Changes to Legislation: as of 11 November 2026, this Act is up to date with all changes known to be in force.

Number 42 *of* 2004

HEALTH ACT 2004

REVISED

Updated to 1 March 2023

This Revised Act is an administrative consolidation of the *Health Act 2004*. It is prepared by the Law Reform Commission in accordance with its function under the *Law Reform Commission Act 1975* (3/1975) to keep the law under review and to undertake revision and consolidation of statute law.

All Acts up to and including the *Criminal Justice (Mutual Recognition of Custodial Sentences) Act 2023* (3/2023), enacted 1 March 2023, and all statutory instruments up to and including the *Appointment of Special Advisers (Minister for Children, Equality, Disability, Integration and Youth) Order 2023* (S.I. No. 115 of 2023), made 28 February 2023, were considered in the preparation of this Revised Act.

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Number 42 *of* 2004

HEALTH ACT 2004

REVISED

Updated to 1 March 2023

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Number 42 *of* 2004

HEALTH ACT 2004

REVISED

Updated to 1 March 2023

AN ACT TO ESTABLISH A BODY TO BE KNOWN AS FEIDHMEANNACHT NA SEIRBHÍSE SLÁINTE OR IN THE ENGLISH LANGUAGE AS THE HEALTH SERVICE EXECUTIVE AND TO PROVIDE FOR THE DISSOLUTION OF THE EASTERN REGIONAL HEALTH AUTHORITY, THE NORTHERN AREA HEALTH BOARD, THE EAST COAST AREA HEALTH BOARD, THE SOUTHWESTERN AREA HEALTH BOARD, THE HEALTH BOARDS ESTABLISHED UNDER THE HEALTH ACT 1970 AND CERTAIN OTHER BODIES; TO PROVIDE FOR THE TRANSFER OF THE FUNCTIONS OF THE DISSOLVED BODIES AND THEIR EMPLOYEES TO THE HEALTH SERVICE EXECUTIVE; TO ESTABLISH MECHANISMS FOR INVOLVING PUBLIC REPRESENTATIVES, USERS OF HEALTH AND PERSONAL SOCIAL SERVICES AND OTHER MEMBERS OF THE PUBLIC IN MATTERS RELATING TO THOSE SERVICES; TO ESTABLISH A STATUTORY FRAMEWORK FOR HANDLING CERTAIN COMPLAINTS RELATING TO HEALTH AND PERSONAL SOCIAL SERVICES; TO ESTABLISH MECHANISMS FOR THE FUTURE DISSOLUTION OF CERTAIN OTHER HEALTH BODIES AND FOR THE TRANSFER OF THEIR FUNCTIONS AND EMPLOYEES TO THE HEALTH SERVICE EXECUTIVE; AND TO PROVIDE FOR RELATED MATTERS. [17*th December*, 2004]

BE IT ENACTED BY THE OIREACHTAS AS FOLLOWS:

Annotations

Modifications (not altering text):

C1 Functions transferred and references construed (1.03.2023) by *Specialist Community-Based Disability Services (Transfer of Departmental Administration and Ministerial Functions) Order 2022* (S.I. No. 688 of 2022), arts. 2, 3, in effect as per art. 1(2), subject to transitional provisions in arts. 5-9.

2. In this Order, "relevant function" means –

(*a*) any function transferred by Article 4 of this Order, and

(*b*) any function transferred to the Minister for Children, Equality, Disability, Integration and Youth by –

(i) the Health Act 2004 (No. 42 of 2004),

(ii) the Disability Act 2005 (No. 14 of 2005),

(iii) the Health Act 2007 (No. 23 of 2007),

in so far only as the function consists of, or is connected with, specialist community-based disability services, within the meaning of the Health Act 2004, or any such other function otherwise assigned to that Minister by any of those Acts.

3. (1) The administration and business in connection with the exercise, performance or execution of any relevant function are transferred to the Department of Children, Equality, Disability, Integration and Youth.

(2) References to the Department of Health contained in any Act or any instrument made under such Act and relating to any administration and business transferred by paragraph (1) of this Article shall, on and after the commencement of this Order, be construed as references to the Department of Children, Equality, Disability, Integration and Youth.

...

PART 1

Preliminary Matters

Short title, collective citation and construction.

1.— (1) This Act may be cited as the Health Act 2004.

(2) The Health Acts 1947 to 2001 and this Act may be cited together as the Health Acts 1947 to 2004 and shall be construed together as one.

Interpretation.

2.— (1) In this Act, unless the context otherwise requires—

"Act of 1996" means the Health (Amendment) (No. 3) Act 1996;

"Act of 1999" means the Health (Eastern Regional Health Authority) Act 1999;

"annual report" means a report prepared under *section 37*;

F2**[**...**]**

F2**[**...**]**

"Area Health Board" has the same meaning as in the Act of 1999;

F3**[**"Board" has the meaning assigned to it by *section 16N*;**]**

"carer" means a person who provides care for another person, but who is not employed to do so by any body in the performance of its functions under an enactment;

"chairperson" means the chairperson of the Board;

F3**[**"chief executive officer" has the meaning assigned to it by *section 21A*;**]**

"clinical judgment" means a decision made or opinion formed in connection with the diagnosis, care or treatment of a patient;

F4**[**"Committee of Public Accounts" means the Committee of Dáil Éireann established under the rules and standing orders of Dáil Éireann to examine and report to Dáil Éireann on the appropriation accounts and reports of the Comptroller and Auditor General;**]**

F1**[**"Directorate" means the Directorate established under *section 16A*;**]**

F1**[**"Director General" means the person holding the office of Director General appointed pursuant to *section 16E*;**]**

F5**[**"disability" means disability as defined in section 2 of the Disability Act 2005 and the term "substantial restriction" in that definition shall be construed as meaning a restriction as described in section 7(2) of that Act;**]**

"Eastern Regional Health Authority" means the body of that name established by section 7 of the Act of 1999;

"enactment" means a statute or an instrument made under a power conferred by a statute;

"establishment day" means the day appointed by the Minister under *section 4* to be the establishment day for the purposes of this Act;

"Executive" means the Health Service Executive established under *section 6*;

"functions" includes powers and duties and references to the performance of functions include, with respect to powers and duties, references to the exercise of the powers and the carrying out of duties;

"health board" means a health board established under section 4(1) of the Health Act 1970;

"health and personal social services" means services that immediately before the establishment day were provided under the Acts referred to in *Schedule 1* by a specified body as defined in *section 56* of this Act, and references in this Act to a health or personal social service are to be read as references to any of those services;

"Interim Health Service Executive" means the body of that name established under the Health (Corporate Bodies) Act 1961;

"local authority" has the same meaning as in the Local Government Act 2001;

F3**[**"member", in relation to the Board, includes the chairperson and the deputy chairperson;**]**

"Minister" means Minister for Health and Children;

F3**[**"ordinary member" means a member of the Board other than the chairperson or the deputy chairperson;**]**

"prescribed" means prescribed by regulation made by the Minister;

"public authority" means any of the following:

(*a*) a Minister of the Government;

(*b*) the Commissioners of Public Works in Ireland;

(*c*) a local authority;

(*d*) a harbour authority within the meaning of the Harbours Act 1946;

(*e*) a board or other body (but not a company) established by or under statute;

(*f*) a company in which all the shares are held by or on behalf of, or by directors appointed by, a Minister of the Government;

(*g*) a company in which all the shares are held by a board, company or other body referred to in *paragraph (e)* or *(f);*

(*h*) such other body, if any, as is prescribed for the purpose of any provision of this Act;

"service provider" means a person who enters into an arrangement under *section 38* to provide a health or personal social service on behalf of the Executive;

F5**[**"specialist community-based disability services" means any health or personal social services, provided by or on behalf of the Executive under this Act or any other enactment, in the community to a person who has a disability, and so provided in relation to that disability, other than any such services provided—

(*a*) under the Mental Health Acts 1945 to 2001, or

(*b*) in a hospital;

"specialist community-based disability services functions" means the management and delivery, or arrangement of delivery on its behalf, by the Executive, of specialist community-based disability services;**]**

"superannuation benefit" means a pension, gratuity or other allowance payable on resignation, retirement or death.

(2) In this Act—

(*a*) a reference to a section, Part or Schedule is a reference to a section or Part of, or a Schedule to, this Act, unless it is indicated that reference to some other enactment is intended,

(*b*) a reference to a subsection, paragraph or subparagraph is a reference to the subsection, paragraph or subparagraph of the provision in which the reference occurs, unless it is indicated that reference to some other enactment is intended, and

(*c*) a reference to an enactment includes a reference to that enactment as amended, adapted or extended at any time by any enactment.

Annotations

Amendments:

F1 Inserted (25.07.2013) by *Health Service Executive (Governance) Act 2013* (23/2013), s. 4, S.I. No. 275 of 2013.

F2 Deleted (28.06.2019) by *Health Service Executive (Governance) Act 2019* (17/2019), s. 4(f), S.I. No. 283 of 2019.

F3 Substituted (28.06.2019) by *Health Service Executive (Governance) Act 2019* (17/2019), s. 4(b), (c), (d), (e), S.I. No. 283 of 2019.

F4 Inserted (28.06.2019) by *Health Service Executive (Governance) Act 2019* (17/2019), s. 4(a), S.I. No. 283 of 2019.

F5 Inserted (1.03.2023) by *Health (Miscellaneous Provisions) Act 2022* (6/2022), s. 3, S.I. No. 666 of 2022.

F6 Substituted by *Health Act 2007* (23/2007), ss. 3, 105 & sch. 2 part 4, item 1, not commenced as of date of revision.

Modifications (not altering text):

C2 Prospective affecting provision: application of section extended by *Nurses and Midwives Act 2011* (41/2011), s. 84(5), not commenced as of date of provision.

Duties of Health Service Executive in relation to education and training of nurses and midwives.

84.— ...

(5) Specialist nursing and midwifery education and training shall, for the purposes of sections 38 and 39 of the Health Act 2004, be deemed to be a health and personal social service within the meaning of section 2 of that Act.

...

C3 Functions transferred and reference construed (1.03.2023) by *Specialist Community-Based Disability Services (Transfer of Departmental Administration and Ministerial Functions) Order 2022* (S.I. No. 688 of 2022), arts. 2, 3, in effect as per art. 1(2), subject to transitional provisions in arts. 5-9.

2. In this Order, "relevant function" means –

(*a*) any function transferred by Article 4 of this Order, and

(*b*) any function transferred to the Minister for Children, Equality, Disability, Integration and Youth by –

(i) the Health Act 2004 (No. 42 of 2004),

(ii) the Disability Act 2005 (No. 14 of 2005),

(iii) the Health Act 2007 (No. 23 of 2007),

in so far only as the function consists of, or is connected with, specialist community-based disability services, within the meaning of the Health Act 2004, or any such other function otherwise assigned to that Minister by any of those Acts.

3. (1) The administration and business in connection with the exercise, performance or execution of any relevant function are transferred to the Department of Children, Equality, Disability, Integration and Youth.

(2) References to the Department of Health contained in any Act or any instrument made under such Act and relating to any administration and business transferred by paragraph (1) of this Article shall, on and after the commencement of this Order, be construed as references to the Department of Children, Equality, Disability, Integration and Youth.

...

C4 Prospective affecting provision: definition of "service provider" substituted by *Health Act 2007* (23/2007), ss. 3, 105 and sch. 2 part 4 item 1, not commenced as of date of revision.

F6**[**"service provider" means a person who—

(*a*) enters into an arrangement under section 38 to provide a health or personal social service on behalf of the Executive, or

(*b*) is in receipt of assistance under—

(i) section 39 in an amount that exceeds an amount prescribed for the purposes of paragraph (b)(i) of the definition of "service provider" in section 2 of the Health Act 2007, or

(ii) section 10 of the Child Care Act 1991 in an amount that exceeds an amount prescribed for the purposes of paragraph (b)(ii) of the definition of "service provider" in section 2 of the Health Act 2007;**]**

C5 Application of section extended (31.12.2008) by *Medical Practitioners Act 2007* (25/2007), s. 86(6), S.I. No. 554 of 2008.

Duties of Health Service Executive in relation to medical and dental education and training.

86.— ...

(6) Specialist medical and dental education and training shall, for the purposes of sections 38 and 39 of the Health Act 2004 , be deemed to be a health and personal social service within the meaning of section 2 of that Act.

...

Editorial Notes:

E1 Previous affecting provision: definition of appointed director inserted (25.07.2013) by *Health Service Executive (Governance) Act 2013* (23/2013), s. 4, S.I. No. 275 of 2013; deleted as per F-note above.

Commencement.

3.— (1) This Act comes into operation on such day or days as the Minister may, by order, appoint.

(2) Different days may be appointed under this section for different purposes or different provisions of this Act and for the repeal or revocation of different enactments by *section 73* and *Schedule 4*.

Annotations

Editorial Notes:

E2 Commencement information in relation to this Act, ordered by section, is available at https://www.irishstatutebook.ie/eli/isbc/2022_6.html.

E3 Power pursuant to section exercised (1.01.2007) by Health Act 2004 (Commencement) Order 2006 (S.I. No. 651 of 2006).

2. The 1st day of January 2007 is appointed as the day on which Part 9 of the Health Act 2004 (No. 42 of 2004) comes into operation.

E4 Power pursuant to section exercised (12.12.2005) by *Health Act 2004 (Commencement) Order 2005* (S.I. No. 796 of 2005).

2. Sections 42 and 79 of the Health Act 2004 (No. 42 of 2004) are hereby commenced.

E5 Power pursuant to section exercised (1.01.2005) by *Health Act 2004 (Commencement) (No. 2) Order 2004* (S.I. No. 887 of 2004).

2. The 1st day of January 2005 is appointed as the day on which the following provisions of the Health Act 2004 (No. 42 of 2004) come into operation:

(a) Part 2;

(b) Part 3 and Schedule 2;

(c) Part 4 (other than subsections (4) and (5)(a) of section 17);

(d) Parts 5, 6 and 7 (other than section 37(2)(f));

(e) Part 8 (other than section 42);

(f) Part 10 and Schedule 3;

(g) section 73 and Schedule 4;

(h) section 74 and Schedule 5;

(i) section 75 and Schedule 6, in so far as those provisions relate to the enactments specified in Schedule 6 (other than the Health (Corporate Bodies) Act 1961);

(j) section 75 and Schedule 7, in so far as those provisions relate to the enactments specified in Schedule 7;

(k) Part 12 (other than section 79).

E6 Power pursuant to section exercised (23.12.2004) by *Health Act 2004 (Commencement) Order 2004* (S.I. No. 886 of 2004).

2. The 23rd day of December, 2004 is appointed as the day on which the following provisions of the Health Act 2004 (No. 42 of 2004) come into operation:

(a) Part 1 and Schedule 1;

(b) subsections (4) and (5)(a) of section 17;

(c) section 75 and Schedule 6 in so far as those provisions relate to the amendment of the Health (Corporate Bodies) Act 1961.

Establishment day.

4.— The Minister shall, by order, appoint a day to be the establishment day for the purposes of this Act.

Annotations

Editorial Notes:

E7 Power pursuant to section exercised (1.01.2005) by *Health Act 2004 (Establishment Day) Order 2004* (S.I. No. 885 of 2004).

Expenses.

5.— The expenses incurred by the Minister F7**[**or the Minister for Children, Equality, Disability, Integration and Youth**]** in administering this Act are, to such extent as may be sanctioned by the Minister for Finance, payable out of money provided by the Oireachtas.

Annotations

Amendments:

F7 Inserted (1.03.2023) by *Health (Miscellaneous Provisions) Act 2022* (6/2022), s. 4, S.I. No. 666 of 2022.

F8**[**Expenses of the Executive.

5A.—The expenses incurred by the Executive F9**[**before 1 January 2015**]** are, with the approval of the Minister, to such extent as may be sanctioned by the Minister for Finance, payable out of money provided by the Oireachtas.**]**

Annotations

Amendments:

F8 Inserted (15.05.2007) by *Health Act 2007* (23/2007), s. 105 and sch. 2 part 4 item 2, S.I. No. 226 of 2007.

F9 Inserted (17.07.2014) by *Health Service Executive (Financial Matters) Act 2014* (17/2014), s. 4, commenced on enactment.

Modifications (not altering text):

C6 Functions transferred and references to "Department of Finance" and "Minister for Finance" construed (20.09.2011) by *Finance (Transfer of Departmental Administration and Ministerial Functions) (No. 2) Order 2011* (S.I. No. 480 of 2011), regs. 2, 3, 4 and sch., in effect as per reg. 1(2).

2. (1) The administration and business in connection with the exercise, performance or execution of any functions transferred by this Order are transferred to the Department of Public Expenditure and Reform.

(2) References to the Department of Finance contained in any Act or any instrument made thereunder and relating to any administration and business transferred by paragraph (1) shall, from the commencement of this Order, be construed as references to the Department of Public Expenditure and Reform.

3. The functions conferred on the Minister for Finance by or under—

(a) the provisions of the enactments specified in the Schedule, and

(b) Article 23(1) and (3) of the Drug Treatment Centre Board (Establishment) Order 1988 (S.I. No. 76 of 1988),

are transferred to the Minister for Public Expenditure and Reform.

4. References to the Minister for Finance contained in any Act or instrument made under an Act and relating to any functions transferred by this Order shall, from the commencement of this Order, be construed as references to the Minister for Public Expenditure and Reform.

...

SCHEDULE

Enactments

...

Number and Year (1)	Short Title (2)	Provision (3)
...	...	...
No. 42 of 2004	Health Act 2004	Section 5A
...	...	...

PART 2

Establishment and Functions of the Health Service Executive

Establishment of Executive.

6.— (1) On the establishment day a body to be known as Feidhmeannacht na Seirbhíse Sláinte or in the English language as the Health Service Executive is, by this Act, established to perform the functions assigned to it by this Act.

(2) The Executive is a body corporate with perpetual succession and a seal and may—

(*a*) sue and be sued in its corporate name,

(*b*) subject to the Health Acts 1947 to 2001, acquire, hold and dispose of land or an interest in land, and

(*c*) acquire, hold and dispose of any other kind of property.

(3) *Paragraph 1* of *Schedule 2* applies in relation to the seal of the Executive.

Object and functions of Executive.

7.— (1) The object of the Executive is to use the resources available to it in the most beneficial, effective and efficient manner to improve, promote and protect the health and welfare of the public.

(2) Subject to this Act, the Executive shall, to the extent practicable, further its object.

