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STATUTORY INSTRUMENTS

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**1992 No. 3204 (N.I. 20)**

**NORTHERN IRELAND**

**The Registered Homes (Northern Ireland) Order 1992**

*Made - - - - 17th December 1992  
Coming into operation in accordance with Article 1(2)  
and (3)*

At the Court at Buckingham Palace, the 17th day of December 1992

Present,

The Queen's Most Excellent Majesty in Council

Whereas a draft of this Order has been approved by a resolution of each House of Parliament:

Now, therefore, Her Majesty, in exercise of the powers conferred by paragraph 1 of Schedule 1 to the Northern Ireland Act 1974<sup>(1)</sup> and of all other powers enabling Her in that behalf, is pleased, by and with the advice of Her Privy Council, to order, and it is hereby ordered, as follows:

**PART I**

**INTRODUCTORY**

*Title and commencement*

**1.—**(1) This Order may be cited as the Registered Homes (Northern Ireland) Order 1992.

(2) Except as provided by paragraph (3), this Order shall come into operation on such day or days as the Head of the Department may by order appoint.

(3) The following provisions shall come into operation on the expiration of 2 months from the day on which this Order is made, namely—

- (a) paragraph 2(1) and (2) of Schedule 1 and Article 37 so far as relating thereto; and
- (b) in Schedule 2 the entries relating to Article 71(1) and (3) of the Health and Personal Social Services (Northern Ireland) Order 1972<sup>(2)</sup> and to the amendment to Article 71(1) of that Order in Part II of Schedule 5 to the Health and Personal Social Services (Northern Ireland) Order 1991<sup>(3)</sup>, and Article 38 so far as relating thereto.

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(1) 1974 c. 28  
(2) 1972 NI 14  
(3) 1991 NI 1

(4) An order under paragraph (2) may contain such transitional provisions and savings (whether or not involving the modification of any statutory provision) as appear to the Head of the Department necessary or expedient in connection with the provisions brought into operation.

### *Interpretation*

2.—(1) The Interpretation Act (Northern Ireland) 1954<sup>(4)</sup> shall apply to Article 1 and the following provisions of this Order as it applies to a Measure of the Northern Ireland Assembly.

(2) In this Order—

“Board” means a Health and Social Services Board established under Article 16 of the Health and Personal Social Services (Northern Ireland) Order 1972 and references to “the Board”, in relation to a residential care home or nursing home, are references to the Board for the area in which that home is situated;

“the Department” means the Department of Health and Social Services;

“government department” means a department of the Government of the United Kingdom or a Northern Ireland department;

“HSS trust” means a Health and Social Services trust established under the Health and Personal Social Services (Northern Ireland) Order 1991<sup>(5)</sup>;

“maternity home” means any premises used, or intended to be used, for the reception of pregnant women, or of women immediately after childbirth;

“medical practitioner” means a fully registered person within the meaning of the Medical Act 1983<sup>(6)</sup>;

“nursing home” has the meaning given by Article 16;

“personal care” has the meaning given by Article 3(4);

“prescribed” means prescribed by regulations;

“registered”, in relation to nurses or midwives, has the meaning given by section 10(7) of the Nurses, Midwives and Health Visitors Act 1979<sup>(7)</sup>;

“regulations” means regulations made by the Department;

“relative” shall be construed in accordance with paragraphs (3) to (6);

“residential care home” has the meaning given by Article 3;

“small home” has the meaning given by Article 4(5);

“statutory provision” has the meaning given by section 1(f) of the Interpretation Act (Northern Ireland) 1954<sup>(8)</sup>.

(3) Subject to paragraphs (4) to (6), in this Order “relative” means any of the following—

- (a) husband or wife;
- (b) son or daughter;
- (c) father or mother;
- (d) brother or sister;
- (e) grandparent or other ascendant;
- (f) grandchild or other descendant;

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<sup>(4)</sup> 1954 c. 33 (N.I.)

<sup>(5)</sup> 1991 NI 1

<sup>(6)</sup> 1983 c. 54

<sup>(7)</sup> 1979 c. 36

<sup>(8)</sup> 1954 c. 33 (N.I.)

- (g) uncle or aunt;
  - (h) nephew or niece.
- (4) In deducing any relationship for the purposes of paragraph (3)—
- (a) any relationship by affinity shall be treated as a relationship by consanguinity, any relationship of the half-blood as a relationship of the whole blood, and the stepchild of any person as his child; and
  - (b) an illegitimate person shall be treated as the legitimate child of his mother and reputed father.
- (5) In paragraph (3) “husband” and “wife” include a person who is living with a person carrying on or intending to carry on a residential care home or nursing home as that person’s husband or wife, as the case may be, and who has been so living for a period of not less than 6 months.
- (6) A person, other than a relative, with whom a person carrying on or intending to carry on a residential care home or nursing home ordinarily resides, and with whom that person has been ordinarily residing for a period of not less than 5 years, shall be treated for the purposes of this Order as if he were a relative.

