

# **HEALTH AND PERSONAL SOCIAL SERVICES (AMENDMENT) BILL**

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## **EXPLANATORY AND FINANCIAL MEMORANDUM**

### **INTRODUCTION**

1. This Explanatory and Financial memorandum has been prepared by the Department of Health, Social Services and Public Safety in order to assist the reader of the Bill and to help inform debate on it. It does not form part of the Bill and has not been endorsed by the Assembly.
2. The Memorandum needs to be read in conjunction with the Bill. It is not, and is not meant to be, a comprehensive description of the Bill. So where a clause or part of a clause 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 regulate the social care workforce.
4. The current model of regulation 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 subject to professional governance and scrutiny.
5. The primary objective informing the Bill 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 provide NISCC 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 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.

## **OVERVIEW**

11. The Bill comprises 9 clauses.

## **COMMENTARY ON CLAUSES**

### **Clause 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.

### **Clause 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.

### **Clause 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.

**Clause 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).

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

Provides the Care Tribunal with increased flexibility in responding to appeals. In addition to the current sanctions of admonishment, suspension and removal from the register, it will now be possible to place a condition on practice which would require a person to take action to improve their fitness to practise.

**Clause 6: Minor and consequential amendments**

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

**Clause 7: Interpretation**

Provides definitions for specific terms used throughout the Bill.

**Clause 8: Commencement**

Provides that all of the clauses will come into operation on Royal Assent.

**Clause 9: Short title**

Specifies the name of the Bill.

**FINANCIAL EFFECTS OF THE BILL**

12. There are no significant financial implications for the Department as a result of implementing the Bill.

**HUMAN RIGHTS ISSUES**

13. The provisions of the Bill are compatible with the European Convention on Human Rights.

**EQUALITY IMPACT ASSESSMENT**

14. It is the Department's view that the Bill will not act unlawfully, unfairly or unjustifiably discriminate, directly or indirectly, against any section of the community specified in section 75 of the Northern Ireland Act 1998.

## **SUMMARY OF THE REGULATORY IMPACT ASSESSMENT**

15. It is not anticipated that the Bill will have any impact on the business or the voluntary and community sector.

## **LEGISLATIVE COMPETENCE**

16. The Minister of Health, Social Services and Public Safety had made the following statement under section 9 of the Northern Ireland Act 1998:

*“In my view the Health and Personal Social Services (Amendment) Bill would be within the legislative competence of the Northern Ireland Assembly.”*