(3) Without limiting the Executive's responsibilities under *subsection (2)* or *(4),* it has—

(*a*) the functions transferred to it by *section 59* or by an order under *section 70*, and

(*b*) such other functions as are assigned to it by this Act or any other enactment.

(4) The Executive shall manage and shall deliver, or arrange to be delivered on its behalf, health and personal social services in accordance with this Act and shall—

(*a*) integrate the delivery of health and personal social services,

(*b*) to the extent practicable and necessary to enable the Executive to perform its functions, facilitate the education and training of—

(i) students training to be registered medical practitioners, nurses or other health professionals, and

(ii) its employees and the employees of service providers,

F10**[**...**]**

(*c*) provide advice to the Minister in relation to its functions F11**[**as the Minister may request, and**]**

F12**[**(*d*) provide advice to the Minister for Children, Equality, Disability, Integration and Youth in relation to its specialist community-based disability services functions as that Minister may request.**]**

(5) In performing its functions, the Executive shall have regard to—

(*a*) services provided by voluntary and other bodies that are similar or ancillary to the services the Executive is authorised to provide,

(*b*) the need to co-operate with, and co-ordinate its activities with those of, other public authorities if the performance of their functions affects or could affect the health of the public,

F13**[**(*c*) the policies (whether set out in codes, guidelines or other documents, or any combination thereof) and objectives of the Government or any Minister of the Government to the extent that those policies and objectives may affect or relate to the functions of the Executive,**]**

(*d*) the resources, wherever originating, that are available to it for the purpose of performing its functions, F14**[**...**]**

(*e*) the need to secure the most beneficial, effective and efficient use of those resources F15**[**, and**]**

F16**[**(*f*) any standards set by the Health Information and Quality Authority, in so far as practicable and subject to the resources available to the Executive.**]**

(6) The Executive may undertake, commission or collaborate in research projects on issues relating to health and personal social services, but, in considering whether to do so, it shall have regard to any decision by another body or person within the State to undertake, commission or collaborate in such projects.

(7) The power given by *subsection (6)* includes the power to collaborate in research projects involving parties from outside the State.

(8) Subject to this or any other enactment, the Executive has all powers necessary or expedient for it to perform its functions.

Annotations

Amendments:

F10 Deleted (1.03.2023) by *Health (Miscellaneous Provisions) Act 2022* (6/2022), s. 5(a), S.I. No. 666 of 2022.

F11 Substituted (1.03.2023) by *Health (Miscellaneous Provisions) Act 2022* (6/2022), s. 5(b), S.I. No. 666 of 2022.

F12 Inserted (1.03.2023) by *Health (Miscellaneous Provisions) Act 2022* (6/2022), s. 5(c), S.I. No. 666 of 2022.

F13 Substituted (28.06.2019) by *Health Service Executive (Governance) Act 2019* (17/2019), s. 5, S.I. No. 283 of 2019.

F14 Deleted (15.05.2007) by *Health Act 2007* (23/2007), s. 105 and sch. 2 part 4 item 3, S.I. No. 226 of 2007.

F15 Substituted (15.05.2007) by *Health Act 2007* (23/2007), s. 105 and sch. 2 part 4 item 3, S.I. No. 226 of 2007.

F16 Inserted (15.05.2007) by *Health Act 2007* (23/2007), s. 105 and sch. 2 part 4 item 3, S.I. No. 226 of 2007.

Modifications (not altering text):

C7 Prospective affecting provision: provision for the Health Service Executive to facilitate education and training in accordance with subs. (4)(b) made by *Nurses and Midwives Act 2011* (41/2011), s. 84(1), not commenced as of date of revision.

Duties of Health Service Executive in relation to education and training of nurses and midwives.

84.— (1) The Health Service Executive, in accordance with section 7(4)(b) of the Health Act 2004 , shall, as far as practicable, facilitate the education and training of candidates.

...

C8 Provision for the Health Service Executive to facilitate education and training in accordance with subs. (4)(b) made (31.12.2008) by *Medical Practitioners Act 2007* (25/2007), s. 86(2), S.I. No. 554 of 2008.

Duties of Health Service Executive in relation to medical and dental education and training.

86.— ...

(2) The Health Service Executive, in accordance with section 7 (4)(b) of the Health Act 2004, shall, with respect to basic medical education and training, facilitate the education and training of students training to be registered medical practitioners.

Editorial Notes:

E8 Health Service Executive included in definition of public authority (16.03.2013) by *European Communities (Late Payment in Commercial Transactions) Regulations 2012* (S.I. No. 580 of 2012), reg. 2(1), in effect as per reg. 1(2).

Agreements between Executive and public authorities concerning performance of functions.

8.— (1) If any function of a public authority should, in its opinion, be performed (whether generally or in a particular case) by the Executive and the Executive is able and willing to perform the function, the Executive and that authority may enter into an agreement for the Executive to perform the function on the authority's behalf.

(2) If an agreement is entered into for the Executive to perform a function of a public authority, the Executive may—

(*a*) perform the function on behalf of the public authority in accordance with the agreement, and

(*b*) do any act or thing relating to the performance of that function that the public authority would be authorised by law to do if it performed the function.

(3) If any function of the Executive should, in its opinion, be performed (whether generally or in a particular case) by a public authority and that authority is able and willing to perform the function, the authority and the Executive may enter into an agreement for the authority to perform the function on the Executive's behalf.

(4) If an agreement is entered into for a public authority to perform a function of the Executive, the public authority may—

(*a*) perform the function on the Executive's behalf in accordance with the agreement, and

(*b*) do any act or thing relating to the performance of that function that the Executive would be authorised by law to do if it performed the function.

(5) An agreement under this section may contain terms and conditions relating to—

(*a*) the extent to which and the period for which a party to the agreement is authorised to perform the function of the other party to the agreement,

(*b*) the making of payments or the transfer of financial responsibility, and

(*c*) such other matters as are considered necessary to give effect to the agreement.

(6) An agreement under this section may provide for charges payable by the party on whose behalf the function is to be performed to the other party to the agreement.

(7) The power of a local authority to enter into an agreement under this section is a reserved function of the local authority.

Annotations

Editorial Notes:

E9 Performance of reserved function under section restricted (1.06.2014) by *Local Government (Performance of Reserved Functions in Respect of Municipal District Members) Regulations 2014* (S.I. No. 231 of 2014), regs. 6-10, in effect as per reg. 2.

E10 Function under section designated a reserved function (1.01.2014) by *Local Government Act 2001* (37/2001), ss. 131, 131A and sch. 14A part 3 ref. no. 99, as inserted (1.01.2014) by *Local Government Reform Act 2014* (1/2014), s. 21(4) and sch. 3, S.I. No. 214 of 2014.

Informal arrangements between Executive and local authorities concerning performance of functions.

9.— (1) If a local authority is of the opinion that it would be convenient if duties relating to its functions were carried out by an employee of the Executive, those duties may, without an agreement being entered into under *section 8* , be assigned by the Executive to any of its employees in the same way as duties relating to its functions.

(2) If the Executive is of the opinion that it would be convenient if duties relating to its functions were carried out by an employee of a local authority, those duties may, without an agreement being entered into under *section 8* , be assigned by the local authority to any of its employees in the same way as duties relating to the functions of the local authority.

(3) Duties assigned in accordance with this section may be carried out by the employees to whom they are so assigned.

Directions from Minister.

10.— F17**[**(1) The Minister may issue general written directions F18**[**to the Executive or the Board**]**—

(*a*) for any purpose relating to this Act or any other enactment,

(*b*) concerning any matter or thing referred to in this Act as specified or to be specified, or as determined or to be determined, by the Minister, or

(*c*) concerning the implementation of any policy or objective of the Minister or the Government which relates to a function of the Executive, where the Minister is of the opinion F18**[**that the Executive or the Board, as applicable, is not having sufficient regard to such policy or objective in the performance of the Executive's functions**]**.**]**

(2) In addition, the Minister may issue specific written directions to the Executive concerning the submission to the Minister, in such manner and within such period as the Minister may specify, of—

(*a*) reports on any matter relating to *Part 7* or relating in any other way to the performance of the Executive's functions, even though such reports are the subject of a direction under F18**[***subsection (1),***]**

(*b*) any information or statistics relating to the performance of the Executive's F18**[**functions, or**]**

F19**[**(*c*) subject to *section 10AA(1)* and *(3)*, one or more than one health needs assessment (within the meaning of *section 10AA(8)*) to be implemented by the Executive in the service plan prepared in accordance with *section 31*.**]**

(3) *Subsections (1)* and *(2)* are not to be taken to limit a power to issue directions conferred on the Minister by any other provision of this Act.

(4) The Minister may, by written direction, amend or revoke any direction issued by the Minister under this Act.

(5) F20**[**The Executive or the Board, as applicable,**]** shall comply with a direction issued by the Minister under this Act.

(6) The Minister shall ensure that, within 21 days after issuing a direction under *subsection (1)* F20**[**or issuing a direction under *subsection (4)* amending or revoking a direction issued under *subsection (1)***]**, a copy of the direction is laid before both Houses of the Oireachtas.

F21**[**(7) F20**[**The chairperson shall inform the Minister of the measures taken by the Executive or the Board, as applicable,**]** to comply with a direction issued under this section and such information shall be furnished to the Minister within such period as may be specified by the Minister.**]**

Annotations

Amendments:

F17 Substituted (25.07.2013) by *Health Service Executive (Governance) Act 2013* (23/2013), s. 5(a), S.I. No. 275 of 2013.

F18 Substituted (28.06.2019) by *Health Service Executive (Governance) Act 2019* (17/2019), s. 6(a)(i), (ii), (b)(i), (ii), S.I. No. 283 of 2019.

F19 Inserted (28.06.2019) by *Health Service Executive (Governance) Act 2019* (17/2019), s. 6(b)(iii), S.I. No. 283 of 2019.

F20 Substituted (28.06.2019) by *Health Service Executive (Governance) Act 2019* (17/2019), s. 6(c), (d), (e), S.I. No. 283 of 2019.

F21 Inserted (25.07.2013) by *Health Service Executive (Governance) Act 2013* (23/2013), s. 5(b), S.I. No. 275 of 2013.

F22**[**Setting of priorities by Minister.

10A.— (1) Subject to *subsections (2)* to *(4)*, the Minister may specify—

(*a*) priorities to which the Executive shall have regard in preparing its service plan under *section 31* or amending its service plan under *section 32*, and

(*b*) performance targets for the Executive in respect of such priorities.

(2) F23**[**...**]**

(3) The Minister shall consult with the Executive before specifying priorities or performance targets under this section and, having so specified such priorities or targets, shall furnish details of these in writing to the Executive.

(4) Before specifying priorities or performance targets under this section the Minister shall have regard to—

(*a*) best practice as respects the service the subject of the priority or performance target,

(*b*) outcomes for patients and recipients of services likely to be affected by the priority or performance target which the Minister is considering specifying, and

(*c*) the effect that specifying the priority or performance target concerned would be likely to have on other services provided by or on behalf of the Executive.

(5) In this section 'performance targets' means, as respects priorities specified under *subsection (1)*, levels of performance by the Executive by which the effectiveness of the Executive in meeting such priorities can be measured by the Minister.**]**

Annotations

Amendments:

F22 Inserted (25.07.2013) by *Health Service Executive (Governance) Act 2013* (23/2013), s. 6, S.I. No. 275 of 2013.

F23 Deleted (1.01.2014) by *Child and Family Agency Act 2013* (40/2013), s. 97 and sch. 2 part 19 item 1, S.I. No. 502 of 2013.

F24**[**Health needs assessment

10AA. (1) A direction under *section 10(2)(c)* F25**[**or *section 10C(2)(c)***]** shall include specific requirements to be taken into consideration by the Executive when conducting a health needs assessment.

(2) Without prejudice to the generality of *subsection (1)*, the specific requirements referred to in that subsection may include the effects of such of the following matters on the accessibility and effectiveness of healthcare strategies implemented by the Executive as the Minister F25**[**or the Minister for Children, Equality, Disability, Integration and Youth in so far as it relates to the performance of the Executive's specialist community-based disability services functions**]** is satisfied are appropriate:

(*a*) changes to national or regional distribution of population;

(*b*) demographic profile of population;

(*c*) lifestyle factors affecting health;

(*d*) patterns of morbidity across population;

(*e*) patterns of mortality across population;

(*f*) social determinants of health status.

(3) (*a*) The Minister shall consult with the Minister for Public Expenditure and Reform before issuing a direction under *section 10(2)(c)*.

(*b*) *Paragraph (a)* shall not be construed to prevent the Minister from consulting with any other person (including the Executive or another Minister of the Government) before issuing a direction under *section 10(2)(c)*.

F26**[**(3A) (*a*) The Minister for Children, Equality, Disability, Integration and Youth shall consult with the Minister for Public Expenditure and Reform before issuing a direction under *section 10C(2)(c)*.

(*b*) *Paragraph (a)* shall not be construed to prevent the Minister for Children, Equality, Disability, Integration and Youth from consulting with any other person (including the Executive or another Minister of the Government) before issuing a direction under *section 10C(2)(c)*.**]**

(4) The Executive shall submit a report of the findings of any health needs assessment to the Minister within the period specified by the Minister in the direction concerned

under *section 10(2)(c)* F26**[**or the Minister for Children, Equality, Disability, Integration and Youth in the direction concerned under *section 10C(2)(c)***]**.

(5) (*a*) Within one month after receiving a report under *subsection (4)*, the Minister shall—

(i) approve the report, or

(ii) if the Minister is not satisfied with the report, issue a supplementary direction under *section 10(2)(c)* in relation to revisions to be made to the report which, when complied with by the Executive, should, in the opinion of the Minister, remedy the deficiencies in the report.

(*b*) Where *paragraph (a)(ii)* applies, *section 10(2)(c)* and the other provisions of this section (including *paragraph (a)*) shall be construed with all necessary modifications to take account of the supplementary direction concerned under *section 10(2)(c)*.

F26**[**(5A) (*a*) Within one month after receiving a report under *subsection (4)*, the Minister for Children, Equality, Disability, Integration and Youth shall—

(i) approve the report, or

(ii) if the Minister for Children, Equality, Disability, Integration and Youth is not satisfied with the report, issue a supplementary direction under *section 10C(2)(c)* in relation to revisions to be made to the report which, when complied with by the Executive, should, in the opinion of the Minister for Children, Equality, Disability, Integration and Youth, remedy the deficiencies in the report.

(*b*) Where *paragraph (a)(ii)* applies, *section 10C(2)(c)* and the other provisions of this section (including *paragraph (a)*) shall be construed with all necessary modifications to take account of the supplementary direction concerned under *section 10C(2)(c)*.**]**

(6) The Executive shall ensure that, as soon as practicable after the approval of a report in accordance with *subsection (5)(a)(i)* F27**[**or *subsection (5A)(a)(i)***]**, the report is published on the Internet or in accordance with such other arrangements as the Minister F27**[**or the Minister for Children, Equality, Disability, Integration and Youth, as the case may be,**]** may specify by notice in writing given to the Executive.

(7) The Minister F27**[**or the Minister for Children, Equality, Disability, Integration and Youth in so far as it relates to the performance of the Executive's specialist community-based disability services functions**]** may issue guidelines in relation to the conduct of a health needs assessment and, if F28**[**either Minister**]** does so, the Executive shall comply with those guidelines.

(8) For the purposes of this section and *section 10*, "health needs assessment" means a scientific, statistical or other systematic analysis, the purpose of which is to gather and assess information with a view to bringing about change beneficial to the health of a specified part of, or all of, the population.**]**

Annotations

Amendments:

F24 Inserted (28.06.2019) by *Health Service Executive (Governance) Act 2019*(17/2019), s. 7, S.I. No. 283 of 2019.

F25 Inserted (1.03.2023) by *Health (Miscellaneous Provisions) Act 2022* (6/2022), s. 6(a), (b), S.I. No. 666 of 2022.

F26 Inserted (1.03.2023) by *Health (Miscellaneous Provisions) Act 2022* (6/2022), s. 6(c), (d), (e), S.I. No. 666 of 2022.

F27 Inserted (1.03.2023) by *Health (Miscellaneous Provisions) Act 2022* (6/2022), s. 6(f)(i), (ii), (g)(i), S.I. No. 666 of 2022.

F28 Substituted (1.03.2023) by *Health (Miscellaneous Provisions) Act 2022* (6/2022), s. 6(g)(ii), S.I. No. 666 of 2022.

Editorial Notes:

E11 The section heading is taken from the amending section in absence of one included in the amendment.

Limitation as to exercise of powers under *sections 10* and *10A*.

10B.— The Minister shall not give a direction under *section 10*, or specify a priority or performance target under *section 10A*, as respects—

(*a*) any function of the Executive relating to the provision of treatment or a health or personal social service to any particular person,

(*b*) any function of the Executive relating to a decision concerning—

(i) whether or not a particular person is eligible for a particular health or personal social service (including the payment of a grant or allowance), or

(ii) the extent to which and the manner in which a person is eligible for any such service,

(*c*) any function of the Executive relating to a decision concerning the making or recovery of a charge for the provision of a health or personal social service by or on behalf of the Executive to a particular person or concerning the amount of such charge,

(*d*) any function of the Executive that has been specified in an enactment to be a function of the F30**[**chief executive officer**]** relating to functions referred to in *paragraphs (a)* to *(c)*.

Annotations

Amendments:

F29 Inserted (25.07.2013) by *Health Service Executive (Governance) Act 2013* (23/2013), s. 6, S.I. No. 275 of 2013.

F30 Substituted (28.06.2019) by *Health Service Executive (Governance) Act 2019* (17/2019), s. 8, S.I. No. 283 of 2019.

F31**[**Directions from Minister for Children, Equality, Disability, Integration and Youth

10C.— (1) The Minister for Children, Equality, Disability, Integration and Youth may, in relation to the performance by the Executive of its specialist community-based disability services functions, issue general written directions to the Executive or the Board—

(*a*) for any purpose relating to this Act or any other enactment,

(*b*) concerning any matter or thing referred to in this Act as specified or to be specified, or as determined or to be determined, by the Minister for Children, Equality, Disability, Integration and Youth, or

(*c*) concerning the implementation of any policy or objective of the Minister for Children, Equality, Disability, Integration and Youth or the Government which relates to a specialist community-based disability service function of the Executive, where the Minister for Children, Equality, Disability, Integration and Youth is of the opinion that the Executive or the Board, as applicable, is not having sufficient regard to such policy or objective in the performance of its specialist community-based disability services functions.

