

Adult Protection Bill

[AS INTRODUCED]

LEGISLATIVE COMPETENCE

At Introduction the Minister of Health had made the following statement under section 9 of the Northern Ireland Act 1998:

“In my view the Adult Protection Bill would be within the legislative competence of the Northern Ireland Assembly.”

Adult Protection Bill

[AS INTRODUCED]

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A

BILL

TO

Make provision for the purposes of protecting adults from harm; and for connected purposes.

BE IT ENACTED by being passed by the Northern Ireland Assembly and assented to by His Majesty as follows:

PART 1

PROTECTION OF ADULTS AT RISK OF HARM

Introductory: principles and definitions

Principles for performing functions under this Part

- 5 **1.** An HSC trust or social worker performing functions under this Part in relation to an adult must, if relevant, have regard to—
- (a) the principle that the trust or social worker should intervene, or authorise an intervention, only if satisfied that the intervention—
 - (i) will be in the best interests of the adult, and
 - 10 (ii) is, of the range of options likely to fulfil the object of the intervention, the least restrictive to the adult's freedom,
 - (b) the adult's ascertainable wishes and feelings (past and present),
 - (c) the importance of—
 - (i) the adult participating as fully as possible in the performance of the functions, and
 - 15 (ii) providing the adult with such information and support as is necessary to enable the adult to so participate,
 - (d) the importance of promoting and respecting the dignity of the adult,
 - 20 (e) the importance of ensuring that the adult is as safe as possible and that suspected harm is subject to investigation as quickly as possible, and

(f) the need for accountability and transparency in performing those functions.

“Adult at risk”

- 2.—(1) For the purposes of this Act an adult (“A”) is “an adult at risk” if—
- (a) A is unable to protect A’s own well-being or property;
 - 5 (b) the conduct of another person is causing (or is likely to cause) A to be harmed; and
 - (c) A’s personal circumstances increase A’s exposure to harm.
- (2) A’s personal circumstances include, in particular—
- 10 (a) any illness, infirmity or disability (whether physical or mental) affecting A;
 - (b) A’s living conditions and other socio-economic factors affecting A.
- (3) In this Part “harm” includes all harmful conduct and, in particular, includes—
- (a) conduct which causes physical harm;
 - (b) conduct which causes psychological harm (for example, by causing fear,
 - 15 alarm or distress);
 - (c) unlawful conduct which appropriates or adversely affects property (for example, theft or fraud).
- (4) In this Part “conduct” includes neglect and other failures to act.

Inquiries

20 **Duty to make inquiries**

- 3.—(1) An HSC trust must make inquiries about a person’s well-being or property if the trust has reasonable cause to suspect—
- (a) that the person is an adult at risk, and
 - 25 (b) that the trust might need to intervene (by performing functions under this Part or otherwise) in order to protect the person from harm.
- (2) If, after making inquiries under this section, an HSC trust considers that it needs to intervene as mentioned in subsection (1)(b), the trust must have regard to the importance of the provision of an independent advocate to the adult concerned.

30 **The duty to report and co-operate in inquiries**

- 4.—(1) This section applies to—
- (a) HSC trusts,
 - (b) members of the police force and of any Harbour or Airport Police,
 - (c) the Regional Agency for Public Health and Social Well-being,
 - 35 (d) RQIA,
 - (e) the Probation Board for Northern Ireland,
 - (f) the Northern Ireland Housing Executive,

(g) persons providing primary medical services under Part 6 of the Health and Personal Social Services (Northern Ireland) Order 1972 or in accordance with arrangements made under Article 15B of that Order,

5 (h) independent providers commissioned or contracted to provide health care or social care.

(2) Where a person or body to which this section applies has reasonable cause to suspect—

(a) that a person is an adult at risk, and

10 (b) that action needs to be taken (under this Part or otherwise) in order to protect that person from harm,

the body or person must report the facts and circumstances of the case to the HSC trust in whose operational area the adult ordinarily resides.

15 (3) The persons and bodies to which this section applies must, so far as consistent with the proper exercise of their functions, co-operate with an HSC trust making inquiries under section 3 where such co-operation is likely to enable or assist the trust making those inquiries.

(4) Regulations may amend the list of bodies and persons in subsection (1).

Powers of investigation

Visits by social worker

20 **5.**—(1) A social worker may enter any premises for the purpose of enabling or assisting an HSC trust conducting inquiries under section 3 to decide—

(a) whether the person is an adult at risk, and

25 (b) if it decides that the person is an adult at risk, whether it needs to intervene (by performing functions under this Part or otherwise) in order to protect the person from harm.

(2) Section 18 contains further provisions about visits under this section.

Interviews

6.—(1) A social worker, and any person accompanying the social worker, may interview, in private, any adult found in premises being visited under section 5.

30 (2) An adult interviewed under this section is not required to answer any question (and the adult must be informed of that fact before the interview starts).

(3) The power given by subsection (1) applies regardless of whether a court has granted an assessment order authorising the social worker to take the person to other premises to allow an interview to be conducted.

Medical examinations

7.—(1) Where—

(a) a social worker finds a person in premises being visited under section 5,

(b) the social worker has reasonable cause to believe the person to be an adult at risk, and

(c) the social worker, or any person accompanying the social worker, is a health professional,
that health professional may, in private, conduct a medical examination of the person.

5 (2) A person must be informed of the right to refuse to be examined before a medical examination is carried out (whether under this section or in pursuance of an assessment order).

(3) The power given by subsection (1) applies regardless of whether a court has granted an assessment order authorising the social worker to take the person
10 to other premises to allow a medical examination to be conducted.

Examination of records

8.—(1) Where a social worker has reasonable cause to suspect an individual to be an adult at risk, the social worker may require any person holding health, financial or other records relating to that individual to give the records, or copies
15 of them, to the social worker.

(2) Where the person holding the records is a person other than the individual in question, a requirement under subsection (1) may not be made unless that individual consents.

(3) A requirement under subsection (1)—
20 (a) may be made during a visit or at any other time;
(b) if made at such other time, must be made in writing;
(c) if transmitted by electronic means, is to be treated as being in writing if it is received in legible form and capable of being used for subsequent reference.

25 (4) Where—
(a) an individual refuses to give consent under subsection (2) or lacks capacity to give that consent, or
(b) the person holding records fails to comply with a requirement under subsection (1) within a reasonable time,
30 an HSC trust may apply to a magistrates' court for an order ("a production order") which requires the person holding specified records to give them, or copies of them, to a social worker.

(5) The court may grant a production order only if satisfied—
(a) as to the matters set out in subsection (4)(a) or (b);
35 (b) that the HSC trust has reasonable cause to suspect that the individual in question is an adult at risk who is being, or is likely to be, seriously harmed; and
(c) that the production order is required in order to establish whether that individual is an adult at risk who is being, or is likely to be, seriously
40 harmed.

(6) Subject to subsection (8), records given to a social worker in compliance with a requirement under subsection (1) or a production order may be inspected by—

(a) the social worker, and
(b) any other person whom the social worker, having regard to the content of the records, considers appropriate,
for the purposes set out in subsection (7).

