

These notes refer to the Health (Miscellaneous Provisions) Act (Northern Ireland) 2016 (c.26) which received Royal Assent on 12 May 2016

Health (Miscellaneous Provisions) Act (Northern Ireland) 2016

EXPLANATORY NOTES

BACKGROUND AND POLICY OBJECTIVES

3. [Part 1](#) of the Act contains provisions to prohibit the sale of nicotine products to those under eighteen. Since the introduction of the Smoking (Northern Ireland) Order 2006, the sale of non-licensed nicotine-containing products, such as e-cigarettes, has grown in popularity and there are now thought to be over 2m users in the UK. There are presently no restrictions on selling these products to children in Northern Ireland, therefore, the main aim of the provisions in the Act is to prevent young people from accessing nicotine-containing products, primarily electronic cigarettes. The provisions will also allow for an offence of an adult purchasing such products on behalf of a person under the age of 18. In addition, Part 1 of the Act contains a provision to increase the level of fine applicable for sales of tobacco from a vending machine. It also contains a provision to prohibit the use of nicotine products or tobacco in enclosed vehicles when a person under 18 is in the vehicle.
4. [Part 2](#) of the Act deals with the requirement for a study to be carried out in relation to a levy on sugar sweetened drinks.
5. Part 6 of the Health and Personal Social Services (NI) Order 1972 (“the 1972 Order”) contains the legislative powers for the administration of general dental services, general ophthalmic services and pharmaceutical services in Northern Ireland. Amongst other matters, the Health (Miscellaneous Provisions) Act (NI) 2008 (referred to in this memorandum as “the 2008 Act”) made various amendments to these powers in the 1972 Order, including the creation of contractual legislation for dental services in Northern Ireland. The Act now contains amendments to give full effect to this 2008 Act policy intention.
6. The Department is also using the Act to amend the general ophthalmic and pharmaceutical services listing systems provisions. Further detail on these changes is set out in the following paragraphs. All these provisions are contained in Part 3 of the Act.

Dental services - the introduction of the new dental contract including the creation of performers' lists

7. At present, general dental services may only be provided by dental practitioners. One of the main policy aims of the 2008 Act was to change the way dental services are organised in Northern Ireland. These provisions will be known as primary dental services and, once commenced, the Health and Social Care Board (HSCB), will either provide primary dental services itself or arrange for their provision. Primary dental services will be provided through general dental services contracts or primary dental services agreements. Primary dental services may be provided by a wider range of providers not just dental practitioners.

Performers' lists

8. Linked to contractual legislation is the introduction of performers' lists which will place wider requirements on individual dentists. Dentists will have to provide detailed information and undertakings prior to listing and will be subject to certain HSCB powers of suspension as well as possible disqualification by a Tribunal. No dentist will be able to perform primary dental services unless their name is held on the professional list of performers maintained by the HSCB.

Amendments to the primary dental services legislation

9. The Department needs to amend specific wording and legislative references in the 2008 Act. These amendments are technical in nature and the original policy is unaffected. The amendments are set out in sections 9, 12 and 13 in the Act.

Amendments to general ophthalmic and pharmaceutical services provisions

10. Currently, the HSCB maintains lists of those with whom it has an arrangement to provide either general ophthalmic or pharmaceutical services. These are not lists of individual professional opticians or pharmacists. Rather, they are lists of providers, who may be professionally qualified, but may also be corporate bodies or (for pharmaceutical services) individual non professional providers. Once on a list, these providers are subject to specific terms of service and the HSCB has certain disciplinary powers over them. A Tribunal has the power to suspend and ultimately disqualify a provider from the list.
11. The policy intention of the 2008 Act was to extend the general ophthalmic and pharmaceutical services listing procedures to include pharmacists and opticians employed by providers. At the same time the HSCB and the Tribunal were to have widened powers over all those listed. The Department proposes to revisit this policy and, in the meantime, return the general ophthalmic and pharmaceutical services provisions to their pre 2008 Act position. Any future extension to listing to include all professionals carrying out general ophthalmic services and pharmaceutical services will, dependent on Ministerial and Executive agreement, be subject to detailed policy development, consultation

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and legislative change. This will require further primary legislation. The relevant amendments are set out in sections 10 and 11 respectively in the Act.

Charges for services provided to persons not ordinarily resident in Northern Ireland

12. The 1972 Order authorises the Department to make available any services provided under the Order to persons not ordinarily resident in Northern Ireland. The Department may determine charges for such services and also prescribe exemptions from these charges. The 2008 Act, in rewording this provision, removed the phrase “subject to such exemptions as may be prescribed” from the 1972 Order. To avoid any ambiguity and for clarity, the Department wishes to make the minor amendment of restoring these words. These amendments are set out in section 14 in the Act.

Human Transplantation

13. At the moment, human transplantation is governed by the Human Tissue Act 2004 which applies to England, Wales and Northern Ireland. Part 4 of the Act contains provisions to promote and increase awareness on human transplantation through a campaign at least once a year, and also to produce an annual report on transplantation activity. These sections will fit into the general framework already established by the Human Tissue Act 2004.