



MANX CARE (AMENDMENT) BILL 2022

EXPLANATORY NOTES

These notes are circulated for the information of Members with the approval of the member promoting the Bill, the Hon L. Hooper, MHK.

Introduction

1. These explanatory notes relate to the Manx Care (Amendment) Bill 2022. They have been prepared by the Department of Health and Social Care in order to assist readers of the Bill. They do not form part of the Bill and have not been endorsed by the House of Keys.
2. The notes need to be read in conjunction with the Bill. They are not, and are not meant to be, a comprehensive description of the Bill.

Summary and background

3. During April 2021 Tynwald, a motion was unanimously accepted concerning health and social care complaints legislation. The outcome of this motion was for revised complaints regulations, following public consultation, to be brought to Tynwald for approval.
4. Pursuant to the motion, the policy was (and is) –
 - (a) to establish new and more comprehensive complaints procedures, and
 - (b) to provide for a single review body in respect of “complaints” concerning the Department’s, Manx Care’s or (as the case may be) a third party’s handling of a complaint in the first instance.
5. To those ends, the Department has prepared revised complaints regulations.
6. It was believed that the Department had the power to make the proposed Regulations under section 39 of the Manx Care Act 2021; however on further review, it has transpired that this section of the Act needs a slight revision in order for the Department to make the Regulations that it had prepared. The Manx Care (Amendment) Act 2022 has been prepared to give the Department the additional vires to make the Regulations.

7. The approach to be undertaken in giving effect to the Department's policy aims falls into 2 stages.
8. The first stage is to amend the provisions of the National Health Service Act 2001, the Children and Young Persons Act 2001 and the Social Services Act 2011 dealing with complaints.
 - 8.1 This stage is effected by the Bill.
 - 8.2 The Bill does this by enabling the Department to make Regulations amending those provisions of those Acts dealing with complaints. It does **not** set out a complaints procedure or establish the new review body.
9. The second stage concerns "complaints Regulations". This stage is effected through regulations made under the enhanced powers in the amended complaints provisions of the 3 Acts in question (see stage 1).
 - 9.1 The vires for such regulations is to be found in the regulations giving effect to stage 1.

Clauses of the Bill

9. **Clause 1** gives the Bill its short title.
10. **Clause 2** seeks an amendment of section 39 of the Manx Care Act 2021 which, by insertion of a subsection (3), will enable the Department to make Regulations to amend to the Children and Young Persons Act 2001, the National Health Service Act 2001 and the Social Services Act 2011. This is subject to subsection (4).
11. Subsection (4) restricts the changes that the Department can make to only those in respect of processes for handling complaints in connection with services provided and functions performed under the Acts specified in subsection (3).
12. Subsection (5) provides that the services and functions referred to in subsection (4) must be those provided by, or on behalf of, the Department or Manx Care.
13. Subsection (6) provides that subsection (1) of section 39 of the Manx Care Act 2021 also applies to the new subsection (3), this being the ability to make transitional, transitory, consequential, incidental matters and to make savings provisions.
14. The Bill provides that Regulations giving effect to stage 1 require Tynwald approval.

Other points

15. The Bill —

- (a) will come into operation upon the announcement of its Royal Assent to Tynwald; and
- (b) is considered to be compatible with the Convention rights within the meaning of the Human Rights Act 2001.

16. An impact assessment has been prepared for the Bill. The impact assessment highlighted areas where there will be a financial impact, if the Bill is enacted and the associated Regulations are made and approved; however, it is difficult to estimate whether the impact will result in an overall financial cost or benefit. The Department believes that it can meet any financial cost associated with the introduction of the Regulations within its current budget.