5 (7) Those purposes are to enable or assist the HSC trust to decide—

- (a) whether the person is an adult at risk,
- (b) if it decides that the person is an adult at risk, whether it needs to intervene (by performing functions under this Part or otherwise) in order to protect the person from harm.

10 (8) Nothing in this section authorises a person who is not a health professional to inspect health records (other than to determine whether they are health records).

(9) In this section—

- (a) “health records” are records relating to an individual’s physical or mental health which have been made by or on behalf of a health professional in connection with the care of the individual;
- 15 (b) a reference to consent given by an individual includes a reference to consent given on behalf of the individual by a court or by another person acting within the scope of an authority conferred by law on that person.

Applications for production orders: procedure

20 **9.—**(1) This section applies in relation to an application for a production order.

(2) In this section—

“the affected adult” means the adult to whom the relevant records relate;

“the holder” means the person holding the relevant records (whether the affected adult or another person);

25 “the relevant records” means the records production of which is sought by the application.

(3) The applicant must give notice of an application to—

- (a) the holder of the relevant records, and
- (b) the affected adult (if not the holder of those records).

30 (4) A magistrates’ court must, before determining an application, invite—

- (a) the holder of the relevant records, and
- (b) the affected adult (if not the holder of those records),

to be heard by, or represented before, the court.

35 (5) The affected adult may be accompanied at any hearing conducted in respect of an application by—

- (a) an independent advocate assigned to the adult under section 26;
- (b) a friend, a relative or any other representative chosen by the adult.

(6) The court may appoint a person to safeguard the interests of the affected adult in any proceedings relating to an application.

40 (7) Such an appointment may be made on such terms as the court thinks fit.

(8) A magistrates' court may disapply any of subsections (3) to (7) in relation to an application if satisfied that doing so will protect the affected adult from serious harm or will not prejudice any person affected by the disapplication.

5 (9) Nothing in this section affects the power to make further provision by magistrates' court rules in connection with the procedure and practice to be followed in connection with an application.

Assessment orders

Assessment orders

10 **10.**—(1) An HSC trust may apply to a magistrates' court for an order ("an assessment order") which authorises a social worker to take a specified person from premises being visited under section 5 in order to allow—

- (a) a social worker to interview the specified person in private for the purposes set out in subsection (2),
- 15 (b) a health professional nominated by the trust to conduct, in private, a medical examination of the specified person for those purposes, or
- (c) both an interview under paragraph (a) and a medical examination under paragraph (b) to be conducted for those purposes.

- (2) Those purposes are to enable or assist the HSC trust to decide—
 - (a) whether the person is an adult at risk, and
 - 20 (b) if it decides that the person is an adult at risk, whether it needs to intervene (by performing functions under this Part or otherwise) in order to protect the person from harm.

- (3) The court may grant an assessment order only if satisfied—
 - 25 (a) that the HSC trust has reasonable cause to suspect that the person in respect of whom the order is sought is an adult at risk who is being, or is likely to be, seriously harmed,
 - (b) that the assessment order is required in order to establish whether the person is an adult at risk who is being, or is likely to be, seriously harmed, and
 - 30 (c) as to the availability and suitability of the premises at which the person is to be interviewed and examined.

- (4) A person may be taken from premises in pursuance of an assessment order only if it is not practicable during a visit under section 5 (due to a lack of privacy or otherwise) to—

- 35 (a) interview the person under section 6 (in the case of an assessment order under subsection (1)(a)),
- (b) conduct a medical examination of the person under section 7 (in the case of an assessment order under subsection (1)(b)), or
- 40 (c) both interview the person under section 6 and conduct a medical examination of the person under section 7 (in the case of an assessment order under subsection (1)(c)).

- (5) An assessment order—

- (a) is valid from the date specified in the order, and
(b) expires 7 working days after that date.

Removal orders

Removal orders

- 5 **11.—**(1) An HSC trust may apply to a magistrates’ court for an order (“a removal order”) which authorises—
- (a) a social worker to move a specified person to specified premises within 72 hours of the order being made, and
- (b) the trust to take such reasonable steps as it thinks fit for the purpose of protecting the moved person from harm.
- 10 (2) The court may grant a removal order only if satisfied—
- (a) that the person in respect of whom the order is sought is an adult at risk who is likely to be seriously harmed if not moved to other premises, and
- (b) as to the availability and suitability of the premises to which the adult at risk is to be moved.
- 15 (3) A removal order may require an HSC trust to allow any specified person to have contact with the adult at risk to whom the order relates—
- (a) at any specified time during which the order has effect, and
- (b) in accordance with any specified conditions.
- 20 (4) But the court must, before including such a requirement, have regard to—
- (a) any representations made by the HSC trust as to whether persons should be allowed to have contact with the adult at risk, and
- (b) any relevant representations made by—
- (i) the adult at risk,
- 25 (ii) any person who wishes to be able to have contact with the adult at risk, and
- (iii) any other person who has an interest in the adult at risk’s well-being or property.
- (5) A social worker may enter any premises in order to move an adult at risk from the premises in pursuance of a removal order; and section 18 contains further provisions about visits under this subsection.
- 30 (6) A removal order expires 7 working days (or such shorter period as may be specified in the order) after the day on which the specified person is moved in pursuance of the order.

35 *Banning orders*

Banning orders

- 12.—**(1) A banning order is an order granted by a magistrates' court which bans the subject of the order ("the subject") from being in specified premises.
- (2) A banning order may also—

- (a) ban the subject from being in a specified area in the vicinity of the specified premises;
 - (b) authorise the removal of the subject from the specified premises and the specified area;
 - 5 (c) prohibit the subject from moving any specified thing from the specified premises;
 - (d) direct any specified person to take specified measures to preserve any moveable property owned or controlled by the subject which remains in the specified premises while the order has effect;
 - 10 (e) be made subject to any specified conditions;
 - (f) require or authorise any person to do, or to refrain from doing, anything else which the court thinks necessary for the proper enforcement of the order.
- (3) A condition specified in a banning order may, in particular, authorise the subject to be in the premises or area from which the subject is banned in specified circumstances (for example, while being supervised by another person or during specified times).
- (4) The court must, before including a condition of the type mentioned in subsection (3), have regard to any relevant representations made by—
- 20 (a) the applicant for the order,
 - (b) the adult at risk,
 - (c) any other person who has an interest in the adult at risk's well-being or property, and
 - (d) the subject.
- 25 (5) The court may grant a banning order only if satisfied—
- (a) that an adult at risk is being, or is likely to be, seriously harmed by another person,
 - (b) that the adult at risk's well-being or property would be better safeguarded by banning that other person from premises occupied by the adult than it would be by moving the adult from those premises, and
 - 30 (c) that either—
 - (i) the adult at risk is entitled, or permitted by a third party to occupy, the premises from which the subject is to be banned, or
 - (ii) neither the adult at risk nor the subject is entitled, or permitted by a
- 35 (6) A banning order expires on the earliest of the following dates—
- (a) any specified expiry date;
 - (b) if the banning order is revoked, the date on which it is revoked;
 - (c) the date which falls 6 months after the date on which it is granted.

