HEALTH AND PERSONAL SOCIAL SERVICES REGULATION AND IMPROVEMENT AUTHORITY

The Regulation and Improvement Authority

3.—(1) There shall be a body corporate to be known as the Northern Ireland Health and Personal Social Services Regulation and Improvement Authority (in this Order referred to as “the Regulation and Improvement Authority”).

(2) Schedule 1 (which makes further provision relating to the Regulation and Improvement Authority) shall have effect.

General duties in relation to provision of services

- 4.—(1) In this Part “services” means services provided by—
- (a) persons registered under Part III; and
 - (b) Health and Social Services Boards, HSS trusts and special agencies.
- (2) The Regulation and Improvement Authority shall have the general duties of—
- (a) keeping the Department informed about the provision of services and in particular about their availability and their quality; and
 - (b) encouraging improvement in the quality of services.

Advice and information about services

5.—(1) When asked to do so by the Department, the Regulation and Improvement Authority shall give the Department advice, reports or information on such matters relating to the provision of services or the exercise of its functions as may be specified in the Department’s request.

(2) The Regulation and Improvement Authority may at any time give advice to the Department on—

- (a) any changes which the Regulation and Improvement Authority thinks should be made in the standards set out in statements under Article 38;

- (b) any other matter connected with the provision of services.

Regulations and directions

6.—(1) The Department may by regulations make provision—

- (a) as to the times at which, the cases in which, the manner in which, the persons in relation to whom or the matters with respect to which, any functions of the Regulation and Improvement Authority are to be exercised;
- (b) as to the matters to be considered or taken into account in connection with the exercise of any functions of the Regulation and Improvement Authority;
- (c) as to the persons to whom any advice, information or reports are to be given or made;
- (d) as to the publication of reports and summaries of reports;
- (e) as to the recovery from prescribed persons of amounts in respect of the expenditure incurred by the Regulation and Improvement Authority in the exercise of its functions;
- (f) for or in connection with the exercise of functions of the Regulation and Improvement Authority in conjunction with the exercise of functions of other persons;
- (g) conferring additional functions on the Regulation and Improvement Authority.

(2) The Department may give directions to the Regulation and Improvement Authority with respect to the exercise of its functions and the Regulation and Improvement Authority must comply with them.

Annual report

7.—(1) As soon as possible after the end of each financial year, the Regulation and Improvement Authority shall make a report to the Department—

- (a) on the way in which the Regulation and Improvement Authority has exercised its functions during that year; and
- (b) on what it has found in relation to services during that year.

(2) In paragraph (1) “financial year” has the meaning given by paragraph 12(6) of Schedule 1.

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 chiroprapist 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.

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.

*Registration procedure***Notice of proposals**

18.—(1) Paragraphs (2) and (3) apply where a person applies for registration in respect of an establishment or agency.

(2) If the Regulation and Improvement Authority proposes to grant the application subject to any conditions which have not been agreed in writing between it and the applicant, it shall give the applicant written notice of its proposal and of the conditions subject to which it proposes to grant his application.

(3) The Regulation and Improvement Authority shall give the applicant notice of a proposal to refuse the application.

(4) Except where it makes an application under Article 21, the Regulation and Improvement Authority shall give any person registered in respect of an establishment or agency notice of a proposal—

- (a) to cancel the registration (otherwise than in accordance with an application under Article 16(1)(b));
- (b) to vary or remove (otherwise than in accordance with an application under Article 16(1)(a)) any condition for the time being in force in relation to the registration; or
- (c) to impose any additional condition in relation to the registration.

(5) The Regulation and Improvement Authority shall give the applicant notice of a proposal to refuse an application under Article 16(1)(a).

(6) A notice under this Article shall give the Regulation and Improvement Authority's reasons for its proposal.

Right to make representations

19.—(1) A notice under Article 18 shall state that within 28 days of service of the notice any person on whom it is served may make written representations to the Regulation and Improvement Authority concerning any matter which that person wishes to dispute.

(2) Where a notice has been served under Article 18, the Regulation and Improvement Authority shall not determine any matter to which the notice relates until either—

- (a) any person on whom the notice was served has made written representations to it concerning the matter;
- (b) any such person has notified the Regulation and Improvement Authority in writing that he does not intend to make representations; or
- (c) the period during which any such person could have made representations has elapsed.

Notice of decisions

20.—(1) If the Regulation and Improvement Authority decides to grant an application for registration in respect of an establishment or agency unconditionally, or subject only to conditions which have been agreed in writing between it and the applicant, it shall give the applicant written notice of its decision.