(2) In addition, the Minister for Children, Equality, Disability, Integration and Youth may issue specific written directions to the Executive concerning the submission to him or her, in such manner and within such period as he or she may specify, of—

(*a*) reports on any matter relating to *Part 7* in so far as those reports relate to specialist community-based disability services or relating in any other way to the performance of the Executive's specialist community-based disability services functions, even though such reports are the subject of a direction under *subsection (1)*,

(*b*) any information or statistics relating to the performance of the Executive's specialist community-based disability services functions, or.

(*c*) subject to *section 10AA(1)* and *(3)*, one or more than one health needs assessment (within the meaning of *section 10AA(8)*), in so far as such an assessment relates to specialist community-based disability services, to be implemented by the Executive in the service plan prepared in accordance with *section 31*.

(3) *Subsections (1)* and *(2)* are not to be taken to limit a power to issue directions conferred on the Minister for Children, Equality, Disability, Integration and Youth by any other provision of this Act.

(4) The Minister for Children, Equality, Disability, Integration and Youth may, by written direction, amend or revoke any direction issued by him or her under this Act.

(5) The Executive or the Board, as applicable, shall comply with a direction issued by the Minister for Children, Equality, Disability, Integration and Youth under this Act.

(6) The Minister for Children, Equality, Disability, Integration and Youth shall ensure that, within 21 days after issuing a direction under *subsection (1)* or issuing a direction under *subsection (4)* amending or revoking a direction issued under *subsection (1)*, a copy of the direction is laid before both Houses of the Oireachtas.

(7) The chairperson shall inform the Minister for Children, Equality, Disability, Integration and Youth of the measures taken by the Executive or the Board, as applicable, to comply with a direction issued under this section and such information shall be furnished to the Minister for Children, Equality, Disability, Integration and Youth within such period as may be specified by him or her.**]**

Annotations

Amendments:

F31 Inserted (1.03.2023) by *Health (Miscellaneous Provisions) Act 2022* (6/2022), s. 7, S.I. No. 666 of 2022.

Editorial Notes:

E12 The section heading is taken from the amending section in absence of one included in the amendment.

F32[Setting of priorities by Minister for Children, Equality, Disability, Integration and Youth

10D.— (1) Subject to *subsections (2)* to *(4)*, the Minister for Children, Equality, Disability, Integration and Youth may, in relation to the performance by the Executive of its specialist community-based disability services functions, specify—

(*a*) priorities to which the Executive shall have regard in preparing its service plan under *section 31* or amending its service plan under *section 32*, and

(*b*) specialist community-based disability services performance targets for the Executive in respect of such priorities.

(2) The Minister for Children, Equality, Disability, Integration and Youth shall consult with the Executive before specifying priorities or performance targets under this section and, having so specified such priorities or targets, shall furnish details of these in writing to the Executive.

(3) Before specifying priorities or performance targets under this section, the Minister for Children, Equality, Disability, Integration and Youth shall have regard to—

(*a*) best practice as respects the service the subject of the priority or performance target,

(*b*) outcomes for patients and recipients of services likely to be affected by the priority or performance target that the Minister for Children, Equality, Disability, Integration and Youth is considering specifying, and

(*c*) the effect that specifying the priority or performance target concerned would be likely to have on other services provided by or on behalf of the Executive.

(4) In this section, "specialist community-based disability services performance targets" means, as respects priorities specified under *subsection (1)*, levels of performance by the Executive by which the effectiveness of the Executive in meeting such priorities can be measured by the Minister for Children, Equality, Disability, Integration and Youth.**]**

Annotations

Amendments:

F32 Inserted (1.03.2023) by *Health (Miscellaneous Provisions) Act 2022* (6/2022), s. 8, S.I. No. 666 of 2022.

Editorial Notes:

E13 The section heading is taken from the amending section in absence of one included in the amendment.

F33[Limitation as to exercise of powers under *sections 10C* and *10D*

10E.— The Minister for Children, Equality, Disability, Integration and Youth shall not give a direction under *section 10C*, or specify a priority or performance target under *section 10D*, as respects—

(*a*) any function of the Executive relating to the provision of treatment or a specialist community-based disability service to any particular person,

(*b*) any function of the Executive relating to a decision concerning—

(i) whether or not a particular person is eligible for a particular specialist community-based disability service (including the payment of a grant or allowance), or

(ii) the extent to which and the manner in which a person is eligible for any such service,

(*c*) any function of the Executive relating to a decision concerning the making or recovery of a charge for the provision of a specialist community-based disability service by or on behalf of the Executive to a particular person or concerning the amount of such charge, or

(*d*) any function of the Executive that has been specified in an enactment to be a function of the chief executive officer relating to functions referred to in *paragraphs (a)* to *(c)*.**]**

Annotations

Amendments:

F33 Inserted (1.03.2023) by *Health (Miscellaneous Provisions) Act 2022* (6/2022), s. 9, S.I. No. 666 of 2022.

Editorial Notes:

E14 The section heading is taken from the amending section in absence of one included in the amendment.

PART 3

The Board of the Health Service Executive

Membership of Board. Role of Board.

11.— F34**[**...**]**

Annotations

Amendments:

F34 Repealed (25.07.2013) by *Health Service Executive (Governance) Act 2013* (23/2013), s. 3, S.I. No. 275 of 2013, subject to transitional provisions in s. 23.

Role of Board.

12.— F35**[**...**]**

Annotations

Amendments:

F35 Repealed (25.07.2013) by *Health Service Executive (Governance) Act 2013* (23/2013), s. 3, S.I. No. 275 of 2013, subject to transitional provisions in s. 23.

Condition of office

13.— F36**[**...**]**

Annotations

Amendments:

F36 Repealed (25.07.2013) by *Health Service Executive (Governance) Act 2013* (23/2013), s. 3, S.I. No. 275 of 2013, subject to transitional provisions in s. 23.

Removal of members from office

14.— F37**[**...**]**

Annotations

Amendments:

F37 Repealed (25.07.2013) by *Health Service Executive (Governance) Act 2013* (23/2013), s. 3, S.I. No. 275 of 2013, subject to transitional provisions in s. 23.

Committees of Board

15.— F38**[**...**]**

Annotations

Amendments:

F38 Repealed (25.07.2013) by *Health Service Executive (Governance) Act 2013* (23/2013), s. 3, S.I. No. 275 of 2013, subject to transitional provisions in s. 23.

Remuneration and expenses of members of Board and committees.

16.— F39**[**...**]**

Annotations

Amendments:

F39 Repealed (25.07.2013) by *Health Service Executive (Governance) Act 2013* (23/2013), s. 3, S.I. No. 275 of 2013, subject to transitional provisions in s. 23.

F40**[**PART 3A

DIRECTORATE AND DIRECTOR GENERAL OF HEALTH SERVICE EXECUTIVE**]**

Annotations

Amendments:

F40 Inserted (25.07.2013) by *Health Service Executive (Governance) Act 2013* (23/2013), s. 7, S.I. No. 275 of 2013.

F41**[**Directorate of Executive.

16A.— F42**[**...**]]**

Annotations

Amendments:

F41 Inserted (25.07.2013) by *Health Service Executive (Governance) Act 2013* (23/2013), s. 7, S.I. No. 275 of 2013.

F42 Repealed (28.06.2019) by *Health Service Executive (Governance) Act 2019* (17/2019), s. 3(a), S.I. No. 283 of 2019.

F43**[**Term of office of appointed director.

16B.— F44**[**...**]]**

Annotations

Amendments:

F43 Inserted (25.07.2013) by *Health Service Executive (Governance) Act 2013* (23/2013), s. 7, S.I. No. 275 of 2013.

F44 Repealed (28.06.2019) by *Health Service Executive (Governance) Act 2019* (17/2019), s. 3(a), S.I. No. 283 of 2019.

F45**[**Role of Directorate.

16C.— F46**[**...**]]**

Annotations

Amendments:

F45 Inserted (25.07.2013) by *Health Service Executive (Governance) Act 2013* (23/2013), s. 7, S.I. No. 275 of 2013.

F46 Repealed (28.06.2019) by *Health Service Executive (Governance) Act 2019* (17/2019), s. 3(a), S.I. No. 283 of 2019.

F47**[**Appointed directors — eligibility for appointment and removal from office.

16D.— F48**[**...**]]**

Annotations

Amendments:

F47 Inserted (25.07.2013) by *Health Service Executive (Governance) Act 2013* (23/2013), s. 7, S.I. No. 275 of 2013.

F48 Repealed (28.06.2019) by *Health Service Executive (Governance) Act 2019* (17/2019), s. 3(a), S.I. No. 283 of 2019.

F49[Appointment of Director General.

16E.— F50[...]]

Annotations

Amendments:

F49 Inserted (25.07.2013) by *Health Service Executive (Governance) Act 2013* (23/2013), s. 7, S.I. No. 275 of 2013.

F50 Repealed (28.06.2019) by *Health Service Executive (Governance) Act 2019* (17/2019), s. 3(a), S.I. No. 283 of 2019.

F51[Eligibility for appointment as Director General.

16F.— F52[...]]

Annotations

Amendments:

F51 Inserted (25.07.2013) by *Health Service Executive (Governance) Act 2013* (23/2013), s. 7, S.I. No. 275 of 2013.

F52 Repealed (28.06.2019) by *Health Service Executive (Governance) Act 2019* (17/2019), s. 3(a), S.I. No. 283 of 2019.

F53[General functions of Director General.

16G.— F54[...]]

Annotations

Amendments:

F53 Inserted (25.07.2013) by *Health Service Executive (Governance) Act 2013* (23/2013), s. 7, S.I. No. 275 of 2013.

F54 Repealed (28.06.2019) by *Health Service Executive (Governance) Act 2019* (17/2019), s. 3(a), S.I. No. 283 of 2019.

Editorial Notes:

E15 Previous affecting provision: subs. (3) substituted (17.07.2014) by *Health Service Executive (Financial Matters) Act 2014* (17/2014), s. 5, commenced on enactment; section repealed as per F-note above.

F55[Delegation of functions by Director General.

16H.— F56[...]]

Annotations

Amendments:

F55 Inserted (25.07.2013) by *Health Service Executive (Governance) Act 2013* (23/2013), s. 7, S.I. No. 275 of 2013.

F56 Repealed (28.06.2019) by *Health Service Executive (Governance) Act 2019* (17/2019), s. 3(a), S.I. No. 283 of 2019.

F57**[**Attendance by Director General before Oireachtas Committees.

16I.— F58**[**...**]]**

Annotations

Amendments:

F57 Inserted (25.07.2013) by *Health Service Executive (Governance) Act 2013* (23/2013), s. 7, S.I. No. 275 of 2013.

F58 Repealed (28.06.2019) by *Health Service Executive (Governance) Act 2019* (17/2019), s. 3(a), S.I. No. 283 of 2019.

F59**[**Accountability of appointed directors to Director General for the performance of their functions as employees of Executive.

16J.— F60**[**...**]]**

Annotations

Amendments:

F59 Inserted (25.07.2013) by *Health Service Executive (Governance) Act 2013* (23/2013), s. 7, S.I. No. 275 of 2013.

F60 Repealed (28.06.2019) by *Health Service Executive (Governance) Act 2019* (17/2019), s. 3(a), S.I. No. 283 of 2019.

F61**[**Meetings and procedure of Directorate.

16K.— F62**[**...**]]**

Annotations

Amendments:

F61 Inserted (25.07.2013) by *Health Service Executive (Governance) Act 2013* (23/2013), s. 7, S.I. No. 275 of 2013.

F62 Repealed (28.06.2019) by *Health Service Executive (Governance) Act 2019* (17/2019), s. 3(a), S.I. No. 283 of 2019.

F63[Vacancies in membership of Directorate.

16L.— F64[...]]

Annotations

Amendments:

F63 Inserted (25.07.2013) by *Health Service Executive (Governance) Act 2013* (23/2013), s. 7, S.I. No. 275 of 2013.

F64 Repealed (28.06.2019) by *Health Service Executive (Governance) Act 2019* (17/2019), s. 3(a), S.I. No. 283 of 2019.

F65[Committees of Directorate.

16M.— F66[...]]

Annotations

Amendments:

F65 Inserted (25.07.2013) by *Health Service Executive (Governance) Act 2013* (23/2013), s. 7, S.I. No. 275 of 2013.

F66 Repealed (28.06.2019) by *Health Service Executive (Governance) Act 2019* (17/2019), s. 3(a), S.I. No. 283 of 2019.

F67[Part 3B

Board of Executive]

Annotations

Amendments:

F67 Inserted (28.06.2019) by *Health Service Executive (Governance) Act 2019* (17/2019), s. 9, S.I. No. 283 of 2019.

F68[Membership of Board

16N.— (1) The Executive shall have a Board (in this Act referred to as the "Board") consisting of the following members:

(*a*) a chairperson;

(*b*) a deputy chairperson;

(*c*) 10 ordinary members.

(2) (*a*) Subject to *paragraphs (b)*, *(c)* and *(d)*, the chairperson, the deputy chairperson and the ordinary members of the Board F69[shall be appointed by the Minister, after consultation with the Minister for Children, Equality, Disability, Integration and Youth,] from among persons who, in the opinion of the Minister, have sufficient experience and expertise relating to matters

connected with the functions of the Executive to enable them to make a substantial contribution to the effective and efficient performance of those functions.

F69**[**(*b*) At least 2 of the persons appointed under *paragraph (a)* shall be persons who, in the opinion of the Minister, after consultation with the Minister for Children, Equality, Disability, Integration and Youth, have experience of, or expertise in, advocacy in relation to matters affecting patients or recipients of services from or on behalf of the Executive.**]**

(*c*) At least 2 of the persons appointed under *paragraph (a)* shall be persons who are practising, or have practised, as a member of a health profession, whether in or outside the State.

(*d*) At least one of the persons appointed under *paragraph (a)* shall be a person who, F69**[**in the opinion of the Minister, after consultation with the Minister for Children, Equality, Disability, Integration and Youth,**]** has experience of, or expertise in, financial matters.

(3) F70**[**The Minister, after consultation with the Minister for Children, Equality, Disability, Integration and Youth, shall**]**, in so far as practicable, endeavour to ensure that among the members of the Board there is an equitable balance between men and women.

(4) The chairperson shall hold office for such period, not exceeding 5 years from the date of appointment, F70**[**as the Minister, after consultation with the Minister for Children, Equality, Disability, Integration and Youth, shall determine**]**.

(5) The deputy chairperson shall hold office for such period, not exceeding 5 years from the date of appointment, F70**[**as the Minister, after consultation with the Minister for Children, Equality, Disability, Integration and Youth, shall determine**]**.

(6) Subject to *subsection (7)*, an ordinary member shall hold office for such period, not exceeding 5 years from the date of appointment, F71**[**as the Minister, after consultation with the Minister for Children, Equality, Disability, Integration and Youth, shall determine**]**.

(7) Of the ordinary members of the Board first constituted under this section—

(*a*) 5 members shall hold office for a period of 3 years from the date of appointment to the office, and

(*b*) 5 members shall hold office for a period of 5 years from the date of such appointment.

(8) Subject to *subsection (9)*, a member of the Board whose term of office expires by the efflux of time shall be eligible for reappointment to the Board.

(9) A person who is reappointed to the Board in accordance with *subsection (8)* shall not hold office for more than 2 consecutive terms and in any event may not serve for a period of more than 10 years.

(10) A member may resign from office by letter F71**[**sent to the Minister and notified to the Minister for Children, Equality, Disability, Integration and Youth**]** and the resignation shall take effect on the later of—

(*a*) the date specified in the letter, or

(*b*) the date of receipt of the letter by the Minister.

(11) F71**[**The Minister, after notifying the Minister for Children, Equality, Disability, Integration and Youth, shall**]**, as soon as practicable after an appointment to the Board, publish in Iris Oifigiúil notice of the name of the person so appointed.

(12) For the purpose of this section, 'health profession' means any of the following professions:

(*a*) dentist;

(*b*) a designated profession within the meaning of section 3 of the Health and Social Care Professionals Act 2005;

(*c*) medical practitioner;

(*d*) midwife;

(*e*) nurse;

(*f*) pharmacist.**]**

Annotations

Amendments:

F68 Inserted (28.06.2019) by *Health Service Executive (Governance) Act 2019* (17/2019), s. 9, S.I. No. 283 of 2019.

F69 Substituted (1.03.2023) by *Health (Miscellaneous Provisions) Act 2022* (6/2022), s. 10(a)(i)-(iii), S.I. No. 666 of 2022.

F70 Substituted (1.03.2023) by *Health (Miscellaneous Provisions) Act 2022* (6/2022), s. 10(b), (c), (d), S.I. No. 666 of 2022.

F71 Substituted (1.03.2023) by *Health (Miscellaneous Provisions) Act 2022* (6/2022), s. 10(e), (f), (g), S.I. No. 666 of 2022.

F72**[**Casual vacancies

16O. (1) If a member resigns, dies, ceases to hold office (other than by effluxion of time), ceases to be qualified to hold office or is removed from office, the Minister F73**[**, after consultation with the Minister for Children, Equality, Disability, Integration and Youth,**]** shall as soon as practicable appoint a person to fill the casual vacancy so arising.

(2) A person appointed under *subsection (1)* shall hold office for the unexpired period of his or her predecessor's term of office or such other period as the Minister F73**[**, after consultation with the Minister for Children, Equality, Disability, Integration and Youth,**]** may determine not exceeding 5 years including such unexpired period.

(3) A member appointed under *subsection (1)* is eligible for reappointment to the Board, on the expiry of the unexpired period or other period, as appropriate, referred to in *subsection (2)*, but may not serve for more than 2 further consecutive terms and in any event may not serve for a period of more than 10 years.**]**

Annotations

Amendments:

F72 Inserted (28.06.2019) by *Health Service Executive (Governance) Act 2019* (17/2019), s. 9, S.I. No. 283 of 2019.

F73 Inserted (1.03.2023) by *Health (Miscellaneous Provisions) Act 2022* (6/2022), s. 11(a), (b), S.I. No. 666 of 2022.

F74**[**Functions of Board

16P.— (1) The Board is the governing body of the Executive with authority, in the name of the Executive, to perform the functions of the Executive.

