

*These notes refer to the Health and Social Care (Reform) Act (Northern Ireland) 2009 (c.1) which received Royal Assent on 21 January 2009*

# Health and Social Care (Reform) Act (Northern Ireland) 2009

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## **EXPLANATORY NOTES**

### **COMMENTARY ON SECTIONS**

A commentary on the provisions follows below. Comments are not given where the wording is self-explanatory.

#### ***Section 1: Restructuring of administration of health and social care***

Provides for the restructuring of the administration of health and social care. It provides for the dissolution of the Health and Social Services Councils, Central Services Agency, Health and Social Services Boards, and Mental Health Commission. It also provides that Health and Social Services trusts will be known as Health and Social Care trusts, special health and social services agencies will be known as special health and social care agencies, and the Health and Personal Social Services Regulation and Improvement Authority will be known as the Health and Social Care Regulation and Quality Improvement Authority.

#### ***Section 2: Department's general duty***

Sets out the Department's general duty in relation to the provision of health and social care in Northern Ireland. For example, the Department has the duty to promote an integrated system of health and social care designed to secure improvement in the physical and mental health and social well-being of people in Northern Ireland. Among other things, the Department also has a duty to develop policies for reducing health inequalities between the people in Northern Ireland.

#### ***Section 3: Department's general power***

Sets out the Department's general power and provides that the Department may provide or secure the provision of such health and social care as it considers appropriate to the discharge of its duty.

#### ***Section 4: Department's priorities and objectives***

Requires the Department to determine and, where appropriate, revise priorities and objectives in relation to the provision of health and social care. In setting

such objectives, there is an onus on the Department to consult with such bodies or persons as it considers appropriate. The section also provides the Department with the power to give directions without consulting in cases where the urgency of the matter necessitates it but requires the Department in cases where the duty to consult has been set aside because of the urgency of the matter, to report retrospectively to all appropriate bodies or persons as to its reason for taking this course of action.

#### ***Section 5: The framework document***

Requires the Department to prepare a framework document which sets out the main priorities, objectives, guidance and other matters for each health and social care body in connection with the carrying out of its functions. The Department must also keep the framework document under review and may, from time to time, revise it.

#### ***Section 6: Power of Department to give directions to certain bodies***

Provides a power for the Department to give directions (either general or specific) to the Regional Health and Social Care Board, Regional Agency for Public Health and Social Well-being and Regional Business Services Organisation as to how they should carry out their functions. The Department is also required to consult with those bodies before issuing directions but the section also provides the Department with the power to give directions without consulting in cases where the urgency of the matter necessitates it but requires the Department in cases where the duty to consult has been set aside because of the urgency of the matter, to report retrospectively to all appropriate bodies or persons as to its reason for taking this course of action.

#### ***Section 7: The Regional Health and Social Care Board***

Provides for the establishment of the Regional Health and Social Care Board (Regional Board). It also introduces Schedule 1 which deals with the constitution of the Regional Board and also covers supplementary provisions including committees, sub-committees, finance and accounts of the Regional Board.

#### ***Section 8: Functions of the Regional Board***

Sets out the functions of the Regional Board as being those transferred to it from existing Health and Social Services Boards and any other functions which the Department directs it to exercise.

#### ***Section 9: Local Commissioning Groups***

Requires the Regional Board to appoint a prescribed number of Local Commissioning Groups and provides that in exercising their functions, these groups should have regard to, *inter alia*, improving the health and social well-being of people in the area within which the Local Commissioning Group

exercises its functions and improving the availability and quality of health and social care in that area.

***Section 10: Power of Regional Board to give directions and guidance to HSC trusts***

Provides a power for the Regional Board to issue guidance to Health and Social Care trusts as to how they are to carry out all their functions and, where a Trust fails to have regard to such guidance, to issue directions (either general or specific) to that Trust as to the manner in which it should carry out that function.

***Section 11: Provision of information, etc. to Regional Board by HSC trusts***

Requires Health and Social Care trusts to provide the Regional Board with relevant information and reports in relation to their functions. The section also provides that the information must be recorded in such a form and kept for such a time as the Regional Board may require.

***Section 12: The Regional Agency for Public Health and Social Well-being***

Provides for the establishment of the Regional Agency for Public Health and Social Well-being. It also introduces Schedule 2 which deals with the constitution of the Regional Agency for Public Health and Social Well-being and covers supplementary provisions including its committees, sub-committees, finance and accounts.

***Section 13: Functions of the Regional Agency***

Sets out the functions of the Regional Agency for Public Health and Social Well-being in relation to the areas of health improvement and health protection. The section also provides that in exercising its functions, the Regional Agency for Public Health and Social Well-being must co-operate with other bodies which exercise functions relating to health improvement or protection.