(2) A notice under paragraph (1) shall state the agreed conditions.

(3) If the Regulation and Improvement Authority decides to adopt a proposal under Article 18, it shall serve notice in writing of its decision on any person on whom it was required to serve notice of the proposal.

(4) A notice under paragraph (3) shall—

- (a) explain the right of appeal conferred by Article 22;
- (b) in the case of a decision to adopt a proposal under Article 18(2), state the conditions subject to which the application is granted; and
- (c) in the case of a decision to adopt a proposal under Article 18(4)(b) or (c), state the condition as varied, the condition which is removed or (as the case may be) the additional condition imposed.

(5) Subject to paragraph (6), a decision of the Regulation and Improvement Authority to adopt a proposal under Article 18(2) or (4) shall not take effect—

- (a) if no appeal is brought, until the expiration of the period of 28 days referred to in Article 22(2); and

(b) if an appeal is brought, until it is determined or abandoned.

(6) Where, in the case of a decision to adopt a proposal under Article 18(2), the applicant notifies the Regulation and Improvement Authority in writing before the expiration of the period mentioned in paragraph (5)(a) that he does not intend to appeal, the decision shall take effect when the notice is served.

Urgent procedure for cancellation etc.

21.—(1) If—

- (a) the Regulation and Improvement Authority applies to a justice of the peace for an order—
 - (i) cancelling the registration of a person in respect of an establishment or agency;
 - (ii) varying or removing any condition for the time being in force by virtue of this Part; or
 - (iii) imposing an additional condition; and
- (b) it appears to the justice that, unless the order is made, there will be a serious risk to a person's life, health or well-being,

the justice may make the order, and the cancellation, variation, removal or imposition shall have effect from the time when the order is made.

(2) An application under paragraph (1) may, if the justice thinks fit, be made without notice.

(3) As soon as practicable after the making of an application under this Article, the Regulation and Improvement Authority shall notify the Department and the appropriate authority of the making of the application.

(4) An order under paragraph (1) shall be in writing.

(5) Where such an order is made, the Regulation and Improvement Authority shall, as soon as practicable after the making of the order, serve on the person registered in respect of the establishment or agency—

- (a) a copy of the order; and
- (b) notice of the right of appeal conferred by Article 22.

Appeals to the Care Tribunal

22.—(1) An appeal against—

- (a) a decision of the Regulation and Improvement Authority under this Part; or
- (b) an order made by a justice of the peace under Article 21,

shall lie to the Care Tribunal.

(2) No appeal against a decision or order may be brought by a person more than 28 days after service on him of notice of the decision or order.

(3) On an appeal against a decision of the Regulation and Improvement Authority the Tribunal may confirm the decision or direct that it shall not have effect.

(4) On an appeal against an order made by a justice of the peace the Tribunal may confirm the order or direct that it shall cease to have effect.

(5) The Tribunal shall also have power on an appeal against a decision or order—

- (a) to vary any condition for the time being in force in respect of the establishment or agency to which the appeal relates;
- (b) to direct that any such condition shall cease to have effect; or

- (c) to direct that any such condition as it thinks fit shall have effect in respect of the establishment or agency.

Regulations

Regulations relating to establishments and agencies

23.—(1) Regulations may impose in relation to establishments and agencies any requirements which the Department thinks fit for the purposes of this Part and may in particular make any provision such as is mentioned in paragraph (2) or (7).

(2) Regulations may—

- (a) make provision as to the persons who are fit to carry on or manage an establishment or agency;
- (b) make provision as to the persons who are fit to work at an establishment or for the purposes of an agency;
- (c) make provision as to the fitness of premises to be used as an establishment or for the purposes of an agency;
- (d) make provision for securing the welfare of persons accommodated in an establishment or provided with services by an establishment, an independent medical agency or a domiciliary care agency;
- (e) make provision for securing the welfare of children placed, under Article 27(2)(a) of the Children Order, by a fostering agency;
- (f) make provision as to the management and control of the operations of an establishment or agency;
- (g) make provision as to the numbers of persons, or persons of any particular type, working at an establishment or for the purposes of an agency;
- (h) make provision as to the management and training of such persons;
- (i) impose requirements as to the financial position of an establishment or agency;
- (j) make provision requiring the person carrying on an establishment or agency to appoint a manager in prescribed circumstances.

(3) Regulations under paragraph (2)(a) may, in particular, make provision for prohibiting persons from managing an establishment or agency unless they are registered in, or in a particular part of, any register specified in the regulations for the purposes of this paragraph .

