STATUTORY INSTRUMENTS

1986 No. 2229 (N.I. 24)

The Health and Personal Social Services and Public Health (Northern Ireland) Order 1986

- - - - - - *16th December 1986*

Introductory

Title and commencement

1.—(1) This Order may be cited as the Health and Personal Social Services and Public Health (Northern Ireland) Order 1986.

(2) Except as provided by paragraph (3), this Order shall come into operation on the expiration of 2 months from the day on which it is made.

(3) Article 10 shall come into operation on such day or days as the Head of the Department of Health and Social Services may by order appoint[F1].

F1 fully exercised SR 1993/74

Interpretation

2.—(1) The Interpretation Act (Northern Ireland) 1954 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 Health and Personal Social Services Order" means the Health and Personal Social Services (Northern Ireland) Order 1972;

"the Public Health Act" means the Public Health Act (Northern Ireland) 1967.

Health and **[**[F2]social care**]**

F2 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)(a)**; S.R. 2009/114, **art. 2**

Dissolution of the Northern Ireland Health and Social Services Council

3. [F3] . . . . . .

F3 Art. 3 repealed (1.4.2009) by Health and Social Care (Reform) Act (Northern Ireland) 2009 (c. 1), ss. 33, 34(3), **Sch. 7**; S.R. 2009/114, **art. 2**

Art. 4 rep. by 1991 NI 1

Art. 5 rep. by 1988 NI 23

Acquisition and disposal of land

6. After Article 48(1) of the Health and Personal Social Services Order (acquisition of land) there shall be inserted—

"(1A) Where the Department proposes to dispose of any land and is of the opinion that it is necessary, in order to facilitate that disposal, to acquire land adjoining that land, then, notwithstanding that the acquisition of that adjoining land is not required for the purposes of any of the health or personal social services, the Department may acquire by agreement that adjoining land." .

Medical practitioners whose registration is suspended

7. In Article 56 of the Health and Personal Social Services Order (arrangements for general medical services)—

(a) at the end of paragraph (2)(g) there shall be added—

"(h) for the making of arrangements for the temporary provision of general medical services;

(i) for the circumstances in which a name added to the list under paragraph (4A) may be removed from it." ;

(b) after paragraph (4) there shall be inserted—

"(4A) The persons with whom arrangements for the temporary provision of general medical services in an area may be made under paragraph (2)(h) include medical practitioners who are not on the list of medical practitioners providing such services in the area and accordingly the provision for the preparation, publication and maintenance of lists of medical practitioners under paragraph (2)(a) and (b) shall include provision for the addition to the list of the names of medical practitioners with whom such arrangements are made.

(4B) Regulations may provide that this Order and any regulations made under it shall apply in relation—

(a) to the making of arrangements for the temporary provision of general medical services; and

(b) to the provision of general medical services in pursuance of any such arrangements, subject to such modifications as may be specified in the regulations.

(4C) Where the registration of a medical practitioner in the register of medical practitioners is suspended—

(a) by direction of the Health Committee of the General Medical Council under section 37(1) of the Medical Act 1983 (unfitness to practise by reason of physical or mental condition);

(b) by an order of that Committee under section 38(1) of that Act (order for immediate suspension); or

(c) by an interim order of the Preliminary Proceedings Committee of the Council under section 42(3)(b) of that Act;

the suspension shall not terminate any arrangements made with him for the provision of general medical services, but he shall not provide such services in person during the suspension." .

Dental practitioners whose registration is suspended

8. After Article 61(2A) of the Health and Personal Social Services Order (arrangements for general dental services) there shall be inserted—

"(2B) Where the registration of a dental practitioner in the dentists register is suspended—

(a) by an order under section 32 of the Dentists Act 1984 (interim suspension); or

(b) by a direction or an order of the Health Committee under that Act (health cases),

the suspension shall not terminate any arrangements made with him for the provision of general dental services, but he shall not provide such services in person during the suspension.

(2C) Regulations under paragraph (2)(e) may provide for the making of payments in consequence of suspension to a dental practitioner whose registration is suspended as mentioned in paragraph (2B)." .

Art. 9 rep. by 1991 NI 1

Recovery of cost of accommodation where persons have disposed of assets

10. After Article 101 of the Health and Personal Social Services Order there shall be inserted—

"**Recovery of cost of accommodation where persons have disposed of assets**

101A.—(1) Subject to the following provisions of this Article, where—

(a) accommodation is provided under Article 15 or 36 for any person; and

(b) that person knowingly and with the intention of avoiding charges for the accommodation—

(i) has transferred any asset to which this Article applies to some other person or persons not more than 6 months before the date on which he begins to reside in such accommodation; or

(ii) transfers any such asset to some other person or persons while residing in the accommodation; and

(c) either—

(i) the consideration for the transfer is less than the value of the asset; or

(ii) there is no consideration for the transfer,

the person or persons to whom the asset is transferred by the person for whom the accommodation is provided shall be liable to pay to the Department the difference between the amount assessed as due to be paid for the accommodation by the person for whom the accommodation is provided and the amount which the Department receive from him for it.

(2) This Article applies to cash and any other asset which falls to be taken into account for the purpose of assessing under Article 99 the ability to pay for the accommodation of the person for whom it is provided.

(3) Paragraph (1) shall have effect in relation to a transfer by a person who leaves accommodation provided under Article 15 or 36 and subsequently resumes residence in such accommodation as if the period of 6 months mentioned in sub-paragraph (b)(i) were a period of 6 months before the date on which he resumed residence in such accommodation.

(4) Where a person has transferred an asset to which this Article applies to more than one person, the liability of each of the persons to whom it is transferred shall be in proportion to the benefit accruing to him from the transfer.

(5) A person's liability under this Article shall not exceed the benefit accruing to him from the transfer.

(6) Subject to paragraph (7), the value of any asset to which this Article applies, other than cash, which has been transferred shall be taken to be the amount of the consideration which would have been realised for it if it had been sold on the open market by a willing seller at the time of the transfer.

(7) For the purpose of calculating the value of an asset under paragraph (6) there shall be deducted from the amount of the consideration—

(a) the amount of any incumbrance on the asset; and

(b) a reasonable amount in respect of the expenses of the sale.”.

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11. [F4] . . . . . .

F4 Art. 11 repealed (1.4.2009) by Health and Social Care (Reform) Act (Northern Ireland) 2009 (c. 1), ss. 33, 34(3), **Sch. 7**; S.R. 2009/114, **art. 2**

Health and Social Services Boards

12. [F5] . . . . . .

F5 Art. 12 repealed (1.4.2009) by Health and Social Care (Reform) Act (Northern Ireland) 2009 (c. 1), ss. 33, 34(3), **Sch. 7**; S.R. 2009/114, **art. 2**

Art. 13 rep. by 1989 NI 7

Art. 14 rep. by 1988 NI 13

Tobacco products

15.—(1) In the Health and Personal Social Services (Northern Ireland) Order 1978—

(a) Article 3(2) (defence for seller of tobacco) shall cease to have effect;

(b) in Article 4(1) (control of automatic machines for sale of tobacco) for “may” where it first occurs there shall be substituted “ shall ”;

(c) in Article 7 (interpretation), in the definition of “tobacco” for “and tobacco substitutes” there shall be substituted “ , tobacco substitutes and any product containing tobacco and intended for oral or nasal use. ”.

(2) Paragraph (1)(a) does not affect any offence alleged to have been committed before the date on which this Article comes into operation and paragraph (1)(b) does not affect the powers of the court on a complaint made before that date.