(2) The Board shall—

(*a*) satisfy itself that appropriate systems, procedures and practices are in place—

(i) to achieve the Executive's object,

(ii) for the internal performance management and accountability of the Executive in respect of the Executive's—

(I) performance of its functions,

(II) achieving objectives in accordance with the corporate plan, and

(III) delivery of health and personal social services in accordance with this Act, and

(iii) in order to enable compliance with the policies (whether set out in codes, guidelines or other documents, or any combination thereof) of the Government or a Minister of the Government to the extent that those policies may affect or relate to the functions of the Executive, and

(*b*) establish and implement arrangements for the management of the performance of the chief executive officer.

F75**[**(3) The Board is accountable—

(*a*) to the Minister for the performance of its functions under *subsections (1)* and *(2)*, other than in so far as those functions relate to specialist community-based disability services functions under those subsections, and

(*b*) to the Minister for Children, Equality, Disability, Integration and Youth for the performance of its functions under *subsections (1)* and *(2)* in so far as those functions relate to the performance by the Executive of its specialist community-based disability services functions under those subsections.**]**

(4) The Board may delegate in writing to the chief executive officer any of the Executive's functions.

(5) If a function of the Executive is delegated to the chief executive officer under *subsection (4)*, the delegation remains in force until the Board revokes the delegation by notice in writing given to that officer.

F75**[**(6) (*a*) The Board shall notify the Minister in writing of any delegation made under *subsection (4)* and of any revocation of such delegation other than the extent to which any delegation relates to a specialist community-based disability services function of the Executive.

(*b*) The Board shall notify the Minister for Children, Equality, Disability, Integration and Youth of any delegation made under *subsection (4)* and of any revocation of such delegation to the extent to which the delegation relates to a specialist community-based disability services function of the Executive.**]**.

F75**[**(7) The Board shall inform the Minister or the Minister for Children, Equality, Disability, Integration and Youth in writing of any matter that it considers requires the attention of the Minister concerned.**]]**

Annotations

Amendments:

F74 Inserted (28.06.2019) by *Health Service Executive (Governance) Act 2019* (17/2019), s. 9, S.I. No. 283 of 2019.

F75 Substituted (1.03.2023) by *Health (Miscellaneous Provisions) Act 2022* (6/2022), s. 12(a), (b), (c), S.I. No. 666 of 2022.

F76**[**Membership of either House of Oireachtas or European Parliament

16Q.— (1) A person is not eligible for appointment as a member of the Board or a committee of the Board if the person is—

(*a*) nominated as a member of Seanad Éireann,

(*b*) elected as a member of either House of the Oireachtas or to be a member of the European Parliament,

(*c*) regarded pursuant to Part XIII of the Second Schedule to the European Parliament Elections Act 1997 as having been elected to that Parliament, or

(*d*) elected or co-opted as a member of a local authority.

(2) A person who is for the time being entitled under the Standing Orders of either House of the Oireachtas to sit therein or who is a member of the European Parliament or a local authority shall, while he or she is so entitled or is such a member, be disqualified for membership of the Board or a committee of the Board.**]**

Annotations

Amendments:

F76 Inserted (28.06.2019) by *Health Service Executive (Governance) Act 2019* (17/2019), s. 9, S.I. No. 283 of 2019.

F77**[**Removal of member of Board

16R.— (1) The Minister F78**[**, after consultation with the Minister for Children, Equality, Disability, Integration and Youth,**]** may at any time remove from office a member of the Board if, in the Minister's opinion—

(*a*) the member has become incapable through ill-health of performing his or her functions,

(*b*) the member has committed stated misbehaviour,

(*c*) the member's removal is necessary for the effective and efficient performance by the Board of its functions,

(*d*) the member has contravened *section 25(1)* or *26* or an applicable provision of the Ethics in Public Office Act 1995, or

(*e*) in performing functions under this Act, the member has not been guided by a code of conduct that has been drawn up under section 10(3) of the Standards in Public Office Act 2001 and that relates to the member.

(2) A member of the Board shall cease to be qualified for office and shall cease to hold office if he or she—

(*a*) is adjudicated bankrupt,

(*b*) makes a composition or arrangement with creditors,

(*c*) is sentenced by a court of competent jurisdiction to a term of imprisonment,

(*d*) is convicted of any indictable offence,

(*e*) is convicted of an offence involving fraud or dishonesty, whether in connection with a company or not,

(*f*) is, or is deemed to be, the subject of an order under section 160 of the Companies Act 1990 or a disqualification order within the meaning of Chapter 4 of Part 14 of the Companies Act 2014, or

(*g*) is removed by a competent authority for any reason (other than failure to pay a fee) from any register established for the purpose of registering members of a profession in the State or another jurisdiction.

(3) A member who does not, for a consecutive period of 6 months, attend a meeting of the Board ceases at the end of that period to hold office unless the member F78**[**demonstrates to the satisfaction of the Minister, after consultation with the Minister for Children, Equality, Disability, Integration and Youth,**]** that the failure was due to ill-health.

(4) In this section, "applicable provision of the Ethics in Public Office Act 1995", in relation to a member, means a provision of that Act that, by virtue of a regulation under section 3 of that Act, applies to that member.**]**

Annotations

Amendments:

F77 Inserted (28.06.2019) by *Health Service Executive (Governance) Act 2019* (17/2019), s. 9, S.I. No. 283 of 2019.

F78 Inserted (1.03.2023) by *Health (Miscellaneous Provisions) Act 2022* (6/2022), s. 13(a), (b), S.I. No. 666 of 2022.

F79**[**Removal of all members of Board from office

16S.— (1) The Minister F80**[**, after consultation with the Minister for Children, Equality, Disability, Integration and Youth,**]** may remove all the members of the Board from office if—

(*a*) the Board fails to achieve a quorum for 3 consecutive meetings,

(*b*) the Board does not comply with a judgment, order or decree of any court,

(*c*) the Board does not comply with a direction of the Minister F80**[**or the Minister for Children, Equality, Disability, Integration and Youth in so far as (in the case of that last-mentioned Minister) such a direction relates to the performance by the Executive of its specialist community-based disability services functions**]** or any other requirement imposed on it by or under any enactment including this Act, or

(*d*) the Minister F80**[**, after consultation with the Minister for Children, Equality, Disability, Integration and Youth,**]** is of the opinion that the Board's functions (in particular, its functions under *section 16P*) are not being performed in an effective and efficient manner.

(2) The Minister F81**[**, after consultation with the Minister for Children, Equality, Disability, Integration and Youth,**]** may, if he or she is of the opinion that the Board's functions are not being performed in an effective and efficient manner, appoint a person to—

(*a*) conduct an independent review of any matter giving rise to that opinion, and

(*b*) submit a report to the Minister F81**[**and the Minister for Children, Equality, Disability, Integration and Youth**]** on the results of the review.

(3) The Board shall co-operate with a review under *subsection (2)* and give the person conducting it all reasonable assistance, including access to such premises, equipment and records as the person may require for the purposes of the review.

(4) The removal of the members of the Board from office does not revoke or otherwise affect any delegation of the Executive's functions to the chief executive officer under *section 16P(4)*.**]**

Annotations

Amendments:

F79 Inserted (28.06.2019) by *Health Service Executive (Governance) Act 2019* (17/2019), s. 9, S.I. No. 283 of 2019.

F80 Inserted (1.03.2023) by *Health (Miscellaneous Provisions) Act 2022* (6/2022), s. 14(a)(i), (ii), (iii), S.I. No. 666 of 2022.

F81 Inserted (1.03.2023) by *Health (Miscellaneous Provisions) Act 2022* (6/2022), s. 14(b)(i), (ii), S.I. No. 666 of 2022.

F82**[**Committees of Board

16T.— (1) The Board may establish committees, consisting in whole or in part of persons who are members of the Board, to assist and advise it in relation to the performance of any of its functions.

(2) In appointing members of a committee the Board shall have regard to the knowledge and experience necessary for the proper and effective and efficient discharge of the functions of the committee.

(3) The Board may at any time remove a member of a committee for stated reasons.

(4) The acts of a committee shall be subject to confirmation by the Board, unless the Board otherwise determines.

(5) The Board may determine the terms of reference and the procedures of a committee.

(6) The Board may appoint a member of a committee to be the chairperson of a committee.

(7) A committee shall provide the Board with such information as the Board may from time to time require, in respect of the committee's activities and operations, for the purposes of the performance by the Board of its functions.

(8) The Board may at any time dissolve a committee.

(9) In this section, 'committee' means a committee established under *subsection (1)*.**]**

Annotations

Amendments:

F82 Inserted (28.06.2019) by *Health Service Executive (Governance) Act 2019* (17/2019), s. 9, S.I. No. 283 of 2019.

F83**[**Remuneration and expenses of members of Board and committees

16U.— (1) F84**[**The Minister, may, after consultation with the Minister for Children, Equality, Disability, Integration and Youth, and with the consent of the Minister for Public Expenditure and Reform**]**, determine the remuneration and expenses payable under this section.

(2) The remuneration and allowances for expenses, if any, determined in accordance with *subsection (1)* are payable by the Executive out of funds at its disposal to—

(*a*) the members of the Board, and

(*b*) the members of a committee of the Board.

(3) The remuneration and allowances for expenses, if any, determined in accordance with *subsection (1)* are payable by the Minister out of money provided by the Oireachtas to a person appointed under *section 16S(2)* to conduct an independent review.**]**

Annotations

Amendments:

F83 Inserted (28.06.2019) by *Health Service Executive (Governance) Act 2019* (17/2019), s. 9, S.I. No. 283 of 2019.

F84 Substituted (1.03.2023) by *Health (Miscellaneous Provisions) Act 2022* (6/2022), s. 15, S.I. No. 666 of 2022.

PART 4

Chief Executive Officer

Appointment of chief executive officer.

17.— F85**[**...**]**

Annotations

Amendments:

F85 Repealed (25.07.2013) by *Health Service Executive (Governance) Act 2013* (23/2013), s. 3, S.I. No. 275 of 2013, subject to transitional provisions in s. 23.

Functions of chief executive officer and their performance by deputy.

18.— F86**[**...**]**

Annotations

Amendments:

F86 Repealed (25.07.2013) by *Health Service Executive (Governance) Act 2013* (23/2013), s. 3, S.I. No. 275 of 2013, subject to transitional provisions in s. 23.

Delegation of functions.

19.— F87**[**...**]**

Annotations

Amendments:

F87 Repealed (25.07.2013) by *Health Service Executive (Governance) Act 2013* (23/2013), s. 3, S.I. No. 275 of 2013, subject to transitional provisions in s. 23.

Chief executive officer to be accounting officer.

20.— F88**[**...**]**

Annotations

Amendments:

F88 Repealed (25.07.2013) by *Health Service Executive (Governance) Act 2013* (23/2013), s. 3, S.I. No. 275 of 2013, subject to transitional provisions in s. 23.

Attendance of chief executive officer before Oireachtas Committees.

21.— F89**[**...**]**

Annotations

Amendments:

F89 Repealed (25.07.2013) by *Health Service Executive (Governance) Act 2013* (23/2013), s. 3, S.I. No. 275 of 2013, subject to transitional provisions in s. 23.

F90**[**Part 4A

Chief Executive Officer**]**

Annotations

Amendments:

F90 Inserted (28.06.2019) by *Health Service Executive (Governance) Act 2019* (17/2019), s. 10, S.I. No. 283 of 2019.

F91**[**Appointment of chief executive officer

21A.— (1) Subject to *subsection (2)*, the Board shall as soon as practicable after the commencement of section 10 of the Health Service Executive (Governance) Act 2019 and thereafter as required, appoint a person recruited in accordance with the Public Service Management (Recruitment and Appointments) Act 2004 to be the chief executive officer of the Executive (in this Act referred to as the "chief executive officer").

(2) *Subsection (1)* shall not apply to a person deemed under *subsection (6)* to be the first chief executive officer.

(3) The chief executive officer shall hold office upon and subject to such terms and conditions (including terms and conditions relating to remuneration, allowances and superannuation) as may be determined by the Board F92**[**with the approval of the Minister, after consultation with the Minister for Children, Equality, Disability, Integration and Youth, given with the consent of the Minister for Public Expenditure and Reform**]**.

(4) The remuneration and allowances determined under *subsection (3)* shall be paid out of funds at the disposal of the Executive.

(5) The chief executive officer shall not hold any other office or employment or carry on any business.

(6) Notwithstanding the repeal of *Part 3A* by section 3 (a) of the Health Service Executive (Governance) Act 2019, the person who was the Director General, immediately before the commencement of the said section 3 (a), shall be deemed to be the first chief executive officer—

(*a*) as if, on that commencement, the Board had appointed under *subsection (1)* the person to be the chief executive officer for the remaining period, if any, that was left to run for the person to hold the office of such Director General immediately before that commencement, and

(*b*) on the same terms and conditions (including terms and conditions relating to remuneration, allowances, superannuation and termination of appointment) as the person held office as such Director General immediately before that commencement, and the other provisions of this Act shall be construed accordingly.

(7) The chief executive officer shall not be a member of the Board or a committee, but he or she may, in accordance with procedures established by the Board or a committee, as the case may be, attend meetings of the Board or a committee and shall be entitled to speak at and advise such meetings.**]**

Annotations

Amendments:

F91 Inserted (28.06.2019) by *Health Service Executive (Governance) Act 2019* (17/2019), s. 10, S.I. No. 283 of 2019.

F92 Substituted (1.03.2023) by *Health (Miscellaneous Provisions) Act 2022* (6/2022), s. 16, S.I. No. 666 of 2022.

F93**[**Resignation, removal or disqualification of chief executive officer

21B.— (1) The chief executive officer may resign from office by giving notice in writing to the Board of his or her resignation.

(2) The Board may, at any time, remove the chief executive officer from office if, in its opinion—

(*a*) the chief executive officer has become incapable through ill-health of performing his or her functions,

(*b*) the chief executive officer has committed stated misbehaviour, or

(*c*) the removal of the chief executive officer is necessary for the effective and efficient performance by the Executive of its functions.

(3) If the chief executive officer is removed from office in accordance with *subsection (2)*, the Board shall provide the chief executive officer with a statement of reasons for the removal.

(4) The chief executive officer shall cease to be qualified for office and shall cease to hold office if he or she—

(*a*) is sentenced by a court of competent jurisdiction to a term of imprisonment,

(*b*) is convicted of any indictable offence,

(*c*) is convicted of an offence involving fraud or dishonesty, whether in connection with a company or not, or

(*d*) is, or is deemed to be, the subject of an order under section 160 of the Companies Act 1990 or a disqualification order within the meaning of Chapter 4 of Part 14 of the Companies Act 2014.**]**

Annotations

Amendments:

F93 Inserted (28.06.2019) by *Health Service Executive (Governance) Act 2019* (17/2019), s. 10, S.I. No. 283 of 2019.

F94**[**Functions of chief executive officer

21C.— (1) The chief executive officer shall—

(*a*) carry on and manage, and control generally, the administration and business of the Executive and perform such other functions as are conferred on him or her by or under this Act or any other enactment,

(*b*) ensure that appropriate systems, procedures and practices are in place—

(i) to achieve the Executive's object,

(ii) for the internal performance management and accountability of the Executive in respect of the Executive's—

(I) performance of its functions,

(II) achieving objectives in accordance with the corporate plan, and

(III) delivery of health and personal social services in accordance with this Act, and

(iii) in order to enable compliance with the policies (whether set out in codes, guidelines or other documents, or any combination thereof) of the Government or a Minister of the Government to the extent that those policies may affect or relate to the functions of the Executive,

(*c*) provide the Board with such information (including financial information) relating to the performance of his or her functions and the implementation of the policies of the Executive as the Board may require, and

F95**[**(*d*) assist and provide the accounting officer of the Department of Health and, in respect of the specialist community-based disability services functions of the Executive, the accounting officer of the Department of Children, Equality, Disability, Integration and Youth (other than, in either case, for the purposes referred to in *section 40G*) with such information (including financial information and records) relating to the functions of the accounting officer concerned within such period as the accounting officer concerned may require.**]**

(2) The chief executive officer shall be accountable to the Board for the effective and efficient management of the Executive and for the due performance of his or her functions.**]**

Annotations

Amendments:

F94 Inserted (28.06.2019) by *Health Service Executive (Governance) Act 2019* (17/2019), s. 10, S.I. No. 283 of 2019.

F95 Substituted (1.03.2023) by *Health (Miscellaneous Provisions) Act 2022* (6/2022), s. 17, S.I. No. 666 of 2022.

F96**[**Delegation and subdelegation of functions

21D.— (1) (*a*) Subject to *paragraph (b)*, the chief executive officer may—

(i) delegate any of his or her functions under *section 21C* in writing to an employee of the Executive, which employee shall be specified by name, grade, position or otherwise, and

(ii) to the extent specified in a delegation made under this subsection, authorise the subdelegation of any or all of the functions delegated under *subparagraph (i)* to or by other employees of the Executive.

(*b*) The Board may issue directions in writing to the chief executive officer in respect of the exercise of his or her power under *paragraph (a)* and the chief executive officer shall comply with such directions.

(2) Any function delegated or subdelegated under this section to an employee of the Executive shall be performed by the employee under the general direction and control of the chief executive officer and in compliance with such directions, limitations and guidelines as may be specified by—

(*a*) in the case of a delegated function, the chief executive officer, or

(*b*) in the case of a subdelegated function, the employee who subdelegated the function.

(3) The delegation of a function does not preclude the chief executive officer from performing the function.

(4) The chief executive officer may—

(*a*) vary the delegation of a function under this section, including by modifying the geographical area to which the delegation relates,

(*b*) revoke the delegation, or

(*c*) without revoking the delegation, revoke any subdelegation of the function.

(5) On varying or revoking the delegation or subdelegation of a function, the chief executive officer shall, as soon as practicable, inform each employee to whom the function was delegated or subdelegated of its variation or revocation.

(6) An employee of the Executive who subdelegates a function delegated or subdelegated to the employee under this section—

(*a*) may—

(i) vary the subdelegation, including by modifying the geographical area to which it relates, or

(ii) may revoke the subdelegation, and

(*b*) is not precluded from performing the function.

(7) On varying or revoking the subdelegation of a function under *subsection (6)*, the employee who subdelegated the function shall, as soon as practicable, inform each employee to whom the function was subdelegated of its variation or revocation.**]**

Annotations

Amendments:

F96 Inserted (28.06.2019) by *Health Service Executive (Governance) Act 2019* (17/2019), s. 10, S.I. No. 283 of 2019.

F97[Accountability of chief executive officer to committees of Houses of Oireachtas

21E.— (1) Subject to *subsection (2)*, the chief executive officer shall, at the request in writing of a Committee, attend before it to give an account of the general administration of the Executive.

