
DRAFT STATUTORY INSTRUMENTS

2003 No.

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

PART III

REGULATION OF ESTABLISHMENTS AND AGENCIES

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.