



EXPLANATORY NOTES

Period Products (Free Provision) Act (Northern Ireland) 2022

Chapter 25

£6.90

PERIOD PRODUCTS (FREE PROVISION) ACT (NORTHERN IRELAND) 2022

EXPLANATORY NOTES

INTRODUCTION

1. These Explanatory Notes relate to the Period Products (Free Provision) Act (Northern Ireland) 2022 which received Royal Assent on 12 May 2022. They have been prepared by the Northern Ireland Assembly Bill Office 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 or Schedule does not seem to require any explanation or comment, none is given.

BACKGROUND AND POLICY OBJECTIVES

3. England, Scotland and Wales each have varying schemes in place to provide sanitary products free of charge in schools and some other public buildings. Northern Ireland has been the only place in the United Kingdom where such products are not provided free of charge in schools (although pilots are now commencing in schools and Higher Education Institutions). The Member considers that there is an undeniable need to provide sustained free access to period products in education settings and other public buildings.
4. The Period Products (Free Provision) Act has three broad policy objectives:
 - a. To place a duty on the Executive Office to ensure that period products are available free of charge on a universal basis in appropriate locations.
 - b. To require the Executive Office to specify by way of regulations public service bodies who have a duty to ensure period products are widely obtainable free of charge in their premises.
 - c. To place a number of duties on departments and other specified public service bodies in respect of their obligations under this Act and to place a duty on Departments to issue guidance on the exercise of the functions conferred on specified public service bodies.

OVERVIEW

5. The Act has 11 sections and no schedules. A commentary on each of the sections follows below. However, where a section or part of a section does not seem to require an explanation or comment, none is given.

COMMENTARY ON SECTIONS

Section 1: Provision of free period products: Department scheme

Section 1 of the Act places a duty on the Executive Office to make period products obtainable free of charge within Northern Ireland by all persons who need to use them, in accordance with arrangements established and maintained by the Executive Office (section 1(1)). “Period products” are defined by section 8(a) as “manufactured articles the purpose of which is to absorb or collect menstrual flow”.

The Act gives the Executive Office discretion as regards the precise arrangements made, but those arrangements must be consistent with the duty to make period products obtainable free of charge. For example, the Executive Office’s arrangements could require a person to register for a card in order to obtain free period products at a particular location, e.g. from a pharmacy, similar to the current “C card” scheme. However, those unable to register for a card should be able to obtain free products via other arrangements made. The arrangements put in place must also respect the particular requirements set out in section 3, which are that products should be accessible with reasonable ease and in a way that respects dignity, privacy and confidentiality of product users; that a reasonable choice of different types of products is obtainable; and that the availability of such products, and the arrangements for obtaining them, is advertised.

Under the arrangements, the free period products must be obtainable by another person on behalf of the person who needs the products (section 1(3)(a)). This allows, for example, a parent to obtain products for a child or a carer to obtain products for the person they care for. The Department may also include delivery options in its arrangements for ensuring that period products are obtainable free of charge, and may require the person to whom the products are delivered to pay costs associated with packing and delivery, except where the person could not be reasonably expected to obtain the products in any other way (section 1(3)(b)). For example, if a person who needs to obtain free period products has a disability, it may not be reasonable to expect them to collect products if all locations at which the Department is making products obtainable are at some distance from that person’s residence. Whether or not packing and delivery are free or charged for, the period products themselves must be free of charge.

A person is entitled to obtain (or have someone else obtain on their behalf) sufficient products to meet their needs “while in Northern Ireland” (section 1(2)). For a person who lives in Northern Ireland, all their needs are to be regarded as arising while in Northern Ireland (section 1(8)). So, for a person who lives in Northern Ireland, products are obtainable for use in Northern Ireland and elsewhere, for example if the person is going on holiday. In contrast, visitors to Northern Ireland are only entitled to obtain, free of charge, such period products as they need during their stay in Northern Ireland.