(2) The chief executive officer shall not be required to give an account before a Committee of any matter relating to the general administration of the Executive which is the subject of proceedings before a court or tribunal in the State.

(3) Where the chief executive officer is of the opinion that a matter in respect of which he or she is requested to give an account before a Committee is a matter to which *subsection (2)* applies, he or she shall inform the Committee of that opinion and the reasons for the opinion and, unless the information is conveyed to the Committee at a time when the chief executive officer is before it, the information shall be so conveyed in writing.

(4) Where the chief executive officer has informed a Committee of his or her opinion in accordance with subsection (3) and the Committee does not withdraw the request referred to in *subsection (1)* in so far as it relates to a matter the subject of that opinion—

(*a*) the chief executive officer may, not later than 42 days after being informed by the Committee of its decision not to do so, apply to the High Court in a summary manner for determination of the question whether the matter is one to which *subsection (2)* applies, or

(*b*) the Chairperson of the Committee may, on behalf of the Committee, make such an application,

and the High Court shall determine the matter.

(5) Pending the determination of an application under *subsection (4)*, the chief executive officer shall not attend before the Committee to give account for the matter the subject of the application.

(6) If the High Court determines that the matter concerned is one to which *subsection (2)* applies, the Committee shall withdraw the request referred to in *subsection (1)*, but if the High Court determines that *subsection (2)* does not apply, the chief executive officer shall attend before the Committee to give account for the matter.

(7) In the performance of his or her duties under this section, the chief executive officer shall not question or express an opinion on the merits of any policy of the Government or a Minister of the Government or on the merits of the objectives of such a policy.

(8) With the permission of the Chairperson of a Committee making the request under *subsection (1)*, either—

(*a*) the chairperson of the Board, or

(*b*) an employee of the Executive nominated by the chief executive officer, may attend before the Committee in place of the chief executive officer to give an account of the general administration of the Executive, and in that case a reference in *subsections (2)* to *(7)* to the chief executive officer shall be read as including a reference to the person attending in his or her place.

(9) In this section, "Committee" means a committee appointed by either House of the Oireachtas or jointly by both Houses of the Oireachtas, other than—

(*a*) the Committee of Public Accounts, the Committee on Members' Interests of Dáil Éireann or the Committee on Members' Interests of Seanad Éireann, or

(*b*) a subcommittee of a committee referred to in *paragraph (a)*.**]**

Annotations

Amendments:

F97 Inserted (28.06.2019) by *Health Service Executive (Governance) Act 2019* (17/2019), s. 10, S.I. No. 283 of 2019.

F98**[**Membership of either House of Oireachtas or European Parliament

21F.— (1) A person is not eligible for appointment as the chief executive officer if the person is—

(*a*) nominated as a member of Seanad Éireann,

(*b*) elected as a member of either House of the Oireachtas or to be a member of the European Parliament,

(*c*) regarded pursuant to Part XIII of the Second Schedule to the European Parliament Elections Act 1997 as having been elected to that Parliament, or

(*d*) elected or co-opted as a member of a local authority.

(2) A person who is for the time being entitled under the Standing Orders of either House of the Oireachtas to sit therein or who is a member of the European Parliament or of a local authority shall, while he or she is so entitled or is such a member, be disqualified for being the chief executive officer.**]**

Annotations

Amendments:

F98 Inserted (28.06.2019) by *Health Service Executive (Governance) Act 2019* (17/2019), s. 10, S.I. No. 283 of 2019.

F99**[**Acting chief executive officer

21G.— (1) Subject to *subsection (2)*, the Board may appoint such other employee of the Executive to perform the functions of the chief executive officer during—

(*a*) any period or periods when the chief executive officer is absent from duty or from the State or is, for any other reason, unable to perform the functions of chief executive officer,

(*b*) any suspension from office of the chief executive officer, or

(*c*) any vacancy in the office of chief executive officer.

(2) The Board may at any time terminate an appointment under this section.**]**

Annotations

Amendments:

F99 Inserted (28.06.2019) by *Health Service Executive (Governance) Act 2019* (17/2019), s. 10, S.I. No. 283 of 2019.

PART 5

Employees and Advisers

Employees of Executive.

22.— (1) The Executive may, subject to *subsections (2)* to *(5),* appoint persons to be its employees and may determine their duties.

(2) Employees appointed under this section shall be recruited in accordance with the Public Service Management (Recruitment and Appointments) Act 2004.

(3) *Subsection (2)* does not apply to employees appointed under this section during the period of 3 months beginning with the establishment day or during such shorter period as the Minister may specify.

(4) The Executive shall, F100**[**with the approval of the Minister, after consultation with the Minister for Children, Equality, Disability, Integration and Youth, given with the consent of**]** the Minister for Finance, determine—

(*a*) the terms and conditions of employment (including terms and conditions relating to remuneration and allowances) of employees appointed under this section, and

(*b*) the grades of the employees of the Executive and the numbers of employees in each grade.

(5) A person is not eligible for appointment as an employee of the Executive if the person is—

(*a*) a member of either House of the Oireachtas or of the European Parliament, or

(*b*) regarded pursuant to section 19 of the European Parliament Elections Act 1997 as having been elected to the European Parliament to fill a vacancy.

(6) The remuneration and allowances of the Executive's employees are payable by the Executive to them out of funds at its disposal.

F101**[**(7) This section shall not apply to the appointment of the chief executive officer under *section 21A*.**]**

Annotations

Amendments:

F100 Substituted (1.03.2023) by *Health (Miscellaneous Provisions) Act 2022* (6/2022), s. 18, S.I. No. 666 of 2022.

F101 Inserted (28.06.2019) by *Health Service Executive (Governance) Act 2019* (17/2019), s. 11, S.I. No. 283 of 2019.

Superannuation.

23.— (1) The Executive shall prepare and submit to the Minister one or more than one scheme for granting superannuation benefits to or in respect of such employees (including the F102**[**chief executive officer**]**) of the Executive as it may think fit.

(2) Each superannuation scheme must fix the terms of retirement for all persons to or in respect of whom superannuation benefits are payable under the scheme, and different terms may be fixed in respect of different classes of persons.

(3) A superannuation scheme may be amended or revoked by a subsequent scheme prepared, submitted and approved under this section.

(4) A superannuation scheme submitted by the Executive under this section shall, if approved by F103**[**the Minister, after consultation with the Minister for Children, Equality, Disability, Integration and Youth, with the consent of**]** the Minister for Finance, be carried out by the Executive in accordance with its terms.

(5) The Executive may not grant, or enter into any arrangement for the provision of, any superannuation benefit to or in respect of an employee (including the F102**[**chief executive officer**]**) except in accordance with a scheme approved under this section or except as approved by F103**[**the Minister, after consultation with the Minister for Children, Equality, Disability, Integration and Youth, with the consent of**]** the Minister for Finance.

(6) Each scheme must include provision for appeals from a decision relating to a superannuation benefit under the scheme.

(7) The Minister shall ensure that a superannuation scheme approved under this section is laid before each House of the Oireachtas as soon as practicable after the scheme is approved.

(8) Either House of the Oireachtas may, by a resolution passed within 21 sitting days after the day on which the scheme is laid before it, annul the scheme.

(9) The annulment of a superannuation scheme under *subsection (8)* takes effect immediately on the passing of the resolution concerned, but does not affect the validity of anything done under the scheme before the passing of the resolution.

Annotations

Amendments:

F102 Substituted (28.06.2019) by *Health Service Executive (Governance) Act 2019* (17/2019), s. 12(a), (b), S.I. No. 283 of 2019.

F103 Substituted (1.03.2023) by *Health (Miscellaneous Provisions) Act 2022* (6/2022), s. 19(a), (b), S.I. No. 666 of 2022.

Editorial Notes:

E16 Power pursuant to section exercised (1.01.2005) by *Health Service Executive Employee Superannuation Scheme 2010* (S.I. No. 362 of 2010), in effect as per art. 2.

E17 Previous affecting provision: subs. (1) and (5) amended (25.07.2013) by *Health Service Executive (Governance) Act 2013* (23/2013), s. 8, S.I. No. 275 of 2013; subs. (1) and (5) amended as per F-note above.

Advisers.

24.— (1) The Executive may engage such advisers as it considers necessary for the performance of its functions.

(2) Any fees due to an adviser engaged under this section are payable by the Executive out of funds at its disposal.

PART 6

Standards and Disqualifications

Standards of integrity.

25.— F104**[**(1) A person shall maintain proper standards of integrity, conduct and concern for the public interest while performing functions under this Act or any other enactment as—

(*a*) a member of the Board or a committee of the Board (including the audit committee established under *section 40H*),

(*b*) the chief executive officer,

(*c*) an employee of the Executive,

(*d*) a person engaged by the Executive as an adviser under *section 24*, or

(*e*) an employee of a person referred to in *paragraph (d)*.**]**

(2) *Subsection (1)* applies to an employee of a person referred to in F105**[***paragraph (d)***]** of that subsection in respect only of duties of employment relating to the purposes for which the Executive has engaged that person.

F105**[**(3) For the purposes of *subsection (1)*, F104**[**the Board shall**]** issue codes of conduct for the guidance of persons referred to in that subsection and may issue different codes in respect of different classes of such persons.**]**

(4) A code of conduct issued under this section for the guidance of persons referred to in *subsection (3)* must indicate the standards of integrity and conduct to be maintained by them in performing their functions under this or any other enactment.

(5) A person to whom such a code of conduct relates is required to have regard to and be guided by the code in performing the person's functions under this or any other enactment.

(6) The terms and conditions on which a person is employed by the Executive or by a person referred to in F105**[***subsection (1)(d)***]** or on which a person is engaged by the Executive as an adviser, as the case may be, are deemed to include any requirements that apply to that person under *subsection (5).*

(7) Subject to *subsection (8),* the Executive shall as soon as practicable after issuing a code of conduct make the code available to the persons for whose guidance it was issued.

(8) A code of conduct for the guidance of employees of a person engaged by the Executive as an adviser shall be issued by the Executive to the employer and be made available by the employer to those employees.

(9) A document purporting to be a code of conduct issued under this section is, in the absence of evidence to the contrary, to be taken to be such code and is admissible in any proceedings before a court or other tribunal.

(10) Any provision of such code that appears to the court or other tribunal to be relevant to a question in the proceedings may be taken into account by it in determining the question.

Annotations

Amendments:

F104 Substituted (28.06.2019) by *Health Service Executive (Governance) Act 2019* (17/2019), s. 13(a), (b), S.I. No. 283 of 2019.

F105 Substituted (25.07.2013) by *Health Service Executive (Governance) Act 2013* (23/2013), s. 9(b), (c), (d), S.I. No. 275 of 2013.

Editorial Notes:

E18 Previous affecting provision: subs. (1) substituted (25.07.2013) by *Health Service Executive (Governance) Act 2013* (23/2013), s. 9(a), S.I. No. 275 of 2013; subs. (1) substituted as per F-note above.

Unauthorised disclosure of confidential information.

F106**[26.—** (1) Subject to *subsection (2)*, a person shall not disclose confidential information obtained by him or her while performing functions as—

(*a*) a member of the Board or a committee of the Board (including the audit committee established under *section 40H*),

(*b*) the chief executive officer or any other employee of the Executive,

(*c*) a person engaged by the Executive as an adviser under *section 24*,

(*d*) an employee of a person referred to in *paragraph (c)*, or

(*e*) a person appointed under *section 16S(2)* to conduct an independent review,

unless he or she is required by law, or duly authorised by the Executive or, in the case of a person referred to in *paragraph (e)*, the Minister, to do so.

(2) A person does not contravene *subsection (1)* by disclosing confidential information if—

(*a*) the disclosure is made to the Board,

(*b*) the disclosure is made to the Minister by or on behalf of the Executive, or by or on behalf of a person referred to in *paragraph (e)* of *subsection (1)*, or in compliance with a requirement of this Act, or

(*c*) the disclosure is a protected disclosure under *Part 9A* or the Protected Disclosures Act 2014.

(3) A person who contravenes *subsection (1)* is guilty of an offence.

(4) In this section, "confidential information" means—

(*a*) in the case of persons referred to in *paragraphs (a)* to *(d)* of *subsection (1)*—

(i) information that is expressed by the Executive to be confidential either as regards particular information or as regards information of a particular class or description, and

(ii) information relating to proposals of a commercial nature or tenders submitted to the Executive by contractors, consultants or any other person,

and

(*b*) in the case of a person referred to in *paragraph (e)* of *subsection (1)*—

(i) information that is expressed by the Minister to be confidential either as regards particular information or as regards information of a particular class or description, and

(ii) information relating to proposals of a commercial nature or tenders submitted to the Executive by contractors, consultants or any other person.**]**

Annotations

Amendments:

F106 Substituted (28.06.2019) by *Health Service Executive (Governance) Act 2019* (17/2019), s. 14, S.I. No. 283 of 2019.

Modifications (not altering text):

C9 Person holding record under section excluded from requirement to refuse an FOI request (14.10.2014) by *Freedom of Information Act 2014* (30/2014), s. 41(1)(a) and sch. 3 part 1, commenced on enactment.

Enactments relating to non-disclosure of records.

41.—(1) A head shall refuse to grant an FOI request if—

(a) the disclosure of the record concerned is prohibited by law of the European Union or any enactment (other than a provision specified in column (3) of Part 1 or 2 of Schedule 3 of an enactment specified in that Schedule), or

...

SCHEDULE 3

ENACTMENTS EXCLUDED FROM APPLICATION OF *Section 41*

PART I

STATUTES

...		
No. 42 of 2004	Health Act 2004	Section 26.
...	...	...

Editorial Notes:

E19 Previous affecting provision: subss. (1), (2) substituted (25.07.2013) by *Health Service Executive (Governance) Act 2013* (23/2013), s. 10, S.I. No. 275 of 2013; section substituted as per F-note above.

Disqualification resulting from membership of either House of Oireachtas, European Parliament of local authority.

27.— (1) F107**[**A member of the Board or a member of a committee of the Board (including the audit committee established under *section 40H*)**]** immediately ceases to hold office on—

(*a*) being nominated as a member of Seanad Éireann,

(*b*) being elected as a member of either House of the Oireachtas or of the European Parliament,

(*c*) being regarded, pursuant to section 19 of the European Parliament Elections Act 1997, as having been elected to the European Parliament to fill a vacancy, or

(*d*) becoming a member of a local authority.

(2) An employee of the Executive (including the F107**[**chief executive officer**]**) is immediately seconded from employment with the Executive on—

(*a*) being nominated as a member of Seanad Éireann,

(*b*) being elected as a member of either House of the Oireachtas or of the European Parliament, or

(*c*) being regarded, pursuant to section 19 of the European Parliament Elections Act 1997, as having been elected to the European Parliament to fill a vacancy.

(3) No remuneration or allowances are payable by the Executive in respect of the secondment period to a person seconded from employment under *subsection (2)* and

that period is not to be counted as service with the Executive for the purposes of any superannuation benefit.

(4) In relation to a person seconded under *subsection (2)* from employment, the secondment period begins on the occurrence of the relevant event referred to in that subsection and ends when the person ceases to be a member of either House of the Oireachtas or of the European Parliament.

Annotations

Amendments:

F107 Substituted (28.06.2019) by *Health Service Executive (Governance) Act 2019* (17/2019), s. 15(a), (b), S.I. No. 283 of 2019.

Editorial Notes:

E20 Previous affecting provision: subss. (1), (2) amended (25.07.2013) by *Health Service Executive (Governance) Act 2013* (23/2013), s. 11(a), (b), S.I. No. 275 of 2013; further amended as per F-note above.

PART 7

Accountability

Interpretation.

28.— F108**[**(1) In this Part—

"approved capital plan" means a capital plan approved by the Minister F109**[**and, in respect of any specialist community-based disability services, the Minister for Children, Equality, Disability, Integration and Youth**]** under *section 31* as read with *section 33B(4)* ;

"approved corporate plan" means a corporate plan approved by the Minister F109**[**and, in respect of any specialist community-based disability services, the Minister for Children, Equality, Disability, Integration and Youth**]** under *section 29*;

F110**[**"approved service plan" means—

(*a*) a service plan approved by the Minister and, in respect of any specialist community-based disability services, the Minister for Children, Equality, Disability, Integration and Youth, under *section 31*, or

(*b*) an amended service plan that is approved or deemed to have been approved by the Minister and, in respect of any specialist community-based disability services, the Minister for Children, Equality, Disability, Integration and Youth, under *section 32*;**]**

"capital expenditure" means expenditure to acquire a fixed asset or to significantly extend the life of an existing fixed asset;

"capital plan" means a plan the purpose of which is to acquire a fixed asset or to significantly extend the life of an existing fixed asset;

F111**[**...**]**

"financial year" means a period of 12 months ending on 31 December in any year;

"income", in relation to the Executive, means all of the income of the Executive for a financial year other than any grant made to the Executive for that year under *section 33A*;

"net expenditure", in relation to the Executive and a financial year or part of a financial year, means the expenditure of the Executive for that financial year or part of a financial year, as the case may be, less the income of the Executive for that financial year or part of a financial year, as the case may be;

"net non-capital expenditure", in relation to the Executive and a financial year or part of a financial year, means the non-capital expenditure of the Executive for that financial year or part of a financial year, as the case may be, less the non-capital income of the Executive for that financial year or part of a financial year, as the case may be;

"non-capital expenditure" means expenditure other than capital expenditure;

"non-capital income", in relation to the Executive and a financial year or part of a financial year, means the income of the Executive for that financial year or part of a financial year, as the case may be, other than income received by the Executive for the disposal of a fixed asset;

F110**[**"*section 30A(1)* determination" means a determination made by the Minister under *section 30A(1)*; **]]**

F112**[**"section 30B(1) determination" means a determination made by the Minister for Children, Equality, Disability, Integration and Youth under *section 30B(1)*.**]**

(2) References in *section 31* , *33* or *38* to health and personal social services or to a health or personal social service do not include any service provided under the Social Welfare Acts.

Annotations

Amendments:

F108 Substituted (17.07.2014) by *Health Service Executive (Financial Matters) Act 2014* (17/2014), s. 6, commenced on enactment.

F109 Inserted (1.03.2023) by *Health (Miscellaneous Provisions) Act 2022* (6/2022), s. 20(a), (b), S.I. No. 666 of 2022.

F110 Substituted (1.03.2023) by *Health (Miscellaneous Provisions) Act 2022* (6/2022), s. 20(c), (d), S.I. No. 666 of 2022.

