
STATUTORY INSTRUMENTS

1988 No. 2249 (N.I. 24)

The Health and Medicines (Northern Ireland) Order 1988

- - - - - 21st December 1988

Title and commencement

- 1.—(1) This Order may be cited as the Health and Medicines (Northern Ireland) Order 1988.
- (2) Except as provided by paragraphs (3) and (4), this Order shall come into operation on such day or days as the Head of the Department may by order appoint^{F1}.
- (3) The following provisions shall come into operation on 28th December 1988 namely—
- (a) this Article;
 - (b) Article 2;
 - (c) Article 9;
 - (d) Article 10(3).
- (4) The following provisions shall come into operation on the expiration of 2 months from the day on which this Order is made, namely—
- (a) Article 3;
 - (b) Article 6;
 - (c) Article 10(1) and (2);
 - (d) Article 11;
 - (e) Article 12;
 - (f) Article 13 and the Schedule, except so far as they relate to Article 58 of the principal Order and the Health and Personal Social Services and Public Health (Northern Ireland) Order 1986^{F2}.
- (5) The Department may by regulations make—
- (a) such transitional provision;
 - (b) such consequential provision; and
 - (c) such savings,
- as it considers necessary or expedient in preparation for or in connection with the coming into operation of any provision of this Order or the operation of any statutory provision which is repealed or amended by a provision of this Order during any period when the repeal or amendment is not wholly in force.
- (6) Regulations under paragraph (5)—
- (a) shall be subject to negative resolution; and

(b) may modify any statutory provision (including this Order).

F1	partly exercised by SR 1988/451; 1989/98, 197, 421
F2	1986 NI 24

Interpretation

2.—(1) The Interpretation Act (Northern Ireland) 1954^{F3} 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—

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

“the principal Order” means the Health and Personal Social Services (Northern Ireland) Order 1972^{F4} ;

“statutory provision” has the meaning assigned to it by section 1(f) of the Interpretation Act (Northern Ireland) 1954.

F3	1954 c. 33 (NI)
F4	1972 NI 14

Extension of powers of the Department for financing [^{F5}health care]

3.—(1) In order to make more income available for improving [^{F5}health care], the Department shall have the powers specified in paragraph (2); but nothing in this Article authorises the Department or any body to which it gives directions under paragraph (3) to disregard any statutory provision or rule of law or to override any person's contractual or proprietary rights.

(2) The powers mentioned in paragraph (1) are powers^{F6} (exercisable outside as well as within Northern Ireland)]

- (a) to acquire, produce, manufacture and supply goods;
- (b) to acquire land by agreement and manage and deal with land;
- (c) to supply accommodation to any person;
- (d) to supply services to any person and to provide new services;
- (e) to provide instruction for any person;
- (f) to develop and exploit ideas and exploit intellectual property;
- (g) to do anything whatsoever which appears to the Department to be calculated to facilitate, or to be conducive or incidental to, the exercise of any power conferred by this paragraph; and
- (h) to make such charge as the Department considers appropriate for anything that it does in the exercise of any such power and to calculate any such charge on any basis that it considers to be the appropriate commercial basis.

(3) The Department may give directions (having regard to the existing work of voluntary bodies)

- (a) for the exercise of any of those powers by any body constituted under the principal Order [^{F7}or the 2009 Act][^{F8} or the Health and Personal Social Services (Special Agencies) (Northern Ireland) Order 1990][^{F9} or the Northern Ireland Practice and Education Council for Nursing and Midwifery.]; and

(b) with respect to the manner in which any such body is to exercise any such power; and it shall be the duty of the body in question to comply with the directions.

(4) The directions may provide that any power to which they relate shall be exercisable subject to any limitations specified in the directions.

(5) The directions may be varied or revoked by subsequent directions.

(6) The Department shall exercise the powers specified in paragraph (2)(c) and (d) only if and to the extent that it is satisfied that anything which it proposes to do in the exercise of those powers does not fall within Article 31 of the principal Order.

(7) The Department shall exercise the powers specified in paragraph (2)(f) only after consulting (to the extent that it appears to the Department to be practical) any person who appears to the Department to have an interest through his own previous research in the ideas or intellectual property in question as to whether the Department should exercise those powers and, if so, as to any financial arrangements.

(8) The Department shall exercise the powers specified in paragraph (2) only if and to the extent that the Department is satisfied that anything which it proposes to do—

(a) will not to a significant extent interfere with the performance by the Department of any duty imposed on it by the principal Order; and

(b) will not to a significant extent operate to the disadvantage of persons seeking or afforded admission or access to accommodation or services at hospitals vested in the Department for the purposes of its functions under the principal Order (whether as resident or non-resident patients) otherwise than under Article 31 of the principal Order.

(9) For Articles 31 and 32 of the principal Order there shall be substituted the following Article—

“Accommodation and services for private patients

31.—(1) If the Department is satisfied, in the case of a hospital vested in it, that it is reasonable to do so, it may authorise accommodation and services at the hospital in question to be made available, to such extent as it may determine, for patients who give undertakings (or for whom undertakings are given) to pay, in respect of the accommodation and services made available, such charges as the Department may determine and may make and recover such charges as it may determine in respect of such accommodation and services and calculate them on any basis that it considers to be the appropriate commercial basis; but the Department shall do so only if and to the extent that it is satisfied that to do so—

(a) will not to a significant extent interfere with the performance by it of any duty imposed on it by this Order to provide accommodation or services of any kind; and

(b) will not to a significant extent operate to the disadvantage of persons seeking or afforded admission or access to accommodation or services at hospitals vested in the Department (whether as resident or non-resident patients) otherwise than under this Article.