(4) Regulations under paragraph (2)(b) may, in particular, make provision for prohibiting persons from working in such positions as may be prescribed at an establishment, or for the purposes of an agency, unless they are registered in, or in a particular part of, any register specified in the regulations for the purposes of this subsection.

(5) Regulations under sub-paragraph (d) of paragraph (2) may, in particular, make provision—

- (a) as to the promotion and protection of the health of persons such as are mentioned in that sub-paragraph;
- (b) as to the control and restraint of adults accommodated in, or provided with services by, an establishment;
- (c) as to the control, restraint and discipline of children accommodated in, or provided with services by, an establishment.

(6) Regulations under sub-paragraph (e) of paragraph (2) may, in particular, make provision—

- (a) as to the promotion and protection of the health of children such as are mentioned in that sub-paragraph;
 - (b) as to the control, restraint and discipline of such children.
- (7) Regulations may make provision as to the conduct of establishments and agencies, and such regulations may in particular—
- (a) make provision as to the facilities and services to be provided in establishments and by agencies;
 - (b) make provision as to the keeping of accounts;
 - (c) make provision as to the keeping of documents and records;
 - (d) make provision as to the notification of incidents occurring in establishments or in premises used for the purposes of agencies;
 - (e) make provision as to the giving of notice by the person carrying on an establishment or agency of periods during which he or (if he does not manage it himself) the manager proposes to be absent from the establishment or agency, and specify the information to be supplied in such a notice;
 - (f) provide for the making of adequate arrangements for the running of an establishment or agency during a period when the manager is absent from it;
 - (g) make provision as to the giving of notice by a person registered in respect of an establishment or agency of any intended change in the identity of the manager or the person carrying it on;
 - (h) make provision as to the giving of notice by a person registered in respect of an establishment or agency which is carried on by a body corporate of changes in the ownership of the body or the identity of its officers;
 - (i) make provision requiring the payment of a fee of such amount as may be prescribed in respect of any notification required to be made by virtue of sub-paragraph (h);
 - (j) make provision requiring arrangements to be made by the person who carries on, or manages, an establishment or agency for dealing with complaints made by or on behalf of those seeking, or receiving, any of the services provided in the establishment or by the agency and requiring that person to take steps for publicising the arrangements;
 - (k) make provision requiring arrangements to be made by the person who carries on, or manages, an independent hospital, independent clinic or independent medical agency for securing that any medical or psychiatric treatment, or listed services, provided in or for the purposes of the establishment or (as the case may be) for the purposes of the agency are of appropriate quality and meet appropriate standards;
 - (l) make provision requiring arrangements to be made by the person who carries on, or manages, a residential care home or nursing home for securing that any nursing provided by the home is of appropriate quality and meets appropriate standards.
- (8) Before making regulations under this Article, except regulations which amend other regulations made under this Article and do not, in the opinion of the Department, effect any substantial change in the provision made by those regulations, the Department shall consult any person it considers appropriate.
- (9) References in this Article to agencies do not include references to voluntary adoption agencies.
- (10) In paragraph (7)(k), “listed services” has the meaning given in Article 2(7).

Offences

Failure to comply with conditions

24. If a person registered in respect of an establishment or agency fails, without reasonable excuse, to comply with any condition for the time being in force by virtue of this Part in respect of the establishment or agency, he shall be guilty of an offence and liable on summary conviction to a fine not exceeding level 5 on the standard scale.

Contravention of regulations

25.—(1) Regulations under this Part may provide that a contravention of any specified provision of the regulations shall be an offence.

(2) A person guilty of an offence under the regulations shall be liable on summary conviction to a fine not exceeding level 4 on the standard scale.

False descriptions of establishments and agencies

26.—(1) A person who, with intent to deceive any person—

(a) applies any name to premises; or

(b) in any way describes such premises or holds such premises out,

so as to indicate, or reasonably be understood to indicate, that the premises are an establishment, or an agency, of a particular description shall be liable on summary conviction to a fine not exceeding level 5 on the standard scale unless registration has been effected under this Part in respect of the premises as an establishment or agency of that description.

(2) References to premises in paragraph (1) shall be taken to include references to an undertaking or organisation.

(3) No person shall, with intent to deceive any person, in any way describe or hold out an establishment or agency as able to provide any service or do any thing the provision or doing of which would contravene a condition in force by virtue of this Part in respect of the establishment or agency.