40 **Temporary banning orders**

13.—(1) A magistrates' court may grant a temporary banning order pending determination of an application for a banning order.

(2) A temporary banning order may include any provision which may be included in a banning order.

(3) Where a temporary banning order is granted, the court must determine the related application for a banning order within the period of 6 months from the date of the application.

(4) A temporary banning order expires on the earliest of the following dates—

(a) the date on which the court determines the related application for a banning order;

(b) the date by which subsection (3) requires the court to determine the related application for a banning order;

(c) if the temporary banning order is revoked, the date on which it is revoked;

(d) any specified expiry date.

Right to apply for banning order

14.—(1) An application for a banning order may be made only by or on behalf of—

(a) an adult whose well-being or property would be safeguarded by the order,

(b) any other person who is entitled to occupy the premises concerned, or

(c) where subsection (2) applies, the HSC trust.

(2) The HSC trust must apply for a banning order if it is satisfied—

(a) as to the matters set out in section 12(5),

(b) that nobody else is likely to apply for a banning order in respect of the circumstances which caused the HSC trust to be satisfied as to those matters, and

(c) that no other proceedings (under this Part or otherwise) to remove or ban the person concerned from the premises concerned are pending before a court.

(3) An applicant for a banning order may also apply for a temporary banning order in respect of the same case.

Variation or revocation of banning order

15.—(1) A magistrates' court may vary or revoke—

(a) a banning order, or

(b) a temporary banning order,

if satisfied that the variation or revocation is justified by a change in the facts or circumstances in respect of which the order was granted or, as the case may be, last varied.

(2) A variation may not vary the date on which the order expires—

(a) in the case of a banning order, beyond the date which is 6 months after the date on which the order was granted;

(b) in the case of a temporary banning order, beyond the date by which section 13(3) requires the court to determine the related application for a banning order.

(3) An order may be so varied or revoked only on an application by or on behalf of—

- (a) the subject of the order;
- (b) the applicant for the order;
- 5 (c) the adult at risk to whom the order relates;
- (d) any other person who has an interest in the adult at risk's well-being or property.

Offence: failure to comply with banning order or temporary banning order

16.—(1) A person who, without reasonable excuse, fails to comply with—

- 10 (a) a banning order, or
- (b) a temporary banning order,

commits an offence.

(2) A person guilty of an offence under this section is liable on summary conviction to a fine not exceeding level 3 on the standard scale.

15 (3) In the Police and Criminal Evidence (Northern Ireland) Order 1989 in Article 19(1)(c) (entry for purposes of arrest for certain offences) at the end add—

“(v) section 16 of the Adult Protection Act (Northern Ireland) 2025;”.

Protection orders and visits: supplementary

Consent of affected adult

20 17.—(1) Except as provided by subsection (2)—

- (a) a magistrates' court must not make a protection order unless the court reasonably believes that the affected adult has given consent to the making of the order;
- (b) a person must not take any action for the purposes of carrying out or
25 enforcing a protection order unless the person reasonably believes that the affected adult has given consent to the action.

(2) Subsection (1) does not apply (and the absence of consent may be ignored) if the court or person reasonably believes—

- 30 (a) that the affected adult lacks capacity to give consent and that it is in the best interests of the adult for the order to be made or the action to be taken; or
- (b) that the affected adult has been unduly pressurised to refuse to give consent and that there are no steps which could reasonably be taken with the adult's consent which would protect the adult from the harm which the
35 order or action is intended to prevent.

(3) In particular, an adult may be considered to have been unduly pressurised to refuse to give consent to the making of an order or the taking of an action if it appears—

(a) that harm which the order or action is intended to prevent is being, or is likely to be, inflicted by a person in whom the adult has confidence and trust, and

5 (b) that the adult would consent if the adult did not have confidence and trust in that person.

(4) Nothing in subsection (2) or any other provision of this Part authorises a social worker, a health professional or any other person to ignore the absence of consent of a person to participate in—

(a) an interview, or

10 (b) a medical examination.

(5) In this section a “protection order” means—

(a) an assessment order,

(b) a removal order,

(c) a banning order or temporary banning order;

15 and “affected adult”, in relation to a protection order, means the person whose well-being or property would be protected by the granting, carrying out or enforcement of the order.

20 (6) A reference in this section to consent given by an adult includes a reference to consent given on behalf of the adult by a court or by another person acting within the scope of an authority conferred by law on that person.

Visits: supplementary

18.—(1) A social worker must, while visiting any premises—

(a) state the object of the visit, and

(b) produce evidence of the social worker’s authorisation to visit the premises.

25 (2) A social worker may, while visiting any premises—

(a) examine the premises,

(b) take into the premises—

(i) any other person, and

(ii) any equipment,

30 as may be reasonably required in order to fulfil the object of the visit.

(c) do anything else (under this Part or otherwise) which is reasonably required in order to fulfil the object of the visit.

(3) A social worker may not use force during, or in order to facilitate, a visit.

Warrants for entry: visits under section 5 or 11(5)

35 **19.**—(1) A magistrates’ court which grants an assessment order must also grant a warrant for entry in relation to a visit under section 5 of premises from which a person may be taken in pursuance of the assessment order.

40 (2) The court may, on the application of the HSC trust, otherwise grant a warrant for entry in relation to a visit under section 5 only if satisfied, by evidence on oath—

- (a) that a social worker has been, or reasonably expects to be, refused entry to, or otherwise unable to enter, the premises concerned, or
 - (b) that any attempt by a social worker to visit the premises without such a warrant would defeat the object of the visit.
- 5 (3) A magistrates' court which grants a removal order must also grant a warrant for entry in relation to a visit under section 11(5).
- (4) A "warrant for entry" is a warrant which authorises—
- (a) a social worker to visit any specified premises under section 5 or 11(5) (as the case may be), and
 - 10 (b) a constable who (at the request of the social worker) accompanies a social worker to do anything, using reasonable force where necessary, which the constable considers to be reasonably required in order to fulfil the object of the visit.
- (5) A warrant for entry—
- 15 (a) expires 72 hours after it is granted, and
 - (b) does not entitle any person to remain in premises which that person has entered in pursuance of the warrant after the warrant has expired.

Applications: procedure

- 20 **20.**—(1) This section applies in relation to any application for—
- (a) an assessment order;
 - (b) a removal order;
 - (c) a banning order or temporary banning order;
 - (d) the variation or revocation of a banning order or temporary banning order.
- 25 (2) A magistrates' court may disapply any of the following provisions in relation to an application if satisfied that doing so will protect the affected adult from serious harm or will not prejudice any person affected by the disapplication—
- (a) subsections (3) to (7);
 - (b) section 11(4) (representations: removal order);
 - (c) section 12(4) (representations: banning order).
- 30 (3) The applicant must give notice of an application to—
- (a) the subject of the application, and
 - (b) the affected adult (where that person is neither the applicant nor the subject of the application).
- (4) A magistrates' court must, before determining an application, invite—
- 35 (a) the subject of the application, and
 - (b) the affected adult (where that person is neither the applicant nor the subject of the application),
- to be heard by, or represented before, the court.
- (5) The affected adult may be accompanied at any hearing conducted in respect of an application by—
- 40 (a) an independent advocate assigned to the adult under section 26;

(b) a friend, a relative or any other representative chosen by the adult.

