

*These notes refer to the Health and Personal Social Services (Amendment) Act (Northern Ireland) 2016 (c.23) which received Royal Assent on 12 May 2016*

# Health and Personal Social Services (Amendment) Act (Northern Ireland) 2016

---

## **EXPLANATORY NOTES**

### **INTRODUCTION**

1. These Explanatory Notes relate to the Health and Personal Social Services (Amendment) Act (Northern Ireland) 2016 which received Royal Assent on 12 May 2016. They have been prepared by the Department of Health in order to assist the reader in understanding the Act. They do not form part of the Act and have not been endorsed by the Assembly.
2. The notes need to be read in conjunction with the Act. They are not, and are not meant to be, a comprehensive description of the Act. So where a section or part of a section does not seem to require an explanation or comment, none is given.

### **BACKGROUND AND POLICY OBJECTIVES**

3. The Northern Ireland Social Care Council (NISCC) was established by the Health and Personal Social Services Act (NI) 2001 to register the social care workforce.
4. The current model of regulation (a conduct model) for the social care workforce has been in existence since 2003. It is important that the system of workforce regulation is responsive to the modern context of service delivery and is informed by best practice. Employers have a responsibility to ensure that services are delivered by a work force that is fit to practise and subject to professional governance and scrutiny.
5. The primary objective informing the Act is to ensure that NISCC's regulatory systems keep pace with best practice in workforce regulation and achievement of awards in social work. The proposed amendments to the Health and Personal Social Services Act (NI) 2001 seek to introduce a fitness to practise model and to provide NISSC with a greater degree of flexibility and range of sanctions for regulation of the social care workforce in Northern Ireland in line with other models of professional regulation across the UK. The proposed amendments also seek to address the current limitations in NISCC's scope to confer awards in recognition of achievement of standards of proficiency by social workers in Northern Ireland.

## **CONSULTATION**

6. From June until October 2012, the Department and NISCC undertook a joint consultation on proposals to reform the model of regulation used by NISCC to ensure that regulation of the social care workforce in Northern Ireland remains in line with best practice in relation to registrants who are subject to conduct investigation and processes.
7. The consultation attracted a total of 90 responses from a variety of sources including registrants, employers, trade unions, key stakeholders from the statutory and voluntary sector as well as professional organisations and universities providing social work education and training. The responses were overwhelmingly supportive of the proposals.
8. From November 2012 until January 2013, the Department and NISCC undertook a further joint consultation on proposals to provide for more flexible methods for the attainment of the required standards of proficiency in relevant social work.
9. This consultation attracted 38 responses from a variety of sources including registrants, employers, services users and carers. The responses received were supportive of the policy proposals.

## **OPTIONS CONSIDERED**

10. As a means of allowing NISCC's regulatory systems to keep pace with best practice with workforce regulation and achievement of awards in social work, the only feasible option available to the Department was to make an amendment to the Health and Personal Social Services Act (NI) 2001.

## **COMMENTARY ON SECTIONS**

### ***Section 1: Additional powers in respect of registered persons***

Provides NISCC with a broader range of measures which it can impose on registrants. These measures include powers to: (i) make a person's registration subject to conditions; (ii) reach agreement with the registrant that he/she will comply with specified undertakings; and (iii) give warnings or advice to registrants.

### ***Section 2: Powers to obtain and disclose information etc***

Provides NISCC with a power to obtain information to assist it with the functions of registering social workers and social care workers and making a determination about a person's fitness to practise. It also provides NISCC with a power to require a person to provide details of all relevant employers in instances where NISCC is carrying out an investigation of a registered person. It further provides NISCC, in instances when it is in the public interest, with a power to publish information relating to a person's fitness to practise.

***Section 3: Social workers etc to be registered in Northern Ireland register***

Places a requirement on social workers who work in Northern Ireland to be registered with NISCC.

***Section 4: Recognition of attainment of standards by social workers***

Provides NISCC with a power to make rules relating to the standard of proficiency to be attained by social workers and the way in which the standard can be attained through a course or other means of learning and can be recognised by a certificate or other means (e.g. credits, etc).

***Section 5: Appeals to the Care Tribunal***

Provides the Care Tribunal with increased flexibility in responding to appeals. On the appeal, the Care Tribunal will now have the power to confirm the decision, set aside the decision or substitute for the decision appealed against any other decision that could have been made.

***Section 6: Minor and consequential amendments***

Makes minor or consequential to other legislation as a result of the Act.

***Section 7: Interpretation***

Provides definitions for specific terms used throughout the Act.

***Section 8: Commencement***

Provides that all of the sections will come into operation on the day after Royal Assent.

***Section 9: Short title***

Specifies the name of the Act.

**HANSARD REPORTS**

11. The following table sets out the dates of the Hansard reports for each stage of the Act's passage through the Assembly.

<i>STAGE</i>	<i>DATE</i>
First Stage	23 November 2015
Second Stage	1 December 2015
Committee Stage - briefing by officials from the Department and Northern Ireland Social Care Council	13 January 2016
Committee Stage Committee deliberations	20 January 2016

*These notes refer to the Health and Personal Social  
Services (Amendment) Act (Northern Ireland) 2016 (c.23)  
which received Royal Assent on 12 May 2016*

<b>STAGE</b>	<b>DATE</b>
Committee Stage - Formal Clause-by-clause scrutiny	23 January 2016
Committee's report on the Act – Report Number NIA 293/11-16	3 February 2016
Consideration Stage	22 February 2016
Further Consideration Stage	7 March 2016
Final Stage	15 March 2016
Royal Assent	12 May 2016