(4) A person who contravenes paragraph (3) shall be guilty of an offence and liable on summary conviction to a fine not exceeding level 5 on the standard scale.

False statements in applications

27.—(1) Any person who, in an application for registration under this Part or for the variation of any condition in force in relation to his registration, knowingly makes a statement which is false or misleading in a material respect shall be guilty of an offence.

(2) A person guilty of an offence under this Article shall be liable on summary conviction to a fine not exceeding level 4 on the standard scale.

Failure to display certificate of registration

28.—(1) A certificate of registration issued under this Part in respect of any establishment or agency shall be kept affixed in a conspicuous place in the establishment or at the agency.

(2) If default is made in complying with paragraph (1), any person registered in respect of the establishment or agency shall be guilty of an offence and liable on summary conviction to a fine not exceeding level 2 on the standard scale.

Proceedings for offences

29.—(1) Proceedings in respect of an offence under this Part or regulations made under it shall not, without the consent of the Director of Public Prosecutions for Northern Ireland, be taken by any person other than the Regulation and Improvement Authority.

(2) Proceedings for an offence under this Part or regulations made under it may be brought within a period of six months from the date on which evidence sufficient in the opinion of the prosecution to warrant the proceedings came to its knowledge; but no such proceedings shall be brought by virtue of this paragraph more than three years after the commission of the offence.

(3) Until the commencement of section 41(2) of the Justice (Northern Ireland) Act 2002 (c. 26) the reference in paragraph (1) to the Director of Public Prosecutions for Northern Ireland shall be construed as a reference to the Attorney General for Northern Ireland.

Supplementary

Annual returns

30.—(1) Regulations may require the person carrying on an establishment or agency to make an annual return to the Regulation and Improvement Authority.

(2) Provision may be made by the regulations as to the contents of the return and the period in respect of which and date by which it is to be made.

Liquidators etc.

31.—(1) Regulations may—

- (a) require any person to whom this Article applies to give notice of his appointment to the Regulation and Improvement Authority;
- (b) require any person to whom this Article applies to appoint a person to manage the establishment or agency in question.

(2) This Article applies to any person appointed as—

- (a) a receiver or manager of the property of a relevant company;
- (b) the liquidator or provisional liquidator of a relevant company; or
- (c) the trustee in bankruptcy of a relevant individual.

(3) In this Article—

“company” includes a partnership;

“relevant company” means a company which is registered under this Part in respect of an establishment or agency; and

“relevant individual” means an individual who is registered under this Part in respect of an establishment or agency.

Death of registered person

32.—(1) Regulations may—

- (a) provide for the provisions of this Part to apply with prescribed modifications in cases where a person who was the only person registered under this Part in respect of an establishment or agency has died;

- (b) require the personal representatives of a deceased person who was registered in respect of an establishment or agency to notify the Regulation and Improvement Authority of his death.
- (2) Regulations under paragraph (1)(a) may in particular—
 - (a) provide for the establishment or agency to be carried on for a prescribed period by a person who is not registered in respect of it; and
 - (b) include provision for the prescribed period to be extended by such further period as the Regulation and Improvement Authority may allow.

Provision of copies of register

33.—(1) Subject to paragraph (3), the Regulation and Improvement Authority shall secure that copies of any register kept for the purposes of this Part are available at its offices for inspection at all reasonable times by any person.

(2) Subject to paragraphs (3) and (4), any person who asks the Regulation and Improvement Authority for a copy of, or of an extract from, any register kept for the purposes of this Part shall be entitled to have one.

- (3) Regulations may provide that paragraphs (1) and (2) shall not apply—
 - (a) in such circumstances as may be prescribed; or
 - (b) to such parts of a register as may be prescribed.

(4) A fee determined by the Regulation and Improvement Authority shall be payable for the copy except—

- (a) in prescribed circumstances;
- (b) in any other case where the Regulation and Improvement Authority considers it appropriate to provide the copy free of charge.

PART IV

QUALITY OF HEALTH AND PERSONAL SOCIAL SERVICES

Duty of quality

34.—(1) Each Health and Social Services Board and each HSS trust shall put and keep in place arrangements for the purpose of monitoring and improving the quality of—

- (a) the health and personal social services which it provides to individuals; and
- (b) the environment in which it provides them.

(2) The Department may by regulations extend the duty in this Article to any special agency specified in the regulations.

