

*These notes refer to the Health and Personal Social Services Act (Northern Ireland) 2002 (c.9) which received Royal Assent on 4 October 2002*

# Health and Personal Social Services Act (Northern Ireland) 2002

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## EXPLANATORY NOTES

### COMMENTARY ON SECTIONS

#### ***Section 1 – Charges for nursing care***

*Section 1* provides that the cost of nursing care for people in nursing homes will in future not be recoverable.

Article 36(4) of the Health and Personal Social Services (NI) Order 1972 (“the 1972 Order”) requires Trusts to recover the cost in full of providing a person with a place in a voluntary or private sector residential care or nursing home. Article 99(2) made the same provision in respect of statutory sector homes. However, this was subject to an assessment of a person’s ability to pay, and many people pay nothing or only a proportion.

*Section 1(1)* inserts a new Article 36(4) into the 1972 Order which removes from the recoverable cost of a nursing home place that element which relates to the cost of “nursing care by a registered nurse”. The addition of Article 36(4A) defines what is meant by this as “involving the provision of care, or the planning, supervision or delegation of the provision of care”. *Section 1(3)* provides for the same adjustment to the recoverable cost of accommodation within the statutory sector under Article 99(2) of the 1972 Order.

#### ***Section 2 and Schedule – the Northern Ireland Practice and Education Council for Nursing and Midwifery***

*Section 2* and the *Schedule* establish the Northern Ireland Practice and Education Council for Nursing and Midwifery (NIPEC), and set out its functions, constitution and procedures, subject to directions and guidance from the Department. The functions are centred mainly around the professional development of the nursing and midwifery professions in the areas of practice, education and performance. NIPEC will be able to undertake work in these areas on behalf of DHSSPS, the new NMC, and other organisations. It will be able to charge fees for such work, if appropriate.

The constitution of the Council is set out in the *Schedule*, and the following points in the schedule will be of interest. *Paragraph 2* gives the Council general powers, subject to the direction of the Department. *Paragraph 5*

provides a regulation-making power in respect of membership. The power will be exercised to enable the Department to appoint the Chairman and the other non-executive members of the Council. It is intended that the Council will be only as big as is needed to secure the cost-effective discharge of its business, and is likely to be between 10 and 16 people, drawn from a wide range of key interests. Non-executive members will be appointed so that 60% will be professionals (nurses and midwives) on the live register, and 40% lay members. Appointments for non-executive members will be made after consultation with all relevant interests and by inviting applications from members of the public. *Paragraph 6* provides that remuneration and allowances will be matters for the Department. It is intended to remunerate the Chairman only. All members will be entitled to travel expenses and other costs associated with membership of the Council. *Paragraph 7* provides that the Department will appoint the first chief executive, as this post will be filled ahead of the Council being fully established. This will allow the chief executive to assist his Chairman with preparatory work including appointment of key staff. The Council will make any subsequent appointments of chief executive. *Paragraph 9* gives the Council flexibility to discharge its functions in the most efficient way, through the Council itself, its staff or others brought in for the purpose. Examples of outside assistance the Council might use are contracting with suitable outside bodies, using consultants or temporary staff on fixed term contracts depending on the work to be done. *Paragraph 11* enables the Department to fund the Council from public money.