The Department must consult on its proposed arrangements, including on where products should be obtainable, which types of product should be obtainable and the ways in which free products should be obtainable (section 1(4)), and publish a written statement describing the consultation and the arrangements to be put in place (section 1(5)) and publish, annually, information about where the free period products are obtainable (section 1(6) and (7)).

Section 2: Provision of free period products: public service bodies

Section 2(1) places a duty on each department of the Northern Ireland Executive to specify via regulations which of the public service bodies within its functions must make period products obtainable free of charge in its premises. A “public service body” is a statutory body (i.e. a body constituted by or under an enactment) that either provides services to the public or otherwise serves the public interest (section 9). Regulations must be made to specify the premises listed in section 2(2), so that free period products are made available from hospital and educational premises. Regulations may provide a description of premises, persons in those premises and when those premises are said to be in use (Section 2(7)) Each such body must be consulted by the relevant department before the requirement is imposed on it (section 2(8)).

The duty to provide free period products is to be discharged by specified public service bodies via arrangements to be established in line with subsequent provisions (section 2(3)). This allows the body either to provide period products itself, or to secure their provision through arrangements made with a third party, for example a washroom services contractor. Free period products are to be provided in such locations within its premises as are specified in those arrangements (section 2(4)). If the body has multiple sites, it must make provision at each site (section 2(5)). The body is required to make sufficient products available to meet the needs of persons while they are on the premises, but not products for use elsewhere (section 2(6)). Obligations under this section (to provide free period products) may be imposed on bodies individually or as a class (section 2(9)). Regulations under subsection (1) may be made jointly with two or more departments (section 2 (11)).

Regulations under section 2 that impose on a public service body the obligation to provide free period products to users of its premises can only become law if approved by resolution of the Assembly (section 2(14)). Section 2(12) allows regulations to make different provisions of the Act take effect, in relation to a public service body, on different days. For example, an earlier date may be set for when a body becomes subject to the requirements of sections 4 and 5, and a later date for when it becomes subject to the requirements of section 2 itself. That would ensure the body has to have regard to guidance, carry out consultation and then publish a statement of its plans before it has to begin making period products obtainable free of charge on its premises. Each department must review and, if necessary, update the regulations specifying public service bodies under subsections (1) and (2) no more than every three years (section 2(15)).

Section 3: Arrangements under sections 1 and 2: particular requirements

Section 3 requires the Executive Office and the specified public service bodies, in putting in place the arrangements to fulfil their functions under sections 1 and 2 respectively, to ensure reasonably easy access to products, to respect dignity, privacy and confidentiality, to make a reasonable choice of types of product obtainable, having regard for reusable options, and to publicise their availability.

Section 3(2) provides that arrangements established and maintained by specified public service bodies must provide for period products to be obtainable at all times when the specified public service body’s premises are in use to persons on their premises, whether or not in use by the public.

Section 4: Reporting

Section 4 requires the Executive to produce a report reviewing the operation of the provisions in sections 1 and 2. This report must include the number of public service bodies specified under section 2 (section 4 (2)(a)); a review of the efficiency and effectiveness of the provisions in section 1 and 2 (section 4 (2) (b) and can contain any other information the Executive deems to be appropriate. The report must be laid before the Assembly for scrutiny (section 4 (3) (a)). The first report must be published within three years of Royal Assent and at subsequent intervals of no more than three years (section 4 (3) (b)).

Section 5: Guidance

Section 5 requires each department to issue guidance to specified public services bodies to support them in the exercise of their duties under sections 2 and 6. For example, guidance could provide more detail on what would constitute a reasonable.

choice of types of products and what constitutes a dignified approach. A department may do so jointly with one or more departments (section 5(6)).

Before any guidance is first issued, the department must consult persons or bodies that represent the interests of responsible bodies and may consult with others (section 5(5)).

The Department must issue the guidance as soon as reasonably practicable after a body is specified (section 5(2)). The guidance is to be maintained, so the department can issue revised guidance from time to time, for example to share emerging good practice between responsible bodies and take account of new approaches, and it is not required to consult in the production of revised guidance. The issuing of guidance to a responsible body for the first time triggers the requirements on that body to consult and then prepare a statement (section 6(1)(a)); however, the issue of revised guidance does not (section 6(1)(b)).

When putting in place the arrangements by which they will exercise their functions, the specified public service bodies must have regard to the guidance as it is in force at the time and as it relates to them (section 5(4)).

Section 6: Statement on arrangements

As soon as is reasonably practicable after guidance is first issued by a department under section 5, each specified public service body is to publish a written statement describing how it has had regard to the guidance, and consulted on and developed its arrangements for the provision of free period products (section 6(1) and (4)). It can publish subsequent statements at any time in the future.

Before drafting the statement, the body must consult those likely to access period products in its premises, including on the ways in which free period products should be obtainable, where they should be obtainable and what types of products should be obtainable. Individuals who may need to obtain period products in the future should be consulted. This will ensure, for example, that younger pupils in a school will have a say in how the products they will need to access in the future are made obtainable (section 6(3)).

Section 7: Duty to publish information

Section 7 requires each department (individually or jointly with another department) to publish information about the locations where free period products would be available pursuant to the regulations made under section 2. The department can choose how best to do so, e.g. advertising, or via its website.

This is a distinct and separate duty from that imposed by section 3, which requires the Department for Health and specified public service bodies to publicise the specific locations at which products would be available under the arrangements made pursuant to the duties imposed under sections 1 and 2.

Sections 8 to 11: Final provisions

Section 8 (Key definitions) provides definitions for three key terms used throughout the Act, namely “period products”, types of period products, and references to a person’s needs. In line with modern drafting practice for gender neutral drafting, “needs” is defined in terms of menstruation by a woman, girl or other person, ensuring the Bill applies to anyone who menstruates (including transgender and non-binary persons), and not just to women and girls.

Section 9 provides definitions for other terms used in the Act, using existing statutory definitions so far as possible.

“department” means a Northern Ireland department.

“the Executive” means the Executive Committee of the Assembly, established under section 20 of the Northern Ireland Act 1998.

“further education premises” means premises occupied by an institution of further education;

“higher education institution” means a body described in Article 3(2)(a) of the Higher Education (Northern Ireland) Order 2005;

“higher education premises” means premises occupied by a higher education institution;

“hospital premises” means premises occupied by a hospital within the meaning of Article 2(2) of the Health and Personal Social Services (Northern Ireland) Order 1972;

“school” has the meaning given in Article 2(2) of the Education and Libraries (Northern Ireland) Order 1986;

“school premises” means premises occupied by a school; “specified public service body” means a public service body specified in regulations made under section 2;

“statutory provision” has the meaning given by section 1(f) of the Interpretation Act (Northern Ireland) 1954.

*These Notes refer to the Period Products (Free Provision) Act (Northern Ireland) 2022 (c. 25)
which received Royal Assent on 12 May 2022*

Section 10 provides that sections 2(1), (2) and (7) to (16), 8, 9, 10 and 11 come into operation the day after Royal Assent, and that the Executive Office can appoint by regulations dates for commencement of the remaining provisions of the Act, so long as those dates are within 2 years of Royal Assent.

Section 11 sets the short title which is the Period Products (Free Provision) Act (Northern Ireland) 2022.

HANSARD REPORTS

6. The following table sets out the dates of the Hansard reports for each stage of the Act's passage through the Assembly and the date Royal Assent was received.

| STAGE | DATE |
|---|------------------|
| First Stage | 11 October 2021 |
| Second Stage | 9 November 2021 |
| Committee wrote to key Education stakeholders | 23 November 2021 |
| Committee's report on the Act - Report number 166/17-22 | 2 February 2022 |
| Consideration Stage | 8 March 2022 |
| Further Consideration Stage | 15 March 2022 |
| Final Stage | 24 March 2022 |
| Royal Assent | 12 May 2022 |

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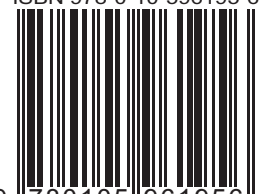
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