Role of the Regulation and Improvement Authority

35.—(1) The Regulation and Improvement Authority shall have the following functions—

- (a) the function of conducting reviews of, and making reports on, arrangements by statutory bodies for the purpose of monitoring and improving the quality of the health and personal social services for which they have responsibility;

- (b) the function of carrying out investigations into, and making reports on, the management, provision or quality of the health and personal social services for which statutory bodies have responsibility;
 - (c) the function of conducting reviews of, and making reports on, the management, provision or quality of, or access to or availability of, particular types of health and personal social services for which statutory bodies or service providers have responsibility;
 - (d) the function of carrying out inspections of statutory bodies and service providers, and persons who provide or are to provide services for which such bodies or providers have responsibility, and making reports on the inspections; and
 - (e) such functions as may be prescribed relating to the management, provision or quality of, or access to or availability of, services for which prescribed statutory bodies or prescribed service providers have responsibility.
- (2) The inspections referred to in paragraph (1)(d) are to be carried out only in connection with the function referred to in paragraph (1)(c).
- (3) If after carrying out—
- (a) a review under paragraph (1)(a);
 - (b) an investigation under paragraph (1)(b);
 - (c) any function equivalent to one referred to in sub-paragraph (a) or (b) prescribed under paragraph (1)(e); or
 - (d) an inspection under paragraph (1)(d),
- the Regulation and Improvement Authority is of the view referred to in paragraph (4) as to a body, service provider or other person reviewed, investigated or inspected (taking account, if appropriate, of any other relevant information the Authority may have), the Regulation and Improvement Authority must make a report of its view to the Department.
- (4) The view referred to is that—
- (a) the health and personal social services for which the body or service provider in question has responsibility are of unacceptably poor quality (whether generally or in particular areas); or
 - (b) there are significant failings in the way the body, service provider or other person is being run (including, where the service provider or other person is an individual, the way his practice is being run).
- (5) In its report, the Regulation and Improvement Authority may recommend that the Department take special measures in relation to the body or service provider in question with a view to improving the health and personal social services for which it is responsible or the way the body, service provider or other person (or, as mentioned in paragraph (4)(b), his practice), is being run.
- (6) The report must give the Regulation and Improvement Authority's reasons for its view, and for any recommendation under paragraph (5).
- (7) For the purposes of this Article a person has responsibility for health and personal social services—
- (a) if he provides or is to provide those services to individuals; or
 - (b) if another person provides or is to provide those services to individuals—
 - (i) at his direction,
 - (ii) on his behalf, or
 - (iii) in accordance with an agreement or arrangements made by him with that other person.

(8) References in paragraph (7) to the provision of health and personal social services include references to the provision of those services jointly with another person.

(9) In this Article—

“statutory body” means a Health and Social Services Board, an HSS trust or a special agency;

“statutory function” means a function conferred by or under any statutory provision.

PART V

BOARDS AND HSS TRUSTS – ADOPTION, FOSTERING AND CHILDREN UNDER 12

Provision of information

36.—(1) Each Health and Social Services Board and each HSS trust shall give the Regulation and Improvement Authority—

- (a) prescribed information about prescribed matters relating to the Board’s or trust’s Part V functions; and
- (b) any other information which the Regulation and Improvement Authority reasonably requires the Board or trust to give it relating to those functions.

(2) In this Article and Article 37 “Part V functions” means—

- (a) functions as an adoption agency within the meaning of the [Adoption \(Northern Ireland\) Order 1987 \(NI 22\)](#);
- (b) functions relating to children placed with authority foster parents under Article 27(2)(a) of the Children Order;
- (c) functions under Part XI of the Children Order (child minding and day care for young children).

Annual returns

37.—(1) Regulations may require Health and Social Services Boards and HSS trusts to make an annual return to the Regulation and Improvement Authority about their Part V functions.

(2) Provision may be made by the regulations as to the contents of the return and the period in respect of which and date by which it is to be made.

PART VI

MISCELLANEOUS

Statements of minimum standards

38.—(1) The Department may prepare and publish statements of minimum standards.

(2) The Department shall keep the standards set out in the statements under review and may publish amended statements whenever it considers it appropriate to do so.

(3) Before issuing a statement, or an amended statement which in the opinion of the Department effects a substantial change in the standards, the Department shall consult any persons it considers appropriate.

(4) The standards shall be taken into account—

- (a) in the making of any decision by the Regulation and Improvement Authority under Part III;
- (b) in any proceedings for the making of an order under Article 21;
- (c) in any proceedings on an appeal against such a decision or order; and
- (d) in any proceedings for an offence under regulations under Part III.