(6) The court may appoint a person to safeguard the interests of the affected adult in any proceedings relating to an application.

(7) Such an appointment may be made on such terms as the court thinks fit.

5 (8) Nothing in this section affects the power to make further provision by magistrates' court rules in connection with the procedure and practice to be followed in connection with an application.

(9) For the purposes of this section the "affected adult" is—

10 (a) where an application relates to an assessment order or removal order, the subject of the application,

(b) where an application relates to a banning order or a temporary banning order, the person whom that order would protect, or is protecting, from harm.

Supplementary

15 **Legal aid: production orders and protection orders**

21. In Schedule 2 to the Access to Justice (Northern Ireland) Order 2003 in paragraph 2 (proceedings in which representation may be funded) after sub-paragraph (hh) insert—

“(hhh) proceedings for—

20 “(i) an order under section 8, 10 or 11 of the Adult Protection Act (Northern Ireland) 2025;

(ii) an order under section 12 or 13 of that Act or the variation or revocation of such an order;”.

Guidance

25 **22.**—(1) The Department must prepare guidance about the performance of functions under this Part by—

(a) HSC trusts, social workers and other officers of HSC trusts, and

(b) health professionals.

30 (2) The Department must review the guidance from time to time and may, following such a review, revise it.

(3) Before preparing the guidance, and when reviewing it, the Department must consult—

(a) HSC trusts,

35 (b) such health professionals (or persons representing health professionals), as it thinks fit, and

(c) such other persons appearing to the Department to be interested in the guidance as it thinks fit.

(4) The Department must publish the guidance and any revisions to it.

(5) HSC trusts, social workers, other officers of HSC trusts and health professionals performing functions under this Part must, if relevant, have regard to the guidance.

Obstruction

5 **23.**—(1) A person commits an offence if, without reasonable excuse, that person prevents or obstructs any other person from doing anything which the other person is authorised or entitled to do by virtue of—

- (a) an assessment order,
- (b) a removal order,
- 10 (c) a banning order,
- (d) a temporary banning order,
- (e) a warrant for entry, or
- (f) any provision of this Part.

15 (2) A person guilty of an offence under this section is liable, on summary conviction, to a fine not exceeding level 3 on the standard scale or to imprisonment for a term not exceeding 3 months (or to both).

(3) A refusal to allow a social worker, or any person accompanying a social worker, to carry out a visit which is not authorised by a warrant for entry does not constitute an offence under this section.

20 (4) Nothing done by a person whose well-being or property another person is attempting to investigate or protect constitutes an offence under this section.

Offences by bodies corporate, etc.

24.—(1) Where—

- 25 (a) an offence under this Part has been committed by a body corporate or an unincorporated association, and
- (b) it is proved that the offence was committed with the consent or connivance of, or was attributable to any neglect on the part of—
 - (i) a relevant person, or
 - (ii) a person purporting to act in the capacity of a relevant person,
- 30 that person as well as the body corporate or, as the case may be, unincorporated association is guilty of the offence and is liable to be proceeded against and punished accordingly.

(2) In subsection (1) “relevant person” means—

- (a) in relation to a body corporate—
 - 35 (i) a director, manager, secretary or other similar officer of the body,
 - (ii) where the affairs of the body are managed by its members, a member,
- (b) in relation to a partnership, a partner, and
- (c) in relation to an unincorporated association other than a partnership, a person who is concerned in the management or control of the association.

(3) Proceedings in respect of an offence committed by virtue of this section may be brought only by, or with the consent of, the Director of Public Prosecutions for Northern Ireland.

5 (4) Section 20(2) of the Interpretation Act (Northern Ireland) 1954 (offences committed by a body corporate) does not apply to offences under this Part.

Appeals

25.—(1) No appeal lies against any decision of a magistrates' court on an application for—

- (a) a production order;
- 10 (b) an assessment order;
- (c) a removal order; or
- (d) a warrant for entry.

15 (2) An appeal lies to the county court against any decision of a magistrates' court on an application for a banning order or temporary banning order, or for the variation or revocation of such an order; but an appeal under this subsection against a decision relating to a temporary banning order lies only with leave of the magistrates' court.

20 (3) The county court's decision on an appeal under subsection (2) may be appealed to the High Court; but an appeal under this subsection against a decision relating to a temporary banning order lies only with leave of the county court.

(4) Where the county court decides to quash a banning order or temporary banning order, the court may order that the banning order or temporary banning order concerned is (despite the county court's decision) to continue to have effect until—

- 25 (a) the end of the period during which the decision to quash the order may be appealed to the High Court (if no such appeal is made),
- (b) where such an appeal is made, the day on which—
 - (i) the appeal is abandoned, or
 - (ii) the High Court confirms the county court's decision to quash the
- 30 (c) any other day on which—
 - (i) the order otherwise expires by virtue of section 12(6) or 13(4), or
 - (ii) in the case of a temporary banning order, the county court refuses leave to appeal against the decision to quash the order.

Independent advocates

26.—(1) Each HSC trust must make arrangements to secure that an independent advocate is available to be assigned to represent and provide support to an adult in relation to the exercise, or proposed exercise, by the trust of any functions under this Part in relation to the adult.

40 (2) Arrangements under subsection (1) may include provision for payments to be made to, or in relation to, persons carrying out functions by virtue of the arrangements.

(3) In this Part “independent advocate” means a person who has been assigned to act as such in accordance with arrangements under this section.

(4) Regulations may make provision about—

5 (a) the arrangements that may be entered into by HSC trusts for the purposes of this section;

(b) the assignment and functions of independent advocates.

(5) The regulations may in particular—

(a) provide that a person may be assigned as an independent advocate only if the person meets prescribed conditions;

10 (b) provide for the assignment of a person to be subject to prescribed conditions.

(6) The conditions that may be prescribed under subsection (5)(a) include—

(a) a condition that the person is approved, or belongs to a description of persons approved, in accordance with the regulations;

15 (b) a condition that the person has prescribed qualifications or skills or has undertaken prescribed training.

Exercise of functions of social worker, health professional and HSC trust

20 **27.**—(1) Except as provided by subsection (2), in this Part references to a social worker are to a social worker appointed by an HSC trust under this section (to be known as “an adult protection social worker”).

(2) In the following provisions reference to a social worker includes reference to any social worker appointed by an HSC trust (whether or not an adult protection social worker)—

(a) section 1 (principles);

25 (b) section 5 (visits);

(c) section 6 (interviews);

(d) section 18 (visits: supplementary) insofar as it applies to visits under section 5;

(e) section 22 (guidance);

30 (f) subsection (6) (exercise of functions);

(g) section 23(3) (obstruction) insofar as it applies to visits under section 5;

(h) section 29(2) (interpretation) insofar as it applies to visits under section 5.