F111 Deleted (28.06.2019) by *Health Service Executive (Governance) Act 2019* (17/2019), s. 16, S.I. No. 283 of 2019.

F112 Inserted (1.03.2023) by *Health (Miscellaneous Provisions) Act 2022* (6/2022), s. 20(d), S.I. No. 666 of 2022.

Executive to prepare and submit corporate plan for Minister's approval.

29.— (1) The Executive shall, in accordance with this section, prepare, adopt and, at the times specified in *subsection (2),* submit to the Minister F113**[**, and the Minister for Children, Equality, Disability, Integration and Youth,**]** for approval a corporate plan for the 3 year period following the date of its submission.

(2) A corporate plan must be submitted at the following times:

(*a*) within 6 months after the establishment day;

(*b*) within 6 months after the appointment of a new Minister having charge of the Department of Health and Children, if that Minister requests that a corporate plan be submitted;

(*c*) at the end of the 3 year period since the last corporate plan was submitted.

(3) The corporate plan must be prepared in a form and manner in accordance with any directions issued by the Minister F113**[**, after consultation with the Minister for Children, Equality, Disability, Integration and Youth,**]** and must specify—

(*a*) the key objectives of the Executive for the 3 year period concerned and the strategies for achieving those objectives,

(*b*) the manner in which the Executive proposes to measure its achievement of those objectives, and

(*c*) the uses for which the Executive proposes to apply its resources.

F114**[**(4) In preparing the corporate plan, the Executive shall have regard to the policies (whether set out in codes, guidelines or other documents, or any combination thereof) of the Government or any Minister of the Government to the extent that those policies may affect or relate to the functions of the Executive.**]**

F115**[**(5) Within 3 months after receiving a corporate plan, after consultation between the Minister and the Minister for Children, Equality, Disability, Integration and Youth—

(*a*) (i) the Minister shall, other than in so far as the plan relates to the performance by the Executive of specialist community-based disability functions, approve the plan, and

(ii) the Minister for Children, Equality, Disability, Integration and Youth shall, in so far as the plan relates to the performance by the Executive of its specialist community-based disability services functions, approve the plan,

or

(*b*) if the plan is not amended in accordance with any directions that may be issued by the Minister or, in so far as the plan relates to the performance by the Executive of its specialist community-based disability services functions, the Minister for Children, Equality, Disability, Integration and Youth—

(i) the Minister shall, in relation to that part of the plan referred to in *paragraph (a)(i)*, refuse to approve the plan, and

(ii) the Minister for Children, Equality, Disability, Integration and Youth shall, in relation to that part of the plan referred to in *paragraph (a)(ii)*, refuse to approve the plan.

(6) An approved corporate plan may, after consultation between the Minister and the Minister for Children, Equality, Disability, Integration and Youth, be amended by the Minister or, in so far as the plan relates to the performance by the Executive of its specialist community-based disability services functions, the Minister for Children, Equality, Disability, Integration and Youth at any time or may be amended by the Executive, but in the latter case only after—

(*a*) the Executive submits for approval the proposed amendment to the Minister or, in so far as the proposed amendment relates to the performance of its specialist community-based disability services functions, the Minister for Children, Equality, Disability, Integration and Youth, and

(*b*) the amendment is approved by, as appropriate—

(i) the Minister after consultation with the Minister for Children, Equality, Disability, Integration and Youth, or

(ii) the Minister for Children, Equality, Disability, Integration and Youth after consultation with the Minister.**]**

(7) *Subsections (4)* and *(5)* apply with the necessary modifications in respect of an amendment by the Executive to an approved corporate plan.

(8) Nothing in a corporate plan is to be taken to prevent the Executive from, or to limit the Executive in, performing its functions.

Annotations

Amendments:

F113 Inserted (1.03.2023) by *Health (Miscellaneous Provisions) Act 2022* (6/2022), s. 21(a), (b), S.I. No. 666 of 2022.

F114 Substituted (28.06.2019) by *Health Service Executive (Governance) Act 2019* (17/2019), s. 17, S.I. No. 283 of 2019.

F115 Substituted (1.03.2023) by *Health (Miscellaneous Provisions) Act 2022* (6/2022), s. 21(c), S.I. No. 666 of 2022.

Publication and implementation of approved corporate plan.

30.— F116**[**(1) The Minister shall ensure that a copy of an approved corporate plan is laid before both Houses of the Oireachtas—

(*a*) within 21 days after the plan is approved by the Minister and the Minister for Children, Equality, Disability, Integration and Youth, and

(*b*) if the plan is amended under *section 29(6)* after being approved by the Minister and the Minister for Children, Equality, Disability, Integration and Youth, within 21 days after—

(i) in the case of an amendment made by the Minister or, in so far as the amendment relates to the performance by the Executive of its specialist community-based disability services functions, the Minister for Children, Equality, Disability, Integration and Youth, the making of the amendment, or

(ii) in the case of an amendment made by the Executive, the amendment is approved by the Minister or, in so far as the amendment relates to the performance by the Executive of its specialist community-based disability services functions, the Minister for Children, Equality, Disability, Integration and Youth.**]**

(2) The Executive shall ensure that, as soon as practicable after copies of an approved corporate plan are laid before the Houses of the Oireachtas, the plan is published on the Internet or in accordance with such other arrangements as the Minister may specify.

(3) The Executive shall provide the Minister F117**[**and the Minister for Children, Equality, Disability, Integration and Youth**]** with progress reports on the implementation of an approved corporate plan—

(*a*) in its annual report, and

(*b*) in such other manner and at such intervals as the Minister F117**[**or, in so far as the plan relates to the performance by the Executive of its specialist community-based disability services functions, the Minister for Children, Equality, Disability, Integration and Youth**]** may direct.

F116**[**(4) During the specified period, the Freedom of Information Acts 1997 and 2003 do not apply to a record containing—

(*a*) a corporate plan, or an amendment to such plan, that has not been approved by the Minister and the Minister for Children, Equality, Disability, Integration and Youth,

(*b*) a preliminary or other draft of all or part of the contents of a corporate plan or of an amendment to a corporate plan, or

(*c*) the unamended version of a corporate plan that is approved after being amended in accordance with a direction of the Minister or the Minister for Children, Equality, Disability, Integration and Youth.**]**

(5) For the purpose of *subsection (4),* the specified period is 5 years beginning on the date of the creation of the record.

Annotations

Amendments:

F116 Substituted (1.03.2023) by *Health (Miscellaneous Provisions) Act 2022* (6/2022), s. 22(a), (c), S.I. No. 666 of 2022.

F117 Inserted (1.03.2023) by *Health (Miscellaneous Provisions) Act 2022* (6/2022), s. 22(b)(i), (ii), S.I. No. 666 of 2022.

F118**[**Minister to determine net non-capital expenditure of Executive

30A.— (1) Subject to *subsections (5)* and *(6)*, the Minister F119**[**, after consultation with the Minister for Children, Equality, Disability, Integration and Youth,**]** shall determine the maximum amount of net non-capital expenditure that may be incurred by the Executive for—

(*a*) a financial year of the Executive, or

(*b*) if the Minister considers it appropriate to do so in any particular case, such part of a financial year of the Executive as may be specified in the relevant notification under this section.

(2) The Minister shall notify the Executive in writing of a *section 30A(1)* determination—

(*a*) if the period to which the determination relates is a financial year of the Executive or runs from the beginning of such year, not later than 21 days after the publication by the Government of the Estimates for Public Services (within the meaning of section 17(1) (inserted by section 1 of the Ministers and Secretaries (Amendment) Act 2013) of the Ministers and Secretaries (Amendment) Act 2011) for that financial year, and

(*b*) in any other case, not later than 21 days after making the determination.

(3) (*a*) The Minister may amend a *section 30A(1)* determination by varying the maximum amount of net non-capital expenditure that the Executive may incur for the financial year or part of the financial year to which the determination relates.

(*b*) A *section 30A(1)* determination amended under *paragraph (a)* shall apply and have effect as so amended.

(4) The Minister shall notify the Executive in writing of the amendment made under *subsection (3)* to a *section 30A(1)* determination not later than 21 days after making the amendment.

(5) The Minister shall not, in making a *section 30A(1)* determination for a financial year, or part of a financial year, take into account the effect (if any) of *section 33(3)* for that financial year, or part of a financial year, as the case may be.

(6) The Minister shall not, in the financial year 2014, make a *section 30A(1)* determination except in respect of—

(*a*) the financial year 2015, or

(*b*) part of the financial year 2015.**]**

Annotations

Amendments:

F118 Inserted (17.07.2014) by *Health Service Executive (Financial Matters) Act 2014* (17/2014), s. 7, commenced on enactment.

F119 Inserted (1.03.2023) by *Health (Miscellaneous Provisions) Act 2022* (6/2022), s. 23, S.I. No. 666 of 2022.

F120**[**Minister for Children, Equality, Disability, Integration and Youth to determine net non-capital expenditure of Executive

30B.— (1) Subject to *subsections (5)* and *(6)*, the Minister for Children, Equality, Disability, Integration and Youth, after consultation with the Minister, shall determine the maximum amount of net non-capital expenditure that may be incurred by the Executive in so far as it relates to the performance by the Executive of its specialist community-based disability services functions for—

(*a*) a financial year of the Executive, or

(*b*) if the Minister for Children, Equality, Disability, Integration and Youth considers it appropriate to do so in any particular case, such part of a financial year of the Executive as may be specified in the relevant notification under this section.

(2) The Minister for Children, Equality, Disability, Integration and Youth shall notify the Executive in writing of a *section 30B(1)* determination—

(*a*) if the period to which the determination relates is a financial year of the Executive or runs from the beginning of such year, not later than 21 days after the publication by the Government of the Estimates for Public Services (within the meaning of *section 17(1)*(inserted by section 1 of the Ministers and Secretaries (Amendment) Act 2013) of the Ministers and Secretaries (Amendment) Act 2011) for that financial year, and

(*b*) in any other case, not later than 21 days after making the determination.

(3) (*a*) The Minister for Children, Equality, Disability, Integration and Youth may amend a *section 30B(1)* determination by varying the maximum amount of net non-capital expenditure that the Executive may incur in so far as it relates to the performance by the Executive of its specialist community-based disability services functions for the financial year or part of the financial year to which the determination relates.

(*b*) A *section 30B(1)* determination amended under *paragraph (a)* shall apply and have effect as so amended.

(4) The Minister for Children, Equality, Disability, Integration and Youth shall notify the Executive in writing of the amendment made under *subsection (3)* to a *section 30B(1)* determination not later than 21 days after making the amendment.

(5) The Minister for Children, Equality, Disability, Integration and Youth shall not, in making a *section 30B(1)* determination for a financial year, or part of a financial year, take into account the effect (if any) of *section 33(3)* for that financial year, or part of a financial year, as the case may be.**]**

Annotations

Amendments:

F120 Inserted (1.03.2023) by *Health (Miscellaneous Provisions) Act 2022* (6/2022), s. 24, S.I. No. 666 of 2022.

Editorial Notes:

E21 The section heading is taken from the amending section in absence of one included in the amendment.

F121**[**Executive to prepare and submit service plan for Minister's approval.

31.— F122**[**(1) Before the expiry of the specified period the Executive shall—

(*a*) prepare, in accordance with this section, a service plan for the financial year or such other period as may be determined by the Minister after consultation with the Minister for Children, Equality, Disability, Integration and Youth, and

(*b*) adopt the plan so prepared and submit it to the Minister and the Minister for Children, Equality, Disability, Integration and Youth for approval.**]**

F122**[**(2) For the purpose of this section, the specified period is—

(*a*) the period ending 21 days after the Executive receives the *section 30A(1)* determination or *section 30B(1)* determination concerned, or

(*b*) such other period as the Minister, after consultation with the Minister for Children, Equality, Disability, Integration and Youth, may allow.**]**

(3) F122**[**The Minister, after consultation with the Minister for Children, Equality, Disability, Integration and Youth,**]** may issue a direction to the Executive as respects the form and manner in which the service plan is to be prepared.

(4) A service plan shall be prepared in a form and manner which is consistent with any direction issued by the Minister under *subsection (3)* and shall—

(*a*) indicate the type and volume of health and personal social services to be provided by the Executive during the period to which the plan relates,

(*b*) indicate any capital plans proposed by the Executive,

F123**[**(*ba*) contain estimates of the income and expenditure of the Executive for the period to which the plan relates, and

(*bb*) be consistent with the *section 30A(1)* determination F124**[**or the *section 30B(1)* determination**]** for the period to which the plan relates,**]**

(*c*) contain estimates of the number of employees of the Executive for the period and the services to which the plan relates,

(*d*) contain estimates of the number of employees of service providers under *section 38* engaged in the provision of such services and which relate to the period of the service plan and the services to which it relates,

(*e*) contain any other information specified by the Minister F124**[**or, in so far as the plan relates to the performance by the Executive of its specialist community-based disability services functions, the Minister for Children, Equality, Disability, Integration and Youth**]**,

(*f*) be consistent with any directions issued by the Minister under *section 10* F124**[**or the Minister for Children, Equality, Disability, Integration and Youth under *section 10C*,**]** and

F125**[**(*g*) accord with the policies (whether set out in codes, guidelines or other documents, or any combination thereof) and objectives of the Minister F124**[**or the Minister for Children, Equality, Disability, Integration and Youth**]** and the Government.**]**

(5) In preparing the service plan, the Executive shall have regard to—

(*a*) the approved corporate plan in operation at that time,

(*b*) any direction issued by the Minister under *section 10* F124**[**or the Minister for Children, Equality, Disability, Integration and Youth under *section 10C***]**, and

(*c*) the priorities and performance targets specified under *section 10A*.

F126**[**(6) If the Executive fails to submit a service plan to the Minister and the Minister for Children, Equality, Disability, Integration and Youth before the expiry of the specified period, the Minister, after consultation with the Minister for Children, Equality, Disability, Integration and Youth, may, in writing, issue a direction, directing the Executive to prepare and submit a service plan to each such Minister not later than—

(*a*) 10 days after the date on which the Minister issues the direction to the Executive, or

(*b*) such earlier date as may be specified in the direction.**]**

F127**[**(6A) (*a*) Subject to *paragraph (b)*, if the Executive fails to comply with a direction under *subsection (6)*, the Minister, F128**[**after consultation with the Minister for Children, Equality, Disability, Integration and Youth,**]** may, in writing, issue a direction, directing the chief executive officer to prepare and submit a service plan to F126**[**each such Minister**]** not later than—

(i) 10 days after the date on which the Minister issues the direction to the chief executive officer, or

(ii) such earlier date as may be specified in the direction.

(*b*) For the purposes of the chief executive officer preparing and submitting a service plan to the Minister F128**[**and the Minister for Children, Equality, Disability, Integration and Youth**]** in accordance with a direction issued under *paragraph (a)*, references to the Executive in *subsections (3)*, *(5)*, *(8)* and *(9)* (other than in *subsection (9)(d)*) shall be read as including references to the chief executive officer.**]**

(7) A service plan submitted to the Minister F128**[**and the Minister for Children, Equality, Disability, Integration and Youth**]** by the F129**[**chief executive officer in compliance with *subsection (6A)***]** shall be deemed to have been prepared, adopted and submitted by the Executive.

F130**[**(8) Not later than 21 days after receiving a service plan under this section, and after consultation between the Minister and the Minister for Children, Equality, Disability, Integration and Youth, the Minister and, in so far as the plan relates to the performance by the Executive of its specialist community-based disability services functions, the Minister for Children, Equality, Disability, Integration and Youth shall—

(*a*) approve the service plan in the form in which it was submitted,

(*b*) approve the service plan with such amendments, having consulted with the Executive, and as appropriate—

(i) the Minister, having consulted with the Minister for Children, Equality, Disability, Integration and Youth may determine, or

(ii) the Minister for Children, Equality, Disability, Integration and Youth having consulted with the Minister for Health, may determine,

or

(*c*) issue a direction to the Executive under *subsection (9)* to amend the plan.**]**

F131**[**(9) The Minister F132**[**or the Minister for Children, Equality, Disability, Integration and Youth, as appropriate,**]** may direct the Executive to amend a service plan submitted under this section if, in the opinion of the Minister F132**[**, after consultation with the Minister for Children, Equality, Disability, Integration and Youth or, in so far as the service plan relates to the performance by the Executive of its specialist community-based disability services functions, the Minister for Children, Equality, Disability, Integration and Youth, after consultation with the Minister,**]** the plan—

(*a*) does not contain any information required to be included in the service plan pursuant to *subsection (4)*,

(*b*) does not in some other respect comply with *subsection (4)*,

(*c*) has been prepared by the Executive without sufficient regard to the matters referred to in *subsection (5)*, or

F129**[**(*d*) does not accord with the policies (whether set out in codes, guidelines or other documents, or any combination thereof) and objectives of the Minister F132**[**, the Minister for Children, Equality, Disability, Integration and Youth**]** or the Government to the extent to which those policies and objectives relate to the functions of the Executive and have been communicated in writing to the Executive prior to the commencement of the specified period.**]]**

(10) The Minister F132**[**or, in so far as the service plan relates to the performance by the Executive of its specialist community-based disability services functions, the Minister for Children, Equality, Disability, Integration and Youth**]** may refuse to approve a service plan unless it is amended in accordance with a direction issued under *subsection (9)*.

(11) The F129**[**chief executive officer**]** shall comply with a direction issued to him or her under this section.

(12) F133**[**...**]**

F134**[**(13) The Minister shall ensure that a copy of an approved service plan is laid before both Houses of the Oireachtas within 21 days after the plan is approved by the Minister and the Minister for Children, Equality, Disability, Integration and Youth.**]**

(14) The Executive shall ensure that, as soon as practicable after copies of an approved service plan are laid before the Houses of the Oireachtas, the plan is published on the Internet or in accordance with such other arrangements as the Minister may specify.**]**

F123**[**(15) *Section 28(1)* and this section, as in force immediately before the enactment of the Health Service Executive (Financial Matters) Act 2014, shall apply in relation to a service plan for the financial year 2014 and to a service plan for any part of that financial year and, accordingly, *section 28(1)* and this section, as in force immediately after such enactment, shall not apply in relation to any such service plan.**]**

Annotations

Amendments:

F121 Substituted (25.07.2013) by *Health Service Executive (Governance) Act 2013* (23/2013), s. 12, S.I. No. 275 of 2013.

F122 Substituted (1.03.2023) by *Health (Miscellaneous Provisions) Act 2022* (6/2022), s. 25(a), (b), (c), S.I. No. 666 of 2022.