Improvement notices

39.—(1) The Regulation and Improvement Authority may serve a notice (an “improvement notice”) on a person registered under Part III or on a Health and Social Services Board, HSS trust or special agency if the Authority believes that that person, Board, trust or agency is failing to comply with any statement of minimum standards under Article 38.

- (2) An improvement notice shall specify—
 - (a) in what respect there is a failure to comply with a statement of minimum standards under Article 38; and
 - (b) what improvements the Regulation and Improvement Authority considers necessary.

Power to require information from establishments and agencies and power of entry and inspection

40.—(1) The Regulation and Improvement Authority may at any time require a person who carries on or manages an establishment or agency to provide it with any information relating to the establishment or agency which the Regulation and Improvement Authority considers it necessary or expedient to have for the purposes of its functions.

(2) A person authorised by the Regulation and Improvement Authority may at any time enter and inspect premises which are used, or which he has reasonable cause to believe to be used, as an establishment or for the purposes of an agency.

- (3) A person authorised by virtue of this Article to enter and inspect premises may—
 - (a) make any examination into the state and management of the premises and treatment of patients or persons accommodated or cared for there which he thinks appropriate;
 - (b) inspect and take copies of any documents or records required to be kept in accordance with regulations under Part III, Article 10 of the [Adoption \(Northern Ireland\) Order 1987 \(NI 22\)](#), Article 27(2)(a) or 75(2) of the [Children \(Northern Ireland\) Order 1995 \(NI 2\)](#) or section 1(3) of the [Adoption \(Intercountry Aspects\) Act \(Northern Ireland\) 2001 \(c. 11\)](#);
 - (c) interview in private the manager or the person carrying on the establishment or agency;
 - (d) interview in private any person employed there;
 - (e) interview in private any patient or person accommodated or cared for there who consents to be interviewed.

- (4) The powers under paragraph (3)(b) include—
 - (a) power to require the manager or the person carrying on the establishment or agency to produce any documents or records, wherever kept, for inspection on the premises; and
 - (b) in relation to records which are kept by means of a computer, power to require the records to be produced in a form in which they are legible and can be taken away.

(5) Paragraph (6) applies where the premises in question are used as an establishment and the person so authorised—

- (a) is a medical practitioner or registered nurse; and
- (b) has reasonable cause to believe that a patient or person accommodated or cared for there is not receiving proper care.

(6) The person so authorised may, with the consent of the person mentioned in paragraph (5)(b), examine him in private and inspect any records relating to his care or treatment in the establishment.

The powers conferred by this paragraph may be exercised in relation to a person who is incapable of giving consent without that person's consent.

(7) The Department may by regulations require the Regulation and Improvement Authority to arrange for premises which are used as an establishment or for the purposes of an agency to be inspected on such occasions or at such intervals as may be prescribed.

Power to require information from inspections relating to Boards and HSS trusts, etc. and powers of entry and inspection

41.—(1) The Regulation and Improvement Authority may at any time require a Health and Social Services Board, HSS trust or special agency (in this Article referred to as an “HSS body”) or service provider to provide it with any information which the Regulation and Improvement Authority considers it necessary or expedient to have for the purposes of its functions.

(2) Subject to paragraph (3), a person authorised by the Regulation and Improvement Authority may at any time—

- (a) enter and inspect premises which are used by an HSS body or service provider; and
- (b) inspect and take copies of any documents or records.

(3) If the person is authorised only for the purposes of functions under Article 35(1)(a), (c) or (e) (reviews etc.), he shall enter the premises only—

- (a) after giving reasonable notice to the HSS body or service provider;
- (b) at a reasonable time; and
- (c) if the premises are wholly or partly used as residential accommodation by persons employed by the HSS body or service provider, after obtaining the consent of those persons.

(4) A person authorised by virtue of this Article to enter and inspect premises may—

- (a) make any examination into the state and management of the premises and treatment of patients or persons accommodated or cared for there which he thinks appropriate;
- (b) interview in private any person employed by an HSS body or service provider;
- (c) interview in private any person employed to provide services to an HSS body;
- (d) interview in private any patient or person accommodated or cared for there who consents to be interviewed.

(5) The powers under paragraph (2)(b) include—

- (a) power to require an HSS body or service provider to produce any documents or records, wherever kept, for inspection on the premises; and
- (b) in relation to records which are kept by means of a computer, power to require the records to be produced in a form in which they are legible and can be taken away.

(6) Paragraph (7) applies where a person authorised by the Regulation and Improvement Authority—

- (a) is a medical practitioner or registered nurse; and
- (b) has reasonable cause to believe that a patient or person accommodated or cared for on premises used by an HSS body or service provider is not receiving proper care or treatment.