(2) The Department may allow accommodation and services to which an authorisation under paragraph (1) relates to be made available in connection with treatment, in pursuance of arrangements made by a medical practitioner or dental practitioner serving (whether in an honorary or paid capacity) on the staff of a hospital vested in it for the treatment of private patients of that practitioner.

(3) The Department shall revoke an authorisation under this Article only if and to the extent that it is satisfied that sufficient accommodation and facilities for the private practice of medicine and dentistry are otherwise reasonably available (whether privately or at hospitals vested in it) to meet the reasonable demand for them in the area served by the hospital in question.”.

(10) In Article 33 of the principal Order—

- (a) in paragraph (1) for the words from “who undertake, or in respect of whom an undertaking is given” to the end there shall be substituted the words “ to such extent as it may determine, and may recover such charges as it may determine in respect of such accommodation and calculate them on any basis that it considers to be the appropriate commercial basis. ” ; and
- (b) paragraph (2) shall cease to have effect.

(11) In Article 41 of the principal Order after the words “provision of” in the second and fourth places where they occur there shall be inserted the words “ personal social ” .

(12) Expressions used in this Article and in the principal Order have the same meanings in this Article as in the principal Order.

F5	Words in Order substituted (1.4.2009) by Health and Social Care (Reform) Act (Northern Ireland) 2009 (c. 1) , ss. 32, 34(3), Sch. 6 para. 1(1)(b) (with Sch. 6 para. 1(3)); S.R. 2009/114, art. 2
F6	1991 NI 1
F7	Words in art. 3(3)(a) inserted (1.4.2009) by Health and Social Care (Reform) Act (Northern Ireland) 2009 (c. 1) , ss. 32, 34(3), Sch. 6 para. 11(1) ; S.R. 2009/114, art. 2
F8	1990 NI 3
F9	2002 c. 9 (NI)

Retirement of practitioners

4. ^{F10}

F10	Art. 4 repealed (26.3.2008) by Health (Miscellaneous Provisions) Act (Northern Ireland) 2008 (c. 2) , ss. 13, 17, 18(1)(a)(c), Sch. 2 Pt. 1
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Reduction of pension on re#employment after attaining 65

5. Regulation 69 of the Health and Personal Social Services (Superannuation) Regulations (Northern Ireland) 1984^{F11} (under which further employment as a practitioner between the ages of 65 and 70 years in the case of a person who became entitled to a pension as a practitioner on or after attaining the age of 65 years is to be disregarded for the purpose of determining whether his pension is to be reduced) is hereby revoked.

F11	SR 1984/336
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Dental services for school children

6.—(1) Article 9 of the principal Order shall have effect subject to the amendments specified in paragraphs (2) to (6).

(2) In paragraph (1) the words “and dental” in both places where they occur shall cease to have effect.

(3) After paragraph (1) there shall be inserted the following paragraph—

“(1A) Subject to paragraph (4), the Department shall provide, to such extent as it considers necessary to meet all reasonable requirements—

- (a) for the dental inspection of such persons as are mentioned in paragraph (1);
- (b) for the dental supervision of such persons; and

(c) for the education of such persons in dental health.” .

(4) In paragraph (4) for the words “Paragraphs (1)” there shall be substituted the words “ Paragraphs (1), (1A) ” and at the end there shall be added the words “ and for the education of such persons in dental health ” .

(5) In paragraph (6) for the words from “make provision” to “each person” there shall be substituted the words “ make, by means of a scheme approved by the Department, such provision as is mentioned in paragraph (4), then, in respect of each person for whom any service is provided under such provision, ” .

(6) In paragraph (7) after the words “in attendance at the school” there shall be inserted the words “ and for the education of such persons in dental health ” .

(7) In Article 61 of the Education and Libraries (Northern Ireland) Order 1986^{F12}

(a) in paragraph (1) for the words from “the medical” to the end there shall be substituted the words “ such inspection, supervision and education as is provided for under paragraph (1) or (1A) of Article 9 of the Health and Personal Social Services (Northern Ireland) Order 1972 ” ;

(b) paragraph (2) shall cease to have effect.

F12 1986 NI 3

Charges for dental appliances and treatment

7.—(1) In sub#paragraph (a) of paragraph 1 of Schedule 15 to the principal Order for heads (i) and (ia) there shall be substituted the following heads—

“(i) such charges as may be prescribed in respect of such services (other than services provided as part of the general dental services) provided under this Order as may be prescribed;

(ia) a charge of an amount calculated in accordance with paragraph 1A in respect of any services provided as part of the general dental services, not being—

(a) the repair of appliances other than prescribed appliances; or

(b) the arrest of bleeding;

(iaa) charges of amounts calculated in accordance with paragraph 1A in respect of the supply under this Order of dentures and other dental appliances of prescribed descriptions;” .

(2) In Schedule 15 to the principal Order for paragraph 1A there shall be substituted the following paragraph—

“**1A.**—(1) Subject to the following provisions of this paragraph, regulations made with the approval of the Department of Finance and Personnel may make such provision as to the amount of any charge—

(a) authorised by paragraph 1(a)(ia) for the provision of services; or

(b) authorised by paragraph 1(a)(iaa) for the supply of dentures or other dental appliances,

as appears to the Department to be appropriate.

(2) Without prejudice to the generality of sub#paragraph (1), regulations may provide that any charge which is so authorised in respect of appliances or services supplied or provided under Part VI—

(a) shall be of an amount equal—