F123 Inserted (17.07.2014) by *Health Service Executive (Financial Matters) Act 2014* (17/2014), s. 8(b), (d), commenced on enactment.

F124 Inserted (1.03.2023) by *Health (Miscellaneous Provisions) Act 2022* (6/2022), s. 25(d)(i)-(iv), (e), S.I. No. 666 of 2022.

F125 Substituted (28.06.2019) by *Health Service Executive (Governance) Act 2019* (17/2019), s. 18(a), S.I. No. 283 of 2019.

F126 Substituted (1.03.2023) by *Health (Miscellaneous Provisions) Act 2022* (6/2022), s. 25(f), (g)(i)(II), S.I. No. 666 of 2022.

F127 Inserted (28.06.2019) by *Health Service Executive (Governance) Act 2019* (17/2019), s. 18(c), S.I. No. 283 of 2019.

F128 Inserted (1.03.2023) by Health (Miscellaneous Provisions Act 2022 (6/2022), s. 25(g)(i)(I), (ii), (h), S.I. No. 666 of 2022.

F129 Substituted (28.06.2019) by *Health Service Executive (Governance) Act 2019* (17/2019), s. 18(d), (e), (f), S.I. No. 283 of 2019.

F130 Substituted (1.03.2023) by *Health (Miscellaneous Provisions) Act 2022* (6/2022), s. 25(i), S.I. No. 666 of 2022.

F131 Substituted (1.01.2014) by *Child and Family Agency Act 2013* (40/2013), s. 97 and sch. 2 part 19 item 2(b), S.I. No. 502 of 2013.

F132 Inserted (1.03.2023) by *Health (Miscellaneous Provisions) Act 2022* (6/2022), s. 25(j)(i)-(iii), (k), S.I. No. 666 of 2022.

F133 Deleted (17.07.2014) by *Health Service Executive (Financial Matters) Act 2014* (17/2014), s. 8(c), commenced on enactment.

F134 Substituted (1.03.2023) by *Health (Miscellaneous Provisions) Act 2022* (6/2022), s. 25(l), S.I. No. 666 of 2022.

Editorial Notes:

E22 Previous affecting provision: subs. (6) substituted (28.06.2019) by *Health Service Executive (Governance) Act 2019* (17/2019), s. 18(b), S.I. No. 283 of 2019; subsection substituted (1.03.2023) as per F-note above..

E23 Previous affecting provision: subs. 2(a) substituted (17.07.2014) by *Health Service Executive (Financial Matters) Act 2014* (17/2014), s. 8(a), commenced on enactment; subsection substituted (1.03.2023) as per F-note above.

E24 Previous affecting provision: subs. (8) substituted (1.01.2014) by *Child and Family Agency Act 2013* (40/2013), s. 97 and sch. 2 part 19 item 2(a), S.I. No. 502 of 2013; subsection substituted (1.03.2023) as per F-note above.

F135**[**Amendment of approved service plan.

32.— (1) After approving a service plan, the Minister F136**[**, after consultation with the Minister for Children, Equality, Disability, Integration and Youth or, in so far as the plan relates to the performance by the Executive of its specialist community-based disability services functions, the Minister for Children, Equality, Disability, Integration and Youth, after consultation with the Minister,**]** may direct the Executive to submit an amended service plan and may specify in the direction the manner in which the plan is to be amended.

F137**[**(1A) Subject to *subsection (1B)*, after amending a *section 30A(1)* determination, the Minister F136**[**, after consultation with the Minister for Children, Equality, Disability, Integration and Youth or, in so far as the service plan relates to the

performance by the Executive of its specialist community-based disability services functions, after amending a *section 30B(1)* determination, the Minister for Children, Equality, Disability, Integration and Youth, after consultation with the Minister,**]** may—

(*a*) direct the Executive to amend, in such manner as the Minister F136**[**or the Minister for Children, Equality, Disability, Integration and Youth, as appropriate,**]** may specify in the direction, the approved service plan to which the determination relates, or

(*b*) direct the Executive to submit an amended service plan that complies with the amended determination.

(1B) The Minister shall not, in the financial year 2014, give a direction under *subsection (1A)* except in respect of—

(*a*) a service plan for the financial year 2015, or

(*b*) a service plan for part of the financial year 2015.**]**

(2) F138**[**Subject to *subsection (4)*, the Executive**]** may amend an approved service plan.

(3) If the Minister F136**[**or the Minister for Children, Equality, Disability, Integration and Youth**]** directs the Executive to submit an amended service plan in accordance with F138**[***subsection (1)* or *(1A)(b)***]**, *subsections (4) to (11)* of *section 31* shall apply with all necessary modifications to the amended service plan.

(4) The Executive shall submit a service plan amended under *subsection (2)* as soon as practicable and in any event not later than 5 days after the day on which it adopts the amended service plan.

(5) Within 21 days after receiving an amended service plan submitted in accordance with *subsection (4)*, F139**[**the Minister F136**[**, after consultation with the Minister for Children, Equality, Disability, Integration and Youth, or the Minister for Children, Equality, Disability, Integration and Youth, after consultation with the Minister, as appropriate,**]** may—**]**

(*a*) direct the Executive to amend the service plan specifying the manner in which the service plan is to be amended, or

(*b*) notify the Executive that he or she intends to amend the plan in consultation with the Executive.

F140**[**(6) Unless the direction or notification relating to an amended service plan is issued by the Minister or the Minister for Children, Equality, Disability, Integration and Youth within the period specified in *subsection (5)*, the amended service plan is deemed to have been approved by the Minister and the Minister for Children, Equality, Disability, Integration and Youth, immediately before the end of that period.**]**

(7) If a direction relating to an amended service plan is issued by the Minister F141**[**or the Minister for Children, Equality, Disability, Integration and Youth**]** within the period specified in *subsection (5)*, any amendment made (either in the amended service plan or in response to the direction) by the Executive to its approved service plan has no effect until the amendment is approved by the Minister F141**[**after consultation with the Minister for Children, Equality, Disability, Integration and Youth or the Minister for Children, Equality, Disability, Integration and Youth after consultation with the Minister, as appropriate**]**.

(8) The Minister shall ensure that a copy of an approved service plan amended under this section is laid before both Houses of the Oireachtas within 21 days after the amended service plan is approved or deemed to have been approved by the Minister F141**[**and the Minister for Children, Equality, Disability, Integration and Youth**]**.

(9) The Executive shall ensure that, as soon as practicable after copies of an approved amended service plan are laid before the Houses of the Oireachtas, the plan is published on the Internet or in accordance with such other arrangements as the Minister may specify.**]**

Annotations

Amendments:

F135 Substituted (25.07.2013) by *Health Service Executive (Governance) Act 2013* (23/2013), s. 13, S.I. No. 275 of 2013.

F136 Inserted (1.03.2023) by *Health (Miscellaneous Provisions) Act 2022* (6/2022), s. 26(a), (b)(i), (ii), (c), (d), S.I. No. 666 of 2022.

F137 Inserted (17.07.2014) by *Health Service Executive (Financial Matters) Act 2014* (17/2014), s. 9(a), commenced on enactment.

F138 Substituted (17.07.2014) by *Health Service Executive (Financial Matters) Act 2014* (17/2014), s. 9(b), (c), commenced on enactment.

F139 Substituted (1.01.2014) by *Child and Family Agency Act 2013* (40/2013), s. 97 and sch. 2 part 19 item 3, S.I. No. 502 of 2013.

F140 Substituted (1.03.2023) by *Health (Miscellaneous Provisions) Act 2022* (6/2022), s. 26(e), S.I. No. 666 of 2022.

F141 Inserted (1.03.2023) by *Health (Miscellaneous Provisions) Act 2022* (6/2022), s. 26(f)(i), (ii), (g), S.I. No. 666 of 2022.

Implementation of approved service plan.

F142**[33.—** F143**[**(1) Subject to *subsection (1A)*, the Executive shall manage health and personal social services set out in an approved service plan so as to ensure that—

(*a*) those services are delivered in accordance with the plan, and

(*b*) the net non-capital expenditure for the financial year or part of the financial year to which the plan relates does not exceed the amount specified in the *section 30A(1)* determination F144**[**or *section 30B(1)* determination**]** for that financial year or part of a financial year, as the case may be.**]**

F145**[**(1A) *Section 28(1)* and *subsection (1)*, as in force immediately before the enactment of the Health Service Executive (Financial Matters) Act 2014, shall apply in relation to a service plan for the financial year 2014 and to a service plan for any part of that financial year and, accordingly, *section 28(1)* and *subsection (1)*, as in force immediately after such enactment, shall not apply in relation to any such service plan.**]**

(2) The Minister F144**[**, after consultation with the Minister for Children, Equality, Disability, Integration and Youth or, in so far as the plan relates to the performance by the Executive of its specialist community-based disability services functions, the Minister for Children, Equality, Disability, Integration and Youth, after consultation with the Minister,**]** may direct the Executive to take such specified measures as he or she may require in relation to the implementation of an approved service plan.**]**

F145**[**(3) (*a*) If the amount of net expenditure incurred by the Executive in a financial year is greater than the amount determined by the Minister F144**[**or the Minister for Children, Equality, Disability, Integration and Youth, as appropriate,**]** for that year, the Executive shall charge the amount of such excess to its income and expenditure account for the next financial year.

(*b*) If the amount of net expenditure incurred by the Executive in a financial year is less than the amount determined by the Minister F144**[**or the Minister for Children, Equality, Disability, Integration and Youth, as appropriate,**]** for that

year, the Executive shall, subject to the approval of the Minister F144**[**or the Minister for Children, Equality, Disability, Integration and Youth, as appropriate,**]** given with the consent of the Minister for Public Expenditure and Reform, credit the amount of such surplus to its income and expenditure account for the next financial year.**]**

Annotations

Amendments:

F142 Substituted (25.07.2013) by *Health Service Executive (Governance) Act 2013* (23/2013), s. 14, S.I. No. 275 of 2013.

F143 Substituted (17.07.2014) by *Health Service Executive (Financial Matters) Act 2014* (17/2014), s. 10(a), commenced on enactment.

F144 Inserted (1.03.2023) by *Health (Miscellaneous Provisions) Act 2022* (6/2022), s. 27(a), (b), (c)(i), (ii)(I), (II), S.I. No. 666 of 2022.

F145 Inserted (17.07.2014) by *Health Service Executive (Financial Matters) Act 2014* (17/2014), s. 10(a), (b), commenced on enactment.

F146**[**Power of Minister to make grants to Executive

33A.— F147**[**(1)**]** On and from 1 January 2015, the Minister shall, with the consent of the Minister for Public Expenditure and Reform, out of moneys provided by the Oireachtas, make grants to the Executive.**]**

F148**[**(2) On and from the commencement of section 28 of the Health (Miscellaneous Provisions) Act 2022, the Minister for Children, Equality, Disability, Integration and Youth shall, with the consent of the Minister for Public Expenditure and Reform and in so far as it relates to the performance by the Executive of its specialist community-based disability services functions, out of moneys provided by the Oireachtas, make grants to the Executive.**]**

Annotations

Amendments:

F146 Inserted (17.07.2014) by *Health Service Executive (Financial Matters) Act 2014* (17/2014), s. 11, commenced on enactment.

F147 Inserted (1.03.2023) by *Health (Miscellaneous Provisions) Act 2022* (6/2022), s. 28(a), S.I. No. 666 of 2022.

F148 Inserted (1.03.2023) by *Health (Miscellaneous Provisions) Act 2022* (6/2022), s. 28(b), S.I. No. 666 of 2022.

F149**[**Determination by Minister of capital funding and submission by Executive of capital plans

33B.— (1) The Minister F150**[**and the Minister for Children, Equality, Disability, Integration and Youth**]** shall—

(*a*) subject to *subsection (9)* and with the consent of the Minister for Public Expenditure and Reform, in respect of each financial year of the Executive, determine the maximum amount of funding that the Minister F150**[**, after consultation with the Minister for Children, Equality, Disability, Integration and Youth and, in so far as the funding relates to the performance by the Executive of its specialist community-based disability services functions, the Minister for Children, Equality, Disability, Integration and Youth, after consultation with the Minister**]** will make available to the Executive in that year for capital expenditure, and

(*b*) notify the Executive in writing of that amount as soon as is practicable.

(2) After receiving the notification under *subsection (1)(b)* from the Minister F151**[**and the Minister for Children, Equality, Disability, Integration and Youth**]**, the Executive shall, in accordance with *subsection (3)*, submit to the Minister F151**[**and the Minister for Children, Equality, Disability, Integration and Youth**]** for approval an annual capital plan—

(*a*) prepared in such form and containing such information as may be specified by the Minister F151**[**and the Minister for Children, Equality, Disability, Integration and Youth**]**, and

(*b*) relating to the financial year to which that notification relates.

(3) The annual capital plan shall be submitted to the Minister F152**[**and the Minister for Children, Equality, Disability, Integration and Youth**]** within—

(*a*) 21 days after the Executive receives the notification from the Minister F152**[**and the Minister for Children, Equality, Disability, Integration and Youth**]**, or

(*b*) such longer period (not exceeding 42 days after the receipt of that notification) as the Minister F152**[**and the Minister for Children, Equality, Disability, Integration and Youth**]** may allow.

(4) *Subsections (6)* to *(11)* of *section 31* shall apply with all necessary modifications to an annual capital plan.

F153**[**(5) Notwithstanding any other provision of this section, the Minister, after consultation with the Minister for Children, Equality, Disability, Integration and Youth or, in so far as the capital plan relates to the performance by the Executive of its specialist community-based disability services functions, the Minister for Children, Equality, Disability, Integration and Youth, after consultation with the Minister, may at any time direct in writing the Executive to submit to the Minister and the Minister for Children, Equality, Disability, Integration and Youth for approval a capital plan prepared in such form, containing such information and covering such part of a financial year as may be specified by the Minister or the Minister for Children, Equality, Disability, Integration and Youth in such direction.**]**

(6) In preparing a capital plan for submission under this section, the Executive shall have regard to any priorities that may be determined by the Minister F154**[**or the Minister for Children, Equality, Disability, Integration and Youth**]** for the financial year or part of a financial year to which the plan relates.

(7) Subject to *subsection (10)*, the Minister F154**[**, after consultation with the Minister for Children, Equality, Disability, Integration and Youth or, in so far as the amendment relates to the performance by the Executive of its specialist community-based disability services functions, the Minister for Children, Equality, Disability, Integration and Youth, after consultation with the Minister**]** may at any time direct the Executive to amend a capital plan submitted and approved under this section.

(8) The Executive may, with the prior approval of the Minister F154**[**and the Minister for Children, Equality, Disability, Integration and Youth after consultation between such Ministers**]**, amend a capital plan submitted and approved under this section.

(9) The Minister shall not, in the financial year 2014, make a determination under *subsection (1)(a)* except in respect of the financial year 2015.

(10) The Minister shall not, in the financial year 2014, give a direction under *subsection (5)* or *(7)* except in respect of—

(*a*) a capital plan for the financial year 2015, or

(*b*) a capital plan for a part of the financial year 2015.**]**

Annotations

Amendments:

F149 Inserted (17.07.2014) by *Health Service Executive (Financial Matters) Act 2014* (17/2014), s. 11, commenced on enactment.

F150 Inserted (1.03.2023) by *Health (Miscellaneous Provisions) Act 2022* (6/2022), s. 29(a)(i), (ii), S.I. No. 666 of 2022.

F151 Inserted (1.03.2023) by *Health (Miscellaneous Provisions) Act 2022* (6/2022), s. 29(b)(i), (ii), S.I. No. 666 of 2022.

F152 Inserted (1.03.2023) by *Health (Miscellaneous Provisions) Act 2022* (6/2022), s. 29(c)(i), (ii) S.I. No. 666 of 2022.

F153 Substituted (1.03.2022) by *Health (Miscellaneous Provisions) Act 2022* (6/2022), s. 29(d), S.I. No. 666 of 2022.

F154 Inserted (1.03.2023) by *Health (Miscellaneous Provisions) Act 2022* (6/2022), s. 29(e), (f), (g), S.I. No. 666 of 2022.

Minister's permission needed for major capital spending.

34.— F155**[**...**]**

Annotations

Amendments:

F155 Repealed (17.07.2014) by *Health Service Executive (Financial Matters) Act 2014* (17/2014), s. 3, commenced on enactment.

Editorial Notes:

E25 Previous affecting provision: functions transferred and references to "Department of Finance" and "Minister for Finance" construed (29.07.2011) by *Finance (Transfer of Departmental Administration and Ministerial Functions) Order 2011* (S.I. No. 418 of 2011), arts. 2, 3, 5 and sch. 1, part 2 in effect as per art. 1(2), subject to transitional provisions in arts. 6-9; section repealed (17.07.2014) as per F-note above.

F156**[**Functions of Director General under this Part

34A.— (1) The F157**[**chief executive officer**]** shall take steps to ensure that—

(*a*) the Executive's net non-capital expenditure for a financial year or part of a financial year does not exceed the amount specified in the *section 30A(1)* determination F158**[**or *section 30B(1)* determination**]** for that financial year or part of a financial year, as the case may be, and

(*b*) the Executive's capital expenditure for the financial year does not exceed the amount specified in the notification under *section 33B(1)(b)* received by the Executive which relates to that year.

(2) The F157**[**chief executive officer**]** shall, as soon as is practicable, inform the Minister F159**[**or, in so far as the action or proposed action relates to the performance by the Executive of its specialist community-based disability services functions, the Minister for Children, Equality, Disability, Integration and Youth**]** if he or she forms the opinion that an action undertaken by the Executive will, or that a proposed action to be undertaken by the Executive would, if made, result in—

(*a*) the Executive's net non-capital expenditure for a financial year or part of a financial year exceeding the amount specified in the *section 30A(1)* determination for that financial year or part of a financial year, as the case may be, or

(*b*) the Executive's capital expenditure for a financial year exceeding the amount specified in the notification under *section 33B(1)(b)* received by the Executive which relates to that year.**]**

Annotations

Amendments:

F156 Inserted (17.07.2014) by *Health Service Executive (Financial Matters) Act 2014* (17/2014), s. 12, commenced on enactment.

F157 Substituted (28.06.2019) by *Health Service Executive (Governance) Act 2019* (17/2019), s. 19, S.I. No. 283 of 2019.

F158 Inserted (1.03.2023) by *Health (Miscellaneous Provisions) Act 2022* (6/2022), s. 30(a), S.I. No. 666 of 2022.