35 (3) An HSC trust must appoint a sufficient number of adult protection social workers for the purpose of performing the functions conferred on such social workers by or under this Part.

(4) An HSC trust may appoint a person under this section only if the person is determined by the trust to have appropriate competence in dealing with adults at risk; and in determining whether a person has such competence, an HSC trust must have regard to such matters as the Department may direct.

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(5) For the purposes of this Part, a person is a “health professional” if the person is—

- (a) a fully registered person within the meaning of the Medical Act 1983;
- (b) an individual registered in the register maintained under article 5 of the Nursing and Midwifery Order 2001 by virtue of qualifications in nursing;
- 5 (c) an individual registered in the register maintained under article 5 of the Nursing and Midwifery Order 2001 by virtue of qualifications in midwifery;
- (d) any other type of individual prescribed for the purposes of this section (by reference to skills, qualifications, experience or otherwise).
- (6) The functions of an HSC trust, or a social worker employed by an HSC trust, under this Part in relation to a person believed or suspected to be an adult at risk, are exercisable in relation to persons whose ordinary residence is in the operational area of the trust.
- 10 (7) In Article 10A(1) of the Health and Personal Social Services (Northern Ireland) Order 1991 (definition of “social care and children functions”) at the end add—
- 15 “(k) functions under Part 1 of the Adult Protection Act (Northern Ireland) 2025.”.

Involvement by HSC trust of relevant persons

- 20 **28.**—(1) In exercising its functions under this Part in relation to an adult an HSC trust must, to such extent as it considers reasonably practicable and appropriate—
- (a) establish the views of relevant persons,
- (b) have regard to those views, and
- (c) keep relevant persons informed as to the exercise by the trust of those functions.
- 25 (2) In this section “relevant persons”, in relation to an adult, means—
- (a) the adult’s nearest relatives,
- (b) any carer of the adult, and
- (c) any other person who has an interest in the adult’s well-being or property.

Interpretation of this Part

- 30 **29.**—(1) In this Part—
- “assessment order” has the meaning given by section 10(1);
- “banning order” has the meaning given by section 12(1);
- “conduct” has the meaning given by section 2(4);
- “harm” has the meaning given by section 2(3);
- 35 “health professional” has the meaning given by section 27(5);
- “independent advocate” has the meaning given by section 26(3);
- “operational area”, in relation to an HSC trust, means the area prescribed under paragraph 3A of Schedule 3 to the Health and Personal Social Services (Northern Ireland) Order 1991;

“premises” includes any place and, in particular, includes any vehicle or vessel and any moveable structure;

“property” includes property, rights and interests of any kind;

“production order” has the meaning given by section 8(4);

5 “removal order” has the meaning given by section 11(1);

“social worker” has the meaning given by section 27(1) and (2);

“specified”, in relation to any order or warrant, means specified in the order or warrant;

“temporary banning order” has the meaning given by section 13;

10 “warrant for entry” has the meaning given by section 19(4);

“working day” means a day other than Saturday, Sunday or a public holiday.

(2) References in this Part to a social worker visiting any premises are to be read as references to a social worker exercising a right of entry conferred by section 5 or 11(5) (including any such right which is authorised by a warrant for entry).

PART 2

THE ADULT PROTECTION BOARD FOR NORTHERN IRELAND

Establishment of the Board

20 **30.**—(1) The Department must establish in accordance with this section a Board to be known as the Adult Protection Board for Northern Ireland (in this Part referred to as “the Board”).

(2) The Board must include—

- (a) a Chair appointed by the Department,
- 25 (b) such representative or representatives of the persons or bodies specified in subsection (3) as may be prescribed, and
- (c) at least 2 but not more than 4 other persons (who are not representatives of the persons or bodies specified in subsection (3) or of any other person or body exercising functions or engaged in activities relating to the protection of adults at risk) appointed by the Department.
- 30 (3) The persons or bodies referred to in subsection (2) are—
 - (a) the Regional Agency for Public Health and Social Well-being;
 - (b) the Northern Ireland Social Care Council;
 - (c) the Patient and Client Council;
 - (d) HSC trusts;
 - 35 (e) the Chief Constable;
 - (f) such other persons exercising functions or engaged in activities relating to the protection of adults at risk as may be prescribed.

(4) The persons who may be prescribed under subsection (2)(b) include any individual employed in a role the normal duties of which consist wholly or mainly

of the direction or oversight of the exercise of the functions of the Department that relate to or are exercised in connection with the social care of adults (and for that purpose the employer of such an individual may be prescribed under subsection (3)(f)).

5 (5) Subject to the approval of the Department, the Board may also include representatives of such other persons or bodies exercising functions or engaged in activities relating to the protection of adults at risk as the members of the Board consider should be represented on it.

(6) Regulations may make provision as to—

10 (a) the appointment, tenure and vacation of office of a Chair and members of the Board (including the circumstances in which they cease to hold office or may be removed or suspended from office);

(b) the procedure of the Board;

15 (c) the staff, premises and expenses of the Board (including provision as to which person or body provides the staff and premises and meets the expenses).

(7) The Department may pay the Chair and the members of the Board referred to in subsection (2)(c) such remuneration and allowances as the Department may, with the approval of the Department of Finance, determine.

20 (8) Proceedings of the Board are not invalidated by any vacancy in membership or by any defect in a member's appointment or qualifications.

Objective of the Board

25 **31.**—(1) The objective of the Board is to co-ordinate and ensure the effectiveness of what is done by each person or body represented on the Board (by virtue of section 30(2)(b) and (5)) for the purposes of protecting adults at risk.

(2) Regulations may amend the objective specified in subsection (1) (whether by adding to, removal of or substitution of any part of that objective) for the purposes of protecting adults at risk.

Functions of the Board

30 **32.**—(1) The Board must, in respect of each financial year, develop and publish a strategic plan for the protection of adults at risk.

(2) The Board must—

(a) develop practices and procedures for protecting adults at risk, and

(b) promote an awareness of the need to protect adults at risk.

35 (3) The Board must—

(a) monitor, review and hold to account the exercise by bodies and persons represented on the Board (by virtue of section 30(2)(b) and (5)) of their functions relating to the protection of adults at risk;

40 (b) keep the practices and procedures of such bodies and persons in relation to the protection of adults at risk under review with a view to encouraging best practice, the standardisation of procedures and co-operation;

(c) make arrangements for training and advice to be provided to members of the staff of such bodies and persons whose work may be relevant to the protection of adults at risk.

5 (4) The Board must advise and support the Department in the exercise of the Department's functions relating to the protection of adults at risk.

(5) The Board must undertake such serious case reviews as may be prescribed in such circumstances as may be prescribed.

10 (6) The Board must make arrangements for consultation and engagement with persons or bodies (other than those represented on the Board) with an interest in the protection of adults at risk.

(7) The Board may—

(a) compile and analyse information concerning the protection of adults at risk;

15 (b) provide advice or information on any matter concerning the protection of adults at risk;

(c) subject to consultation with the Department, publish any matter concerning the protection of adults at risk.

(8) The Board may also engage in any other activity that facilitates, or is conducive to, the achievement of its objective.