(7) The person so authorised may, with the consent of the person mentioned in paragraph (6)(b), examine him in private and inspect any records relating to his care or treatment there.

The powers conferred by this paragraph may be exercised in relation to a person who is incapable of giving consent without that person's consent.

(8) The Department may by regulations require the Regulation and Improvement Authority to arrange for premises which are used by an HSS body or service provider to be inspected on such occasions or at such intervals as may be prescribed.

Inspections: provisions supplementary to Articles 40 and 41

42.—(1) A person who proposes to exercise any power of entry or inspection conferred by Article 40 or 41 shall if so required produce some duly authenticated document showing his authority to exercise the power.

(2) Any person who—

- (a) intentionally obstructs the exercise of any power conferred by Article 40 or 41 or this Article; or
- (b) fails without a reasonable excuse to comply with any requirement under Article 40 or 41 or this Article,

shall be guilty of an offence and liable on summary conviction to a fine not exceeding level 4 on the standard scale.

(3) A person authorised by virtue of Article 40 or 41 to enter and inspect any premises may seize and remove any document or other material or thing found there which he has reasonable grounds to believe may be evidence of a failure to comply with any condition or requirement imposed by or under this Order.

(4) A person so authorised—

- (a) may require any person to afford him such facilities and assistance with respect to matters within the person's control as are necessary to enable him to exercise his powers under Article 40 or 41 or this Article;
- (b) may take such measurements and photographs and make such recordings as he considers necessary to enable him to exercise those powers.

(5) A person authorised by virtue of Article 40 or 41 to inspect any records shall be entitled to have access to, and to check the operation of, any computer and any associated apparatus which is or has been in use in connection with the records in question.

(6) The references in Article 40 to the person carrying on the establishment or agency include, in the case of an establishment or agency which is carried on by a company, a reference to any director, manager, secretary or other similar officer of the company.

(7) Where any premises which are used as an establishment or for the purposes of an agency have been inspected under Article 40 the Regulation and Improvement Authority—

- (a) shall prepare a report on the matters inspected; and
- (b) shall without delay send a copy of the report to each person who is registered in respect of the establishment or agency.

Restrictions on disclosure of information under Article 40 or 41

43.—(1) Subject to subsection (2), a person shall not be required under Article 40 or 41 to provide confidential information which relates to and identifies a living individual unless—

- (a) the information is disclosed in a form in which the identity of the individual cannot be ascertained;
- (b) the individual consents to the information being disclosed; or

- (c) the individual cannot be traced despite the taking of all reasonable steps.
- (2) A person may be required to provide confidential information which relates to and identifies a living individual if—
 - (a) it is not practicable to disclose the information in a form in which the identity of the individual cannot be ascertained;
 - (b) the Regulation and Improvement Authority considers that there is a serious risk to the health or safety of any person; and
 - (c) having regard to that risk and the urgency of the exercise of those functions, the Regulation and Improvement Authority considers that the information should be disclosed without the consent of the individual.
- (3) A person shall not be required under Article 40 or 41 to provide information the disclosure of which is prohibited under another statutory provision unless—
 - (a) the prohibition on the disclosure of information operates by reason of the fact that the information is capable of identifying an individual; and
 - (b) the information in question is in a form in which the identity of the individual cannot be ascertained.
- (4) In a case where—
 - (a) the disclosure of information is prohibited under this Article; and
 - (b) the prohibition operates by reason of the fact that the information is capable of identifying an individual,

the Regulation and Improvement Authority or a person authorised by it under Article 40 or 41 may require the person holding the information to put the information in a form in which the identity of the individual concerned cannot be identified, in order that the information may be disclosed.

(5) In this Article “confidential information” means information which is held subject to a duty of confidence, and includes information contained in an accessible record within the meaning of section 68 of the Data Protection Act 1998 (c. 29).

The Care Tribunal

44.—(1) There shall be a tribunal (“the Care Tribunal”) which shall exercise the jurisdiction conferred on it by this Order or any other statutory provision.

(2) The Department may by regulations make provision about the proceedings of the Care Tribunal.