F159 Inserted (1.03.2023) by *Health (Miscellaneous Provisions) Act 2022* (6/2022), s. 30(b), S.I. No. 666 of 2022.

F160**[**Appearance of Director General before Committee of Public Accounts

34B.— (1) The F161**[**chief executive officer**]** shall, whenever required in writing to do so by the Committee of Public Accounts on or after 1 January 2015, give evidence to that Committee on—

(*a*) the regularity and propriety of the transactions recorded, or required to be recorded, in any book or other record of account subject to audit by the Comptroller and Auditor General that the Executive is required by this Act to prepare,

(*b*) the economy and efficiency of the Executive in using its resources,

(*c*) the systems, procedures and practices employed by the Executive for evaluating the effectiveness of its operations, and

(*d*) any matter affecting the Executive referred to in—

(i) a special report of the Comptroller and Auditor General under section 11 (2) of the Comptroller and Auditor General (Amendment) Act 1993, or

(ii) any other report of the Comptroller and Auditor General that is laid before Dáil Éireann to the extent that it relates to a matter specified in *paragraph (a)*, *(b)* or *(c)*.

(2) In carrying out duties under this section, the F161**[**chief executive officer**]** may not question or express an opinion on the merits of any policy of the Government or a Minister of the Government or on the merits of the objectives of such a policy.**]**

Annotations

Amendments:

F160 Inserted (17.07.2014) by *Health Service Executive (Financial Matters) Act 2014* (17/2014), s. 12, commenced on enactment.

F161 Substituted (28.06.2019) by *Health Service Executive (Governance) Act 2019* (17/2019), s. 20, S.I. No. 283 of 2019.

Code of governance.

35.— (1) The Executive shall, as soon as practicable after it is established, submit to the Minister for approval a code of governance that includes an outline of—

(*a*) the guiding principles applicable to the Executive as a public body having functions relating to health and personal social services,

F162**[**(*b*) the structure of the Executive, including the roles and responsibilities of the Board and the chief executive officer,**]**

(*c*) the methods to be used to bring about the integration of health and personal social services,

(*d*) the processes and guidelines to be followed to ensure compliance with the reporting requirements imposed on the Executive by or under this Act,

(*e*) the Executive's internal controls, including its procedures relating to internal audits, risk management, public procurement and financial reporting, F163**[**...**]**

F164**[**(*f*) procedures established under *section 55H*, and**]**

(2) F162**[**Subject to *subsection (2A)*, the Executive shall**]** review the code of governance periodically and at such times as may be specified by the Minister F165**[**, after consultation with the Minister for Children, Equality, Disability, Integration and Youth,**]** and shall revise the code as the Executive considers appropriate.

F166**[**(2A) The Executive shall, as soon as practicable after the commencement of section 21 of the Health Service Executive (Governance) Act 2019 and without prejudice to the generality of *subsection (2)*, revise the code of governance to take account of the amendment made to *subsection (1)* by that section.**]**

(3) In preparing, or making any revisions to, the code of governance, the Executive shall have regard to any directions issued by the Minister F167**[**or the Minister for Children, Equality, Disability, Integration and Youth under *section 10C*.**]** under *section 10* .

(4) Following the Minister's approval of the code of governance or of any revisions to it, the Executive shall arrange for the publication of the code or the revised code.

(5) The Executive shall indicate in its annual report its arrangements for implementing and maintaining adherence to the code of governance.

Annotations

Amendments:

F162 Substituted (28.06.2019) by *Health Service Executive (Governance) Act 2019* (17/2019), s. 21(a), (b), S.I. No. 283 of 2019.

F163 Deleted (1.03.2009) by *Health Act 2007* (23/2007), s. 103(2)(a), S.I. No. 27 of 2009.

F164 Substituted (1.03.2009) by *Health Act 2007* (23/2007), s. 103(2)(a), S.I. No. 27 of 2009.

F165 Inserted (1.03.2023) by *Health (Miscellaneous Provisions) Act 2022* (6/2022), s. 31(a), S.I. No. 666 of 2022.

F166 Inserted (28.06.2019) by *Health Service Executive (Governance) Act 2019* (17/2019), s. 21(c), S.I. No. 283 of 2019.

F167 Inserted (1.03.2023) by *Health (Miscellaneous Provisions) Act 2022* (6/2022), s. 31(b), S.I. No. 666 of 2022.

Editorial Notes:

E26 Previous affecting provision: subs. (1)(b) substituted (25.07.2013) by *Health Service Executive (Governance) Act 2013* (23/2013), s. 15, S.I. No. 275 of 2013; substituted as per F-note above.

Accounts of Executive.

36.— (1) The Executive shall keep all proper and usual accounts of all money received or expended by it.

(2) The Executive shall, in respect of each financial year, prepare annual financial statements (including accounts of income and expenditure and a balance sheet) in such form as the Minister F168**[**, after consultation with the Minister for Children, Equality, Disability, Integration and Youth,**]** may direct.

(3) The annual financial statements shall be prepared by the Executive in accordance with accounting standards specified by the Minister F168**[**, after consultation with the Minister for Children, Equality, Disability, Integration and Youth**]**.

(4) The Executive shall adopt the annual financial statements on or before the 1st day of April in the year following the financial year to which they relate.

(5) On adopting the financial statements, the Executive shall submit a copy of them—

(*a*) to the Comptroller and Auditor General for audit, and

(*b*) to the Minister F168**[**and the Minister for Children, Equality, Disability, Integration and Youth**]** at the same time.

(6) On completing the audit, the Comptroller and Auditor General shall send to the Executive a copy of the annual financial statements together with the report on the audit.

F169**[**(7) The Executive shall immediately transmit a copy of the audited annual financial statements together with the Comptroller and Auditor General's report to the Minister and the Minister for Children, Equality, Disability, Integration and Youth and the Minister shall ensure that a copy of each is laid before both Houses of the Oireachtas as soon as practicable.**]**

(8) Any examination of the Executive by the Comptroller and Auditor General under section 9 of the Comptroller and Auditor General (Amendment) Act 1993 shall extend to any arrangement entered into by the Executive under *section 38*.

Annotations

Amendments:

F168 Inserted (1.03.2023) by *Health (Miscellaneous Provisions) Act 2022* (6/2022), s. 32(a), (b), (c), S.I. No. 666 of 2022.

F169 Inserted (1.03.2023) by *Health (Miscellaneous Provisions) Act 2022* (6/2022), s. 32(d), S.I. No. 666 of 2022.

Annual report.

37.— (1) The Executive shall, not later than the 30th day of April in each year beginning with the year 2006, prepare and adopt a report on the performance of its functions during the preceding year.

(2) An annual report shall include—

(*a*) a general statement of the health and personal social services provided during the preceding year by or on behalf of the Executive (whether provided in

accordance with an agreement under *section 8* or an arrangement under *section 38*) and of the activities undertaken by the Executive in that year,

(*b*) a report on the implementation of the corporate plan in the year,

(*c*) a report on the implementation of the service plan in the year,

(*d*) a report on the implementation of the capital plans in the year,

(*e*) an indication of the Executive's arrangements for implementing and maintaining adherence to its code of governance,

(*f*) the report required by *section 55* (complaints), and

F170**[**(*g*) such other information as the Executive considers appropriate or as the Minister or, in relation to the performance by the Executive of its specialist community-based disability services functions, the Minister for Children, Equality, Disability, Integration and Youth, may specify.**]**

(3) The Executive shall submit a copy of the annual report to the Minister F171**[**and the Minister for Children, Equality, Disability, Integration and Youth**]** as soon as practicable after adopting the report and in any event not later than 21 days after its adoption.

(4) The Minister shall ensure that copies of the annual report are laid before each House of the Oireachtas within 21 days after the Minister receives that report.

(5) The Executive shall ensure that the annual report is published on the Internet, or in accordance with such other arrangements as the Minister may specify, as soon as practicable after copies of the report are laid before the Houses of the Oireachtas.

Annotations

Amendments:

F170 Substituted (1.03.2023) by *Health (Miscellaneous Provisions) Act 2022* (6/2022), s. 33(a), S.I. No. 666 of 2022.

F171 Inserted (1.03.2023) by *Health (Miscellaneous Provisions) Act 2022* (6/2022), s. 33(b), S.I. No. 666 of 2022.

Editorial Notes:

E27 Previous affecting provision: subs. (2)(g) substituted (1.01.2014) by *Child and Family Agency Act 2013* (40/2013), s. 97 and sch. 2 part 19 item 4, S.I. No. 502 of 2013; substituted as per F-note above.

E28 Previous affecting provision: subs. (2)(g) substituted (25.07.2013) by *Health Service Executive (Governance) Act 2013* (23/2013), s. 16, S.I. No. 275 of 2013; substituted as per E-note above.

Arrangements with service providers.

38.— (1) The Executive may, subject to its available resources and any directions issued by the Minister under *section 10* F172**[**or the Minister for Children, Equality, Disability, Integration and Youth under *section 10C*, enter, on such terms and conditions as it considers appropriate, into an arrangement with a person for the provision of a health or personal social service by that person on behalf of the Executive.

(2) Before entering into an arrangement under this section, the Executive shall determine, in respect of a financial year of the Executive, the maximum amount of funding (whether capital funding or non-capital funding) that it proposes to make available in that year under the arrangement and the level of service it expects to be provided for that funding.

(3) A service provider shall—

(*a*) keep, in such form as may be approved by the Executive in accordance with any general direction issued by the Minister F172**[**or, in relation to the performance by the Executive of its specialist community-based disability services functions, the Minister for Children, Equality, Disability, Integration and Youth**]**, all proper and usual accounts and records of income received and expenditure incurred by it,

F173**[**(*b*) submit such accounts annually for examination, and**]**

(*c*) supply a copy of the audited accounts and the auditor's certificate and report on the accounts to the Executive within such period as may be specified by the Executive.

F174**[**(4) The expenses incurred in the carrying out of an audit of accounts submitted for examination in accordance with *subsection (3)* shall be payable by the service provider who so submitted them for examination.**]**

F175**[**F174**[**(4A)**]** The Executive may make an arrangement for the provision of a health or personal social service in accordance with this section by seeking and accepting a tender for the provision of such services.

F174**[**(4B)**]** A service provider providing a service in accordance with F174**[***subsection (4A)***]** is exempt from the requirements of *subsections (2) and (3).***]**

(5) The Executive may exempt from the requirements of *subsection (3)*—

(*a*) a service provider who in any one financial year receives from the Executive in respect of health and personal social services provided on behalf of the Executive a total sum that does not exceed the amount that may be determined by the Minister F172**[**or, in relation to the performance by the Executive of its specialist community-based disability services functions, the Minister for Children, Equality, Disability, Integration and Youth**]**, or

(*b*) such other categories of service providers as may be specified by the Minister F172**[**or, in relation to the performance by the Executive of its specialist community-based disability services functions, the Minister for Children, Equality, Disability, Integration and Youth**]**.

(6) The Executive may make such arrangements as it considers appropriate to monitor—

(*a*) the expenditure incurred in the provision of health or personal social services by service providers exempted under *subsection (5),* and

(*b*) the provision of those services by such service providers.

(7) The Executive may request from a service provider any information that it considers material to the provision of a health or personal social service by the service provider.

(8) A service provider shall comply with a request made under *subsection (7)* to the service provider.

F176**[**(9) At the request of the Minister or the Minister for Children, Equality, Disability, Integration and Youth, the Executive shall supply the Minister or, in relation to the performance by the Executive of its specialist community-based disability services functions, the Minister for Children, Equality, Disability, Integration and Youth, with any information obtained in response to a request made under *subsection (7).***]**

Annotations

Amendments:

F172 Inserted (1.03.2023) by *Health (Miscellaneous Provisions) Act 2022* (6/2022), s. 34(a), (b), (c), S.I. No. 666 of 2022.

F173 Substituted (15.05.2007) by *Health Act 2007* (23/2007), s. 105 and sch. 2 part 4 item 4(a), S.I. No. 226 of 2007.

F174 Substituted (21.12.2007) by *Health (Miscellaneous Provisions) Act 2007* (42/2007), s. 21(a)-(d), commenced on enactment.

F175 Inserted (15.05.2007) by *Health Act 2007* (23/2007), s. 105 and sch. 2 part 4 item 4(b), S.I. No. 226 of 2007.

F176 Substituted (1.03.2023) by *Health (Miscellaneous Provisions) Act 2022* (6/2022), s. 34(d), S.I. No. 666 of 2022.

Editorial Notes:

E29 The insertion of subss. (4), (5) by *Health Act 2007* (23/2007), s. 105 and sch. 2 part 4 item 4(b) duplicated the existing subss. (4), (5); this was corrected by *Health (Miscellaneous Provisions) Act 2007* (42/2007), s. 21(b), (c), (d) as per F-note above.

Assistance for certain bodies.

39.— (1) The Executive may, subject to any directions given by the Minister under *section 10* F177**[**or the Minister for Children, Equality, Disability, Integration and Youth under *section 10C***]** and on such terms and conditions as it sees fit to impose, give assistance to any person or body that provides or proposes to provide a service similar or ancillary to a service that the Executive may provide.

(2) Assistance may be provided under this section in any of the following ways:

(*a*) by contributing to the expenses incurred by the person or body;

(*b*) by permitting the use by the person or body of premises maintained by the Executive and, where requisite, executing alterations and repairs to and supplying furniture and fittings for such premises;

(*c*) by providing premises (with all requisite furniture and fittings) for use by the person or body.

(3) Assistance may be provided to a person under this section whether or not the person is a service provider.

Annotations

Amendments:

F177 Inserted (1.03.2023) by *Health (Miscellaneous Provisions) Act 2022*, s. 35, S.I. No. 666 of 2022.

Gifts.

40.— (1) The Executive may accept gifts of money, land or other property on such trusts or conditions (if any) as may be specified by the donor.

(2) The Executive may not accept a gift if the trusts or conditions attaching to it would be inconsistent with the Executive's object or functions or with any obligations imposed on it under any enactment.

F178**[**PART 7A

FURNISHING OF INFORMATION AND DOCUMENTS**]**

Annotations

Amendments:

F178 Inserted (3.07.2010) by *Health (Amendment) Act 2010* (15/2010), s. 1, commenced on enactment.

F179**[**Definition.

40A.— In this Part "document" means—

(*a*) a book, record or other written or printed material,

(*b*) a photograph,

(*c*) any information stored, maintained or preserved by means of any mechanical or electronic device, whether or not stored, maintained or preserved in legible form, and

(*d*) any audio or video recording.**]**

Annotations

Amendments:

F179 Inserted (3.07.2010) by *Health (Amendment) Act 2010* (15/2010), s. 1, commenced on enactment.

F180**[**Duty of Executive to furnish information.

F181**[40B. —** (1) The Executive shall—

(*a*) monitor and keep under review occurrences and developments concerning matters relating to its object and functions,

(*b*) without delay, furnish the Minister or, in relation to its specialist community-based disability services functions, the Minister for Children, Equality, Disability, Integration and Youth, with information regarding—

(i) any such occurrence or development that, in the opinion of the Executive, either Minister is likely to consider significant for the performance of his or her functions as appropriate (whether under this Act or otherwise), or

(ii) any other occurrence or development that falls within a class of occurrences or developments of public interest or concern that has been specified in writing by either Minister.

(2) The Minister or, in relation to the performance by the Executive of its specialist community-based disability services functions, the Minister for Children, Equality, Disability, Integration and Youth, may issue guidelines in relation to the furnishing of information under *subsection (1)*, and if either such Minister does so, the Executive shall comply with those guidelines.**]]**

Annotations

Amendments:

F180 Inserted (3.07.2010) by *Health (Amendment) Act 2010* (15/2010), s. 1, commenced on enactment.

F181 Substituted (1.03.2023) by *Health (Miscellaneous Provisions) Act 2022* (6/2022), s. 36, S.I. No. 666 of 2022.

Editorial Notes:

E30 Previous affecting provision: subs. (1)(b)(ii) substituted (1.01.2014) by *Child and Family Agency Act 2013* (40/2013), s. 97 and sch. 2 part 19 item 5(a)(i), S.I. No. 502 of 2013; section substituted as per F-note above.

E31 Previous affecting provision: subs. (2) deleted (1.01.2014) by *Child and Family Agency Act 2013* (40/2013), s. 97 and sch. 2 part 19 item 5(b), S.I. No. 502 of 2013; section substituted as per F-note above.

E32 Previous affecting provision: subs. (1)(a) substituted (8.09.2011) by *Child Care (Amendment) Act 2011* (19/2011), s. 35(a)(i), S.I. No. 453 of 2011; section substituted as per F-note above.

E33 Previous affecting provision: subs. (1)(b)(ii) amended (8.09.2011) by *Child Care (Amendment) Act 2011* (19/2011), s. 35(a)(ii), S.I. No. 453 of 2011; paragraph amended as per E-note above.

E34 Previous affecting provision: subs. (1)(c) inserted (8.09.2011) by *Child Care (Amendment) Act 2011* (19/2011), s. 35(a)(iii), S.I. No. 453 of 2011; deleted (1.01.2014) by *Child and Family Agency Act 2013* (40/2013), s. 97 and sch. 2 part 19 item 5(a)(ii), S.I. No. 502 of 2013.

E35 Previous affecting provision: subs. (2) amended (8.09.2011) by *Child Care (Amendment) Act 2011* (19/2011), s. 35(a)(iv), S.I. No. 453 of 2011; subsection deleted as per E-note above.

F182**[**Requirement to furnish information and documents.

40C.— (1) The Minister may, where he or she considers it necessary in the public interest to do so for the performance of his or her functions (whether under this Act or otherwise), require the Executive to furnish him or her with such information or documents as he or she may specify that are in the Executive's procurement, possession or control, and the Executive shall do so within any period that the Minister may specify and, in any event, without delay.

F183**[**(1A) The Minister for Children, Equality, Disability, Integration and Youth, in relation to the performance by the Executive of its specialist community-based disability services functions, may, where he or she considers it necessary in the public interest to do so for the performance of his or her functions (whether under this Act or otherwise), require the Executive to furnish him or her with such information or documents as he or she may specify that are in the Executive's procurement, possession or control, and the Executive shall do so within any period that Minister may specify and, in any event, without delay.**]**

(2) Nothing contained in an enactment, and no rule of law, which would require obtaining the consent of a person in order for the Executive to furnish the Minister F184**[**or the Minister for Children, Equality, Disability, Integration and Youth**]** F185**[**...**]** with information or documents under this Part, shall operate to prohibit or render unlawful such furnishing, notