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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 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).