- (3) The regulations may, in particular, include provision—
 - (a) as to the manner in which appeals are to be instituted or applications for determinations are to be made;
 - (b) as to the period within which appeals are to be instituted;
 - (c) as to the circumstances in which applications for leave may be made;
 - (d) for enabling any functions which relate to applications for leave or other matters preliminary or incidental to an appeal or determination to be performed by the chairman;
 - (e) for the holding of hearings in private in prescribed circumstances;
 - (f) for imposing reporting restrictions in prescribed circumstances;
 - (g) as to the persons who may appear on behalf of the parties;
 - (h) for granting any person such discovery or inspection of documents or right to further particulars as might be granted by a county court;

- (i) for obtaining a medical report in a case where the decision appealed against was made on medical grounds;
 - (j) for requiring persons to attend to give evidence and produce documents;
 - (k) for authorising the administration of oaths to witnesses;
 - (l) for the determination of appeals or issues or applications for leave without a hearing in prescribed circumstances;
 - (m) as to the withdrawal of appeals or applications for determinations;
 - (n) for the award of costs;
 - (o) for taxing or otherwise settling any such costs (and, in particular, for enabling such costs to be taxed in the county court);
 - (p) for the recording and proof of decisions and orders of the Care Tribunal;
 - (q) for enabling the Care Tribunal to review its decisions, or revoke or vary its orders, in such circumstances as may be determined in accordance with the regulations; and
 - (r) for notification of the result of an appeal or determination to be given to such persons as may be prescribed.
- (4) Part I of the Arbitration Act 1996 (c. 23) shall not apply to any proceedings before the Care Tribunal but regulations may make provision corresponding to any provision of that Act.
- (5) Any person who without reasonable excuse fails to comply with—
- (a) any requirement imposed by the regulations by virtue of paragraph (3)(f);
 - (b) any requirement in respect of the discovery or inspection of documents imposed by the regulations by virtue of paragraph (3)(h); or
 - (c) any requirement imposed by the regulations by virtue of paragraph (3)(j),
- is liable on summary conviction to a fine not exceeding level 3 on the standard scale.
- (6) An appeal shall lie to the High Court on a point of law from a decision of the Care Tribunal.
- (7) Schedule 2 shall have effect with respect to the Care Tribunal.

Arrangements for provision of accommodation outside Northern Ireland

45. In Article 36 of the [Health and Personal Social Services \(Northern Ireland\) Order 1972 \(NI 14\)](#) (arrangements under Article 15 for provision of accommodation), for paragraphs (1) and (2) there shall be substituted the following paragraphs—

“(1) Subject to paragraph (2), arrangements must not be made under Article 15 for the provision of accommodation together with nursing or personal care for persons such as are mentioned in Article 10(1) of the Health and Personal Social Services (Quality, Improvement and Regulation) (Northern Ireland) Order 2003 (residential care homes) unless—

- (a) the accommodation is to be provided, under the arrangements, in a residential care home or nursing home (within the meaning of that Order); and
- (b) a person carrying on or managing the home is registered in respect of it under that Order.

(2) The Department may by regulations make provision for or in connection with the making of arrangements under Article 15 for the provision of accommodation in Great Britain, the Channel Islands or the Isle of Man.”.

Rules regarding courses for persons who are or wish to become social workers

46. In section 10 of the Health and Personal Social Services Act (Northern Ireland) 2001 (c. 3) (approval of courses in relevant social work), in subsection (3) (rules) for paragraph (a) there shall be substituted the following paragraph—

“(a) about the provision of courses, including their content and methods of completing them;”.

Arrangements for provision of pharmaceutical services by pharmacists

47. In Article 63 of the Health and Personal Social Services (Northern Ireland) Order 1972 (NI 14) (arrangements for pharmaceutical services), in paragraph (1)(bb) (provision of listed drugs and medicines and listed appliances by registered nurse, midwife or health visitor), after the word “by” there shall be inserted the words “a pharmacist or”.

Regulations, orders and directions

48.—(1) Regulations under this Order shall be subject to negative resolution.

(2) Regulations and orders under this Order may contain—

(a) any supplementary, incidental or consequential provision;

(b) any transitory, transitional or saving provision,

which the Department considers necessary or expedient.

(3) Section 17(2) of the Interpretation Act (Northern Ireland) 1954 (c. 33) shall apply to a direction given by the Department under this Order as if the direction were a statutory instrument.

Transitional provisions and savings

49. The transitional provisions and savings set out in Schedule 3 shall have effect.

Amendments and repeals

50.—(1) The statutory provisions set out in Schedule 4 shall have effect subject to the amendments there specified.

(2) The statutory provisions set out in Schedule 5 are hereby repealed to the extent mentioned in the third column of that Schedule.

A. K. Galloway
Clerk of the Privy Council