## PART II

### RESIDENTIAL CARE HOMES

#### *Meaning of “residential care home”*

**3.—**(1) Subject to paragraph (2), in this Order “residential care home” means any establishment which 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) The definition in paragraph (1) does not include—
- (a) any establishment which is used, or is intended to be used, solely as a nursing home;
  - (b) any hospital which is vested in the Department or managed by an HSS trust;
  - (c) any private hospital, as defined in Article 90(2) of the Mental Health (Northern Ireland) Order 1986<sup>(9)</sup>;
  - (d) any voluntary home or HSS home within the meaning of the Children and Young Persons Act (Northern Ireland) 1968<sup>(10)</sup> or any home or hostel provided under Part VII of that Act;
  - (e) a university, or an institution of further education, college of education or school within the meaning of the Education and Libraries (Northern Ireland) Order 1986<sup>(11)</sup>;
  - (f) any establishment managed or provided by a government department, a Board, an HSS trust or by any other body constituted by a statutory provision or incorporated by Royal Charter;
  - (g) any other establishment excepted from that definition by regulations.

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<sup>(9)</sup> 1986 NI 4

<sup>(10)</sup> 1968 c. 34 (N.I.)

<sup>(11)</sup> 1986 NI 3

(3) In paragraph (1)—

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

“mental disorder” has the meaning given by Article 3 of the Mental Health (Northern Ireland) Order 1986<sup>(12)</sup>.

(4) In this Order “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.

#### *Requirement of registration*

4.—(1) Subject to paragraphs (3) and (4), any person who carries on a residential care home without being registered under this Part in respect of it shall be guilty of an offence and liable on summary conviction to a fine not exceeding level 5 on the standard scale.

(2) Where the manager or intended manager of a residential care home is not in control of it (whether as owner or otherwise) both the manager or intended manager and the person in control are to be treated as carrying on or intending to carry on the home and accordingly as requiring to be registered under this Part.

(3) Where—

- (a) one person only is registered under this Part in respect of a residential care home; and
- (b) that person dies,

his personal representatives or his widow or any other relative of his may for a period not exceeding 4 weeks from his death, or such longer period as the Board may sanction, carry on the home without being registered in respect of it.

(4) Registration under this Part is not required in respect of a small home—

- (a) if the only persons for whom it provides or is intended to provide residential accommodation with both board and personal care are persons carrying on or intending to carry on the home or employed or intended to be employed there or their relatives; or
- (b) in such other cases as may be prescribed.

(5) In this Order a “small home” means an establishment which provides or is intended to provide residential accommodation with both board and personal care for fewer than 4 persons, excluding persons carrying on or intending to carry on the home or employed or intended to be employed there and their relatives.

(6) The references in paragraphs (4) and (5) to the persons for whom residential accommodation is or is intended to be provided relate only to persons who are in need of personal care by reason of any of the matters mentioned in Article 3(1)(a) to (d).

(7) A person who—

- (a) is required to be registered under this Part in respect of a small home; and
- (b) is registered under Part III in respect of the same premises,

may apply to be registered under this Part as if the home were not a small home.

(8) If he does so the provisions of this Part have effect as in relation to a home which is not a small home.

(9) Registration under Part III does not affect any requirement to register under this Part.

*Offence to hold out premises as residential care home unless registered*

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

(a) applies any name to premises; or

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

as to indicate, or reasonably be understood to indicate, that the premises are a residential care home shall be guilty of an offence unless registration has been effected under this Part in respect of the premises.

(2) A person guilty of an offence under paragraph (1) shall be liable on summary conviction to a fine not exceeding level 3 on the standard scale.

*Registration-general*

6.—(1) Each Board shall, for the purposes of this Part, maintain a register of residential care homes in such form and containing such information as may be prescribed.

(2) The register maintained under paragraph (1) shall be available for inspection at all reasonable times and any person inspecting the register shall be entitled to make copies of entries in the register on payment of such reasonable fee as the Board may determine.

(3) An application for registration under this Part shall be made to the Board and shall be accompanied by a registration fee of such amount as may be prescribed.

(4) Subject to Articles 8, 11 and 12, on receipt of an application for registration and of the registration fee the Board shall register the applicant in respect of the home named in the application and issue to him a certificate of registration.

(5) A registration fee shall not be payable in the case of an application of a prescribed description and, in the case of an application for registration in respect of a small home, the Board may waive the whole or part of the registration fee; and in either such case the references in paragraphs (3) and (4) to the registration fee shall be construed as references to such registration fee (if any) as may be payable.

(6) The certificate of registration issued under paragraph (4) in respect of a home other than a small home shall be kept affixed in a conspicuous place in the home.

(7) If default is made in complying with paragraph (6), any person registered in respect of the home shall be guilty of an offence and liable on summary conviction to a fine not exceeding level 2 on the standard scale and to a further fine not exceeding one-tenth of level 2 on the standard scale for each day on which the offence continues after conviction.

(8) The Department may by regulations—

(a) require persons registered in respect of residential care homes to pay an annual fee of such amount as the regulations may specify; and

(b) specify when the fee is to be paid.

(9) In the case of registration in respect of a small home, the Board may waive the whole or part of the annual fee, and in such a case the reference in Article 9(b) to the annual fee shall be construed as a reference to such annual fee (if any) as may be payable.