STATUTORY RULES OF NORTHERN IRELAND

2017 No. 207

HEALTH AND PERSONAL SOCIAL SERVICES

The Northern Ireland Social Care Council (Social Care Workers Prohibition) and Fitness of Workers (Amendment) Regulations (Northern Ireland) 2017

Made - - - -	*4th October 2017*
Coming into operation	*27th October 2017*

The Department of Health(**1**), in exercise of the powers conferred by sections 8(3) and 57(3) of the Health and Personal Social Services Act (Northern Ireland) 2001(**2**) and Articles 23(1), (2)(a) and (b), (3) and (4), 25(1) and 48(2) of the Health and Personal Social Services (Quality, Improvement and Regulation) (Northern Ireland) Order 2003(**3**), makes the following Regulations.

In accordance with Article 23(8) of the Order, the Department has consulted with such persons as it considers appropriate.

Citation, commencement and interpretation

1.—(1) These Regulations may be cited as the Northern Ireland Social Care Council (Social Care Workers Prohibition) and Fitness of Workers (Amendment) Regulations (Northern Ireland) 2017 and shall come into operation on 27th October 2017.

(2) In these Regulations—

"the principal Regulations" means the Northern Ireland Social Care Council (Social Care Workers Prohibition) and Fitness of Workers Regulations (Northern Ireland) 2013(**4**).

Amendment of the principal Regulations

2. The principal Regulations are amended in accordance with regulations 3 to 13.

3. In regulation 3 (interpretation)—

(a) in the definition of "provider", for "or a domiciliary care agency" substitute "a domiciliary care agency or a residential family centre";

(**1**) Formerly the Department of Health, Social Services and Public Safety; see 2016 c.5 (N.I.), s. 1(5)
(**2**) 2001 c. 3 (N.I.). Section 8 was amended by the Health and Personal Social Services (Amendment) Act (Northern Ireland) 2016 c.23 (N.I.), s. 3, and by the European Qualifications (Health and Social Care Professions) Regulations 2007, S.I. 2007/3101, Part 19
(**3**) S.I. 2003/431 (N.I. 9)
(**4**) S.R. 2013 No. 225

(b) in the definition of "the register", omit "of social care workers"; and

(c) omit the definition of "social care worker".

4. For regulation 4 (registration), substitute—

"**4.**—(1) For the purposes of section 8(3) of the Act, a person, other than—

(a) a social worker who is registered in a relevant part of the register; or

(b) a person who is excepted by regulation 2 of the 2006 Regulations(**5**),

is prohibited from working in any of the positions mentioned in paragraph (2) unless they are registered in a relevant part of the register.

(2) The positions are—

(a) a member of care staff at a children's home;

(b) a member of care staff at a residential care home;

(c) a member of care staff at a nursing home;

(d) a member of care staff in a day care setting;

(e) a member of care staff at a residential family centre;

(f) a person who is supplied by a domiciliary care agency to provide personal care in their own homes for persons who by reason of illness, infirmity or disability are unable to provide it for themselves without assistance;

(g) a manager of a residential care home;

(h) a manager of a day care setting;

(i) a manager of a residential family care centre; or

(j) a manager of a domiciliary care agency.".

5. In regulation 5 (duty on providers)—

(a) in paragraph (1), omit "2003";

(b) in paragraph (2), for "paragraph 3" substitute "paragraph (3)"; and

(c) in paragraph (3), for "paragraph 2" substitute "paragraph (2)".

6. After regulation 6 (registration of the existing work force), add—

"**Registration of persons in employment in positions prescribed at regulation 4(2)(d), (e), (f) and (i)**

6A.—(1) Subject to paragraph (2), where a person is employed in one of the positions mentioned in regulation 4(2)(d), (e), (f) and (i), regulation 5(2) shall not apply to a person required to register in a relevant part of the register until 3 months from the date this paragraph comes into operation.

(2) Paragraph (1) shall not apply to a person who has been removed from the register under rules made pursuant to section 6 of the Act.".

7. The following regulations are revoked—

(a) regulation 6 (registration of the existing workforce); and

(b) regulation 8 (offences).

(**5**) S.R. 2006 No. 394

Consequential Amendments

The Children's Homes Regulations (Northern Ireland) 2005

8.—(1) The Children's Homes Regulations (Northern Ireland) 2005(**6**) shall be amended in accordance with paragraph (2).

(2) In regulation 25(3) (fitness of workers)—

(a) in sub-paragraph (e), at the beginning insert "subject to sub-paragraph (g),";

(b) in sub-paragraph (f), substitute the full stop with a semi colon; and

(c) after sub-paragraph (f) add—

"(g) sub-paragraph (e) does not apply to persons allowed to work as volunteers.".

The Nursing Homes Regulations (Northern Ireland) 2005

9.—(1) The Nursing Homes Regulations (Northern Ireland) 2005(**7**) shall be amended in accordance with paragraph (2).

(2) In regulation 21(5) (fitness of workers)—

(a) in sub-paragraph (e), for "sub-paragraph (f)" substitute "sub-paragraphs (f) and (g)";

(b) in sub-paragraph (f)—

(i) substitute the full stop with a semi colon; and

(ii) after the semi colon insert "and"; and

(c) after sub-paragraph (f) add—

"(g) sub-paragraph (e) does not apply to persons allowed to work as volunteers.".

The Residential Care Homes Regulations (Northern Ireland) 2005

10.—(1) The Residential Care Homes Regulations (Northern Ireland) 2005(**8**) shall be amended in accordance with paragraph (2).

(2) In regulation 21(5) (fitness of workers)—

(a) in sub-paragraph (e), for "sub-paragraph (f)" substitute "sub-paragraphs (f) and (g)";

(b) in sub-paragraph (f)—

(i) substitute the full stop with a semi colon; and

(ii) after the semi colon insert "and"; and

(c) after sub-paragraph (f) add—

"(g) sub-paragraph (e) does not apply to persons allowed to work as volunteers.".

(**6**) S.R. 2005 No. 176, as amended by the Northern Ireland Social Care Council (Social Care Workers Prohibition) and Fitness of Workers Regulations (Northern Ireland) 2013, S.R. 2013 No. 225, regulation 9

(**7**) S.R. 2005 No. 160, as amended by the Northern Ireland Social Care Council (Social Care Workers Prohibition) and Fitness of Workers Regulations (Northern Ireland) 2013, S.R. 2013 No. 225, regulation 10

(**8**) S.R. 2005 No. 161, as amended by the Northern Ireland Social Care Council (Social Care Workers Prohibition) and Fitness of Workers Regulations (Northern Ireland) 2013, S.R. 2013 No. 225, regulations 10 and 11