20 **Directions to the Board**

33.—(1) The Department may give directions of a general or specific nature to the Board as to the exercise by the Board of any of its functions.

(2) Before giving any directions to the Board, the Department must consult the Board.

25 (3) Where the Department is of the opinion that because of the urgency of the matter it is necessary to give directions without consulting the Board—

(a) subsection (2) does not apply, but

(b) the Department must as soon as reasonably practicable give notice to the Board of the grounds on which the Department formed that opinion.

30 (4) The Board must comply with any directions given to it under subsection (1).

(5) Any directions given to the Board by the Department under subsection (1) may be varied or revoked by any subsequent directions so given.

Annual report

35 **34.**—(1) The Board must, within such period after the end of each financial year as the Department may direct, prepare and send to the Department a report in such form, and containing such information, as may be prescribed.

(2) The report must include details on the implementation of the strategic plan including an assessment of the effect of the strategic plan and information on the activities carried out in pursuance of the strategic plan.

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(3) The Department must lay a copy of the report before the Assembly.

- (4) In this Part “financial year”, in relation to the Board, means—
- (a) the period beginning with the day on which the Board is established and ending on the next following 31st March; and
 - (b) each subsequent period of 12 months ending on 31st March.

5 **Committees and sub-committees of the Board**

35.—(1) The Board may establish one or more committees in accordance with this section.

(2) The Board or a committee may establish one or more sub-committees in accordance with this section.

10 (3) Regulations may make provision as to—

- (a) the appointment, tenure and vacation of office of Chairs and members of committees and sub-committees (including the circumstances in which they cease to hold office or may be removed or suspended from office),
- (b) the procedure of committees and sub-committees,
- 15 (c) the functions of committees and sub-committees, and
- (d) the staff, premises and expenses of committees and sub-committees (including provision as to which person or body provides the staff and premises or meets the expenses).

20 (4) Regulations may provide that committees and sub-committees must include such representatives of such persons or bodies as may be prescribed or such other persons as may be prescribed.

(5) The Department may pay the Chairs of committees and sub-committees such remuneration and allowances as the Department may, with the approval of the Department of Finance, determine.

25 (6) Members of—

- (a) committees may be persons who are not members of the Board;
- (b) sub-committees may be persons who are not members of the Board or of a committee which established the sub-committee.

30 (7) Proceedings of committees or of sub-committees are not invalidated by any vacancy in membership or by any defect in a member’s qualifications or appointment.

35 (8) Regulations may make provision as to the exercise by committees or sub-committees of any of their functions (including provision as to further duties to be imposed, procedures to be followed and the manner in which a committee or sub-committee is to exercise its functions).

(9) Each committee or sub-committee must, in exercising its functions, have due regard to any guidance given to it for the purpose by the Department or the Board.

40 (10) Each committee must, within such period after the end of each financial year as the Board may direct, prepare and send to the Board a report in such form, and containing such information, as may be prescribed.

Supply of information requested by Board

36.—(1) If the Board requests a person or body to supply information specified in the request to—

(a) the Board or a committee or sub-committee of the Board, or

5 (b) another person or body specified in the request,

the request must be complied with as soon as reasonably practicable after receipt of the request if the first and second conditions are met and either the third or the fourth condition is met.

10 (2) The first condition is that the request is made for the purpose of enabling or assisting the Board or a committee or sub-committee to exercise its functions.

(3) The second condition is that the request is made to a person or body whose functions or activities are considered by the Board to be such that the person or body is likely to have information relevant to the exercise of a function by the Board or a committee or sub-committee.

15 (4) The third condition is that the information relates to—

(a) the person or body to whom the request is made,

(b) a function or activity of that person or body, or

(c) a person in respect of whom a function is exercisable, or an activity is engaged in, by that person or body.

20 (5) The fourth condition is that the information—

(a) is information requested by the Board from a person or body to whom information was supplied in compliance with another request under this section, and

(b) is the same as, or is derived from, information so supplied.

25 (6) The information may be used by the Board or a committee or sub-committee, or other person or body to whom it is supplied under subsection (1), only for the purpose of enabling or assisting the Board or a committee or sub-committee to exercise its functions.

30 (7) The disclosure of information to the Board or a committee or sub-committee in pursuance of this section does not breach any restriction on the disclosure of information (however imposed); but this subsection does not authorise a disclosure of information which contravenes the data protection legislation (within the meaning of section 3 of the Data Protection Act 2018).

Consequential amendments

35 **37.**—(1) In Part 3 of Schedule 1 to the Northern Ireland Assembly Disqualification Act 1975 (offices disqualifying for membership of the Assembly), insert at the appropriate place—

“Chair of the Adult Protection Board for Northern Ireland.”.

40 (2) In Part 7 of Schedule 1 to the Freedom of Information Act 2000 (offices and bodies which are public authorities for the purposes of the Act), insert at the appropriate place—

“The Adult Protection Board for Northern Ireland”.

(3) In Schedule 3 to the Public Services Ombudsman Act (Northern Ireland) 2016 (authorities subject to investigation) insert at the appropriate place under the heading “*Health and Social Care*”—

“The Adult Protection Board for Northern Ireland”.

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PART 3

OFFENCES INVOLVING ILL-TREATMENT OR WILFUL NEGLECT

Care worker offence

Ill-treatment or neglect: care worker offence

10 **38.**—(1) It is an offence for an individual who has the care of an adult by virtue of being a care worker to ill-treat or wilfully to neglect that adult.

(2) An individual guilty of an offence under this section is liable—

(a) on conviction on indictment, to imprisonment for a term not exceeding 5 years or a fine (or both);

15 (b) on summary conviction, to imprisonment for a term not exceeding 6 months or a fine not exceeding the statutory maximum (or both).

(3) “Care worker” means—

(a) an individual who, as paid work, provides health care or social care for an adult,

(b) a volunteer who provides health care or social care for an adult;

20 (c) an individual who, as paid work, supervises or manages persons mentioned in paragraph (a) or (b) providing such care or is a director or similar officer of an organisation which provides such care.

(4) For the purposes of subsection (3)—

25 (a) “a volunteer” means a person who volunteers for a body whose activities are not carried on for profit;

(b) an individual does something as “paid work” if he or she receives or is entitled to payment for doing it other than—

(i) payment in respect of the individual’s reasonable expenses,

(ii) a benefit under social security legislation, or

30 (iii) a payment made under arrangements under section 1 of the Employment and Training Act (Northern Ireland) 1950 (arrangements to assist people to select, train for, obtain and retain employment).

35 (5) References in this section to an individual providing health care or social care do not include an individual whose provision of such care is merely incidental to the carrying out of other activities by the individual.