***Section 14: The Regional Business Services Organisation***

Provides for the establishment of the Regional Business Services Organisation. It also introduces Schedule 3 which deals with the constitution of the Regional Business Services Organisation and covers supplementary provisions including its committees, sub-committees, finance and accounts.

***Section 15: Functions of RBSO***

Sets out the functions of the Regional Business Services Organisation and places a duty on the Regional Business Services Organisation to put in place arrangements which will secure the provision of those services in the most economic, efficient and effective way.

### ***Section 16: The Patient and Client Council***

Provides for the establishment of the Patient and Client Council. It also introduces Schedule 4 which sets out detailed arrangements for the operation of the Patient and Client Council, and deals with its status, constitution, remuneration, staffing, procedures, finance and annual reports.

### ***Section 17: Functions of the Patient and Client Council***

Sets out the functions and certain requirements placed on the Patient and Client Council. These functions include: representing the interests of the public, promoting the involvement of the public, providing assistance to individuals making or intending to make a complaint relating to health and social care and promoting the provision by the Department and health and social care bodies of advice and information to the public about the design, commissioning and delivery of health and social care. The section also provides that the Patient and Client Council shall carry out research into the best methods for consulting with the public about involving them in health and social care and to provide advice about these methods to certain health and social care bodies.

### ***Section 18: Duty to co-operate with the Patient and Client Council***

Requires certain health and social care bodies to co-operate with the Patient and Client Council in carrying out its functions. Furthermore, it requires those health and social care bodies to have due regard to advice provided by the Patient and Client Council about the health and social care for which that particular body is responsible.

### ***Section 19: Public involvement and consultation***

Requires the Department, Regional Health and Social Care Board, Regional Agency for Public Health and Social Well-being, Health and Social Care trusts, and special agencies to promote information about the health and social care for which they are responsible and to seek views from the recipients of health and social care either directly or through representative bodies. It also requires the health and social care bodies to prepare a consultation scheme in accordance with section 20.

### ***Section 20: Public involvement: consultation schemes***

Requires the Department, Regional Health and Social Care Board, Regional Agency for Public Health and Social Well-being, Health and Social Care trusts, and special agencies to show, in their consultation schemes, what arrangements are in place to consult with the Patient and Client Council and recipients of health and social care. The consultation scheme will also need to prepare a written statement which summarises the comments received and sets out the health and social care body's response to those comments.

***Section 21: Duty on HSC trusts in relation to improvement of health and social well-being***

Places a duty on each HSC trust to exercise its functions with the aim of improving the health and social well-being of, and reducing health inequalities between, those for whom it provides or may provide health and social care.

***Section 22: Public-private partnerships***

Enables the Department, and certain health and social care bodies to form, or participate in forming, public-private partnerships to provide facilities or services for the promotion or provision of health and social care.

***Section 23: Schemes for transfer of assets and liabilities***

Requires the Department to make a scheme or schemes for the transfer of assets and liabilities of a health and social care body that has been dissolved. It also introduces Schedule 5 which deals with the transfer of assets and liabilities and outlines the arrangements for the completion of annual reports and accounts of health and social care bodies that have been dissolved.

***Section 24: Transfer of functions of Health and Social Services Boards***

Provides for the transfer of certain functions of the existing Health and Social Services Boards to the Regional Agency for Public Health and Social Well-being or to the Regional Health and Social Care Board.

***Section 25: Transfer of functions of the Mental Health Commission***

Provides for the transfer of the functions exercisable by the Mental Health Commission to the Regulation and Quality Improvement Authority.

***Section 26: Transfer of functions of Central Services Agency***

Provides for the transfer of the functions exercisable by the Central Services Agency to the Regional Business Services Organisation.

***Section 27: Amendment of statutory and other references to dissolved bodies, etc***

Applies to sections 24, 25 and 26 and deals with amendments to any statutory and other references to health and social care bodies that have been dissolved.

***Section 28: Dissolution of special agencies***

Provides for the dissolution of special agencies.

***Section 29: Orders, regulations, guidance and directions***

Contains provision about the procedure for making subordinate legislation under the Act and provides that any guidance issued or directions given by the Department may be varied or revoked by subsequent guidance or directions.

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***Section 30: Further provision***

Allows the Department to make further provision in connection with implementing the Act.

***Section 31: Interpretation***

Applies the Interpretation Act (Northern Ireland) 1954 to the Act and defines other terms.

***Section 32: Minor and consequential amendments***

Introduces Schedule 6 which deals with amendments to other legislation as a result of the Act.

***Section 33: Repeals***

Introduces Schedule 7 which contains repeals of other legislation as a result of the Act.

***Section 34: Commencement***

Stipulates when the provisions of the Act will come into operation either from a date set out in the Act or a date subsequently decided by the Department.

***Section 35: Short title***

Sets out the title of the Act.