
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).

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

The Day Care Setting Regulations (Northern Ireland) 2007

11.—(1) The Day Care Setting Regulations (Northern Ireland) 2007⁽⁹⁾ shall be amended in accordance with paragraph (2).

(2) In regulation 21(3) (fitness of workers), after sub-paragraph (d) add—

- “(e) subject to sub-paragraphs (f) and (g), he is registered in the relevant part of the register;
- (f) sub-paragraph (e) does not apply to a person who, in order to perform the duties for which the person is so employed is required by any statutory provision, to be registered with any person or body other than the Northern Ireland Social Care Council and is so registered; and
- (g) sub-paragraph (e) does not apply to persons allowed to work as volunteers.”.

The Domiciliary Care Agencies Regulations (Northern Ireland) 2007

12.—(1) The Domiciliary Care Agencies Regulations (Northern Ireland) 2007⁽¹⁰⁾ shall be amended in accordance with paragraph (2).

(2) In regulation 13 (fitness of domiciliary care workers supplied by an agency)—

- (a) omit the “and” at the end of sub-paragraph (c);
- (b) in sub-paragraph (d) substitute the full stop with a semi colon; and
- (c) after sub-paragraph (d) add—
 - “(e) subject to sub-paragraphs (f) and (g), he is registered in the relevant part of the register;
 - (f) sub-paragraph (e) does not apply to a person who, in order to perform the duties for which the person is so employed is required by any statutory provision, to be registered with any person or body other than the Northern Ireland Social Care Council and is so registered; and
 - (g) sub-paragraph (e) does not apply to persons allowed to work as volunteers.”.

The Residential Family Centres Regulations (Northern Ireland) 2007

13.—(1) The Residential Family Centres Regulations (Northern Ireland) 2007⁽¹¹⁾ shall be amended in accordance with paragraphs (2) to (4).

(2) In regulation 2(1) (interpretation) in the appropriate place insert—

““the register” means the register of social care workers maintained by the Northern Ireland Social Care Council under section 3(1) of the 2001 Act;”;

““the relevant part” means that part of the register referred to in section 3(2) of the 2001 Act which is most relevant to that person, taking into account their current employment;”.

(3) In Regulation 9(2)(b) (fitness of registered manager) after head (ii) add—

- “(iii) subject to head (iv), he is registered in the relevant part of the register;
- (iv) head (iii) does not apply to a person who, in order to perform the duties for which the person is so employed is required by any statutory provision, to be registered with any person or body other than the Northern Ireland Social Care Council and is so registered.”.

(9) S.R. 2007 No. 234, 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 12

(10) S.R. 2007 No. 235, 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 12

(11) S.R. 2007 No. 236

- (4) In Regulation 18(4) (fitness of workers)—
- (a) omit the “and” at the end of sub-paragraph (c);
 - (b) in sub-paragraph (d) substitute the full stop with a semi colon; and
 - (c) after sub-paragraph (d) add—
 - “(e) subject to sub-paragraphs (f) and (g), he is registered in the relevant part of the register;
 - (f) sub-paragraph (e) does not apply to a person who, in order to perform the duties for which the person is so employed is required by any statutory provision, to be registered with any person or body other than the Northern Ireland Social Care Council and is so registered; and
 - (g) sub-paragraph (e) does not apply to persons allowed to work as volunteers.”.

Sealed with the Official Seal of the Department of Health on 4th October 2017



Jackie McIlroy
A senior officer of the
Department of Health

EXPLANATORY NOTE

(This note is not part of the Regulations)

1. These Regulations amend the Northern Ireland Social Care Council (Social Care Workers Prohibition) and Fitness of Workers Regulations (Northern Ireland) 2013 (“the principal Regulations”).

2. Regulation 3 amends regulation 3 of the principal Regulations to make clarifying amendments and in particular amend the definition of “provider” to include residential family centres.

3. Regulation 4 amends regulation 4 of the principal Regulations to include:—

members of care staff in a day care setting;

persons supplied by domiciliary care agencies 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; and

members of care staff and managers of residential family centres

as prescribed positions from which a person is prohibited from working in unless they are registered in the relevant part of the Register maintained by the Northern Ireland Social Care Council under section 3(1)(b) of the Health and Personal Social Services Act (Northern Ireland) 2001.

4. Regulation 5 corrects some typographical errors which exist in regulation 5 of the principal Regulations.

5. Regulation 6 adds new regulation 6A, so as to allow those currently working in the newly prescribed positions, and for a limited period of time only, a grace period to become registered.

6. Regulation 7 revokes regulation 6 of the principle Regulations as it is now expired. Regulation 7 also revokes regulation 8 of the principal Regulations to avoid duplication of offences, as the same offence appears in:—

the Children’s Homes Regulations (Northern Ireland) 2005,

the Nursing Homes Regulations (Northern Ireland) 2005,

the Residential Care Homes Regulations (Northern Ireland) 2005,

the Day Care Setting Regulations (Northern Ireland) 2007,

the Domiciliary Care Agencies Regulations (Northern Ireland) 2007, and

the Residential Family Centres Regulations (Northern Ireland) 2007.

7. It is noted that the offence in the abovementioned pieces of legislation captures both the registered manager and the registered provider of the abovementioned establishments and agencies.

8. Regulation 8 makes consequential amendments to the Children’s Homes Regulations (Northern Ireland) 2005 to ensure that the requirement to register in the relevant part of the register does not apply to persons who are allowed to work as volunteers.

9. Regulation 9 makes consequential amendments to the Nursing Homes Regulations (Northern Ireland) 2005 to ensure that the requirement to register in the relevant part of the register does not apply to persons who are allowed to work as volunteers.

10. Regulation 10 makes consequential amendments to the Residential Care Homes Regulations (Northern Ireland) 2005 to ensure that the requirement to register in the relevant part of the register does not apply to persons who are allowed to work as volunteers.

11. Regulation 11 makes consequential amendments to the Day Care Setting Regulations (Northern Ireland) 2007 to ensure that the requirement to register in the relevant part of the register does not apply to persons who are allowed to work as volunteers.

12. Regulation 12 makes consequential amendments to the Domiciliary Care Agencies Regulations (Northern Ireland) 2007 to ensure that the requirement to register in the relevant part of the register does not apply to persons who are allowed to work as volunteers.

13. Regulation 13 makes consequential amendments to the Residential Family Centres Regulations (Northern Ireland) 2007 to ensure that the requirement to register in the relevant part of the register does not apply to persons who are allowed to work as volunteers.

14. It is considered that in practice persons would not be volunteering in a Managerial position. For this reason the “Fitness of Registered Manager” provisions of the legislation mentioned in regulations 10, 11, 12 and 13 have not been amended to carve out an exemption for registration of volunteers. Managers will always be required to register in the relevant part of the register.