Care provider offence

Ill-treatment or neglect: care provider offence

39.—(1) A care provider commits an offence if—

- (a) an individual who has the care of an adult by virtue of being part of the care provider's arrangements ill-treats or wilfully neglects that adult,
- (b) the care provider's activities are managed or organised in a way which amounts to a gross breach of a relevant duty of care owed by the care provider to the adult who is ill-treated or neglected, and
- (c) in the absence of the breach, the ill-treatment or wilful neglect would not have occurred or would have been less likely to occur.
- (2) "Care provider" means—
- (a) a body corporate or unincorporated association which provides or arranges for the provision of health care or social care for an adult, or
- (b) an individual who provides such care and employs, or has otherwise made arrangements with, other persons to assist him or her in providing such care.
- (3) An individual is "part of a care provider's arrangements" where the individual—
- (a) is not the care provider, but
- (b) provides health care or social care for an adult as part of health care or social care provided or arranged for by the care provider,
- including where the individual is not the care provider but supervises or manages individuals providing health care or social care as described in paragraph (b) or is a director or similar officer of an organisation which provides health care or social care as described there.
- (4) A "relevant duty of care" means—
- (a) a duty owed under the law of negligence, or
- (b) a duty that would be owed under the law of negligence but for a provision contained in a statutory provision under which liability is imposed in place of liability under that law,
- but only to the extent that the duty is owed in connection with providing, or arranging for the provision of, health care or social care.
- (5) For the purposes of this section, there is to be disregarded any rule of the common law that has the effect of—
- (a) preventing a duty of care from being owed by one person to another by reason of the fact that they are jointly engaged in unlawful conduct, or
- (b) preventing a duty of care being owed to a person by reason of that person's acceptance of a risk of harm.
- (6) A breach of a duty of care by a care provider is a "gross" breach if the conduct alleged to amount to the breach falls far below what can reasonably be expected of the care provider in the circumstances.
- (7) In this section—
- (a) references to a person providing health care or social care do not include a person whose provision of such care is merely incidental to the carrying out of other activities by the person, and

(b) references to a person arranging for the provision of such care do not include a person who makes arrangements under which the provision of such care is merely incidental to the carrying out of other activities.

5 (8) References in this section to providing or arranging for the provision of health care or social care do not include making payments under regulations under section 8 of the Carers and Direct Payments Act (Northern Ireland) 2002.

Care provider offence: penalties

40.—(1) A person guilty of an offence under section 39 is liable—

(a) on conviction on indictment to a fine;

10 (b) on summary conviction to a fine not exceeding the statutory maximum.

(2) A court before which a person is convicted of an offence under section 39 may (whether instead of or as well as imposing a fine) make either or both of the following orders—

(a) a remedial order;

15 (b) a publicity order.

(3) A “remedial order” is an order requiring the person to take specified steps to remedy one or more of the following—

(a) the breach mentioned in section 39(1)(b) (“the relevant breach”);

20 (b) any matter that appears to the court to have resulted from the relevant breach and to be connected with the ill-treatment or neglect;

(c) any deficiency in the person’s policies, systems or practices of which the relevant breach appears to the court to be an indication.

(4) A “publicity order” is an order requiring the person to publicise in a specified manner—

25 (a) the fact that the person has been convicted of the offence;

(b) specified particulars of the offence;

(c) the amount of any fine imposed;

(d) the terms of any remedial order made.

(5) A remedial order—

30 (a) may be made only on an application by the prosecution which specifies the terms of the proposed order,

(b) must be made on such terms as the court considers appropriate having regard to any representations made, and any evidence adduced, in relation to its terms by the prosecution or by or on behalf of the person convicted,
35 and

(c) must specify a period within which the steps specified in the order must be taken.

(6) A publicity order must specify a period within which the requirements specified in the order must be complied with.

40 (7) A person who fails to comply with a remedial order or a publicity order commits an offence and is liable—

(a) on conviction on indictment to a fine;

(b) on summary conviction to a fine not exceeding the statutory maximum.

Care provider offence: application to unincorporated associations

41.—(1) For the purposes of sections 39 and 40, an unincorporated association is to be treated as owing whatever duties of care it would owe if it were a body corporate.

(2) Proceedings for an offence under those sections alleged to have been committed by an unincorporated association must be brought in the name of the association (and not in that of any of its members).

(3) In relation to such proceedings, rules of court relating to the service of documents have effect as if the unincorporated association were a body corporate.

(4) In proceedings under section 39 or 40 brought against an unincorporated association, the following apply as they apply in relation to a body corporate—

(a) section 18 of the Criminal Justice Act (Northern Ireland) 1945 (procedure on charge of offence against corporation);

(b) Schedule 4 to the Magistrates' Courts (Northern Ireland) Order 1981 (provision about corporation charged with offence before a magistrates' court).

(5) A fine imposed on an unincorporated association on its conviction of an offence under section 39 or 40 is to be paid out of the funds of the association.

Care provider offence: liability for ancillary and other offences

42.—(1) An individual cannot be guilty of—

(a) aiding, abetting, counselling or procuring the commission of an offence under section 39, or

(b) an offence under Part 2 of the Serious Crime Act 2007 (encouraging or assisting crime) by reference to an offence under section 39.

(2) Where, in the same proceedings, there is—

(a) a charge under section 39 arising out of a particular set of circumstances, and

(b) a charge against the same defendant of a relevant offence arising out of some or all of those circumstances,

the defendant may, if the interests of justice so require, be convicted of both offences.

(3) A person convicted of an offence under section 39 arising out of a particular set of circumstances may, if the interests of justice so require, be charged with a relevant offence arising out of some or all of those circumstances.

(4) "Relevant offence" means an offence under a statutory provision dealing with—

(a) health and safety matters, or

(b) the provision of health care or social care.

PART 4

REGULATION OF CCTV SYSTEMS ON CERTAIN ESTABLISHMENTS

Establishments to which this Part applies

- 5 **43.**—(1) This Part applies to the following establishments—
- (a) a day care setting;
 - (b) a nursing home;
 - (c) a residential care home;
 - (d) a mental health unit.
- (2) In this Part—
- 10 “day care setting”, “nursing home” and “residential care home” have the same meaning as in the 2003 Order;
- “mental health unit” means a hospital, or part of a hospital, managed by an HSC trust which is maintained wholly or mainly for the reception and treatment of adults suffering from mental disorder (within the meaning of
- 15 the Mental Health (Northern Ireland) Order 1986);
- “the 2003 Order” means the Health and Personal Social Services (Quality, Improvement and Regulation) (Northern Ireland) Order 2003.

Regulation of CCTV systems in establishments to which this Part applies

- 20 **44.**—(1) Regulations may, in relation to the establishments to which this Part applies, make provision about the installation and use of a CCTV system on the premises of the establishment for the purpose of safeguarding adults at risk who reside in, or use the services provided in, those premises.
- (2) Regulations may make provision—
- 25 (a) for prescribed assessments and other procedures to be carried out before a CCTV system is installed on any premises;
 - (b) about the need to inform and seek the consent of those residing or accommodated in, or using the services provided in, those premises (including provision about cases where consent is refused or a person lacks capacity to consent);
 - 30 (c) prohibiting or restricting the installation or use of a CCTV system in areas or locations of a prescribed kind or description;
 - (d) for the publication of information about any CCTV system installed on the premises of an establishment;
 - (e) about the use and maintenance of the CCTV system;
 - 35 (f) about the use and processing of information obtained by the system and access to and disclosure of that information;
 - (g) for the issue by the Department of guidance about the content of the regulations.
- (3) In this Part “CCTV system” means—
- 40 (a) a closed circuit television system; and

- (b) any associated system for storing, processing or retrieving images obtained by that closed circuit television system.

Contravention of regulations under section 44

5 **45.**—(1) Regulations under section 44 may provide that a contravention of any prescribed provision of the regulations is an offence.

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

10 (3) Proceedings in respect of an offence under the regulations must not, without the consent of the Director of Public Prosecutions for Northern Ireland, be taken by any person other than RQIA.

15 (4) Proceedings for an offence under the regulations may be brought within a period of 6 months from the date on which evidence sufficient in the opinion of the prosecution to warrant the proceedings came to its knowledge; but no proceedings may be brought by virtue of this subsection more than 3 years after the commission of the offence.

Enforcement powers of RQIA

46.—(1) It is a function of RQIA to monitor and enforce compliance with regulations under section 44.

20 (2) The following provisions of this section confer powers on RQIA which are exercisable only for the purposes of its function under subsection (1); and the powers conferred on RQIA by Articles 40 and 41 of the 2003 Order are not exercisable for those purposes.

(3) In this section “the responsible authority” means—

25 (a) in relation to a mental health unit, the HSC trust responsible for the management of the unit or the person employed by that trust who is responsible for the management of the unit;

(b) in relation to any other establishment to which this Part applies, the person who carries on or manages the establishment.

30 (4) RQIA may at any time require the responsible authority of an establishment to which this Part applies to provide it with any information relating to the establishment which RQIA considers it necessary or expedient to have for the purposes of its function under subsection (1).

35 (5) A person authorised by RQIA may at any time enter and inspect the premises of an establishment to which this Part applies; but that person may not enter and inspect premises used wholly or mainly as a private dwelling unless the occupier consents.

(6) A person authorised by virtue of subsection (5) to enter and inspect premises may—

40 (a) make any examination of the premises (including in particular CCTV equipment on the premises) which the person considers necessary or expedient;

(b) inspect and take copies of any documents or records required to be kept in accordance with regulations under section 44;

- (c) interview in private the responsible authority of the establishment;
- (d) interview in private any person employed there;
- (e) interview in private any person residing or accommodated in, or using the services provided in, the premises who consents to be interviewed.

5 (7) The powers under subsection (6)(b) include—

- (a) power to require the responsible authority of the establishment to produce any documents or records, wherever kept, for inspection on the premises; and
- 10 (b) in relation to records which are kept by means of a computer, power to require the records to be produced in a form in which they are legible and can be taken away.

(8) A person who proposes to exercise any power of entry or inspection conferred by this section must, if so required, produce some duly authenticated document showing that person's authority to exercise the power.

15 (9) Any person who—

- (a) intentionally obstructs the exercise of any power conferred by this section, or
- (b) fails without a reasonable excuse to comply with any requirement under this section,

20 is guilty of an offence and liable on summary conviction to a fine not exceeding level 4 on the standard scale.

(10) A person authorised by virtue of this section to enter and inspect any premises may seize and remove any document or other material or thing found there which the person has reasonable grounds to believe may be evidence of a failure to comply with any requirement of regulations under section 44.

25 (11) A person so authorised—

- (a) may require any other person to afford the authorised person such facilities and assistance with respect to matters within the other person's control as are necessary to enable the authorised person to exercise his or her powers under this section;
- 30 (b) may take such photographs and make such recordings as the person considers necessary to enable him or her to exercise those powers.

(12) A person authorised by virtue of this section to inspect any records is entitled to have access to, and to check the operation of, any computer and any associated apparatus which is or has been in use in connection with the records in question.

Restrictions on disclosure of information under section 46

47.—(1) A person is not required under section 46 to provide confidential information which relates to and identifies a living individual unless—

- 40 (a) the individual consents to the information being disclosed or cannot be traced despite the taking of all reasonable steps; or
- (b) the information is disclosed in a form in which the identity of the individual cannot be ascertained; or

(c) in a case where it is not practicable to disclose the information in a form in which the identity of the individual cannot be ascertained—

(i) RQIA considers that there is a serious risk to the health or safety of any person; and

5 (ii) having regard to that risk and the urgency of the exercise of its functions under section 46 RQIA considers that the information should be disclosed without the consent of the individual.

(2) A person is not required under section 46 to provide information the disclosure of which is prohibited under another statutory provision unless—

10 (a) the prohibition on the disclosure of information operates by reason of the fact that the information is capable of identifying a living individual; and

(b) the information in question is in a form in which the identity of the individual cannot be ascertained.

15 (3) In a case where a person is not required to provide information by reason of the fact that the information is capable of identifying a living individual, RQIA or a person authorised by it under section 46 may require the person holding the information to put the information in a form in which the identity of the individual concerned cannot be identified, in order that the information may be disclosed.

20 (4) In this section “confidential information” means information which is held subject to a duty of confidence.

PART 5

GENERAL

Regulations and orders

25 **48.**—(1) Regulations must not be made under section 4(4), section 31(2) or section 44 unless a draft of the regulations has been laid before, and approved by resolution of, the Assembly.

(2) Any other regulations under this Act are subject to negative resolution.

30 (3) Regulations and orders made by the Department under this Act may contain such incidental, consequential, supplementary, transitional or saving provisions as appear to the Department to be necessary or expedient.

Interpretation

49. In this Act—

“adult” means an individual who has attained the age of 18;

“adult at risk” has the meaning given by section 2;

35 “the Department” means the Department of Health;

“health care” has the meaning given by section 2(5) of the Health and Social Care (Reform) Act (Northern Ireland) 2009;

“HSC trust” means a health and social care trust established by an order under Article 10 of the Health and Personal Social Services (Northern

Ireland) Order 1991, other than the Northern Ireland Ambulance Service Health and Social Care Trust;

“lacks capacity” has the same meaning as in the Mental Capacity Act (Northern Ireland) 2016;

5 “prescribed” means prescribed by regulations;

“regulations” means regulations made by the Department;

“RQIA” means the Health and Social Care Regulation and Quality Improvement Authority;

10 “social care” has the meaning given by section 2(5) of the Health and Social Care (Reform) Act (Northern Ireland) 2009;

“statutory provision” has the meaning given in section 1(f) of the Interpretation Act (Northern Ireland) 1954.

Commencement

15 **50.**—(1) This Part comes into operation on the day after the day on which this Act receives Royal Assent.

(2) The other provisions of this Act come into operation on such day or days as the Department may by order appoint.

Short title

51. This Act may be cited as the Adult Protection Act (Northern Ireland) 2025.

Adult Protection Bill

[AS INTRODUCED]

A Bill to make provision for the purposes of protecting adults from harm; and for connected purposes.

Introduced by: Mr Mike Nesbitt, Minister of Health

On: 17 June 2025

Bill Type: Executive Bill

ACCOMPANYING DOCUMENTS

**An Explanatory and Financial Memorandum is printed separately as
NIA Bill 16/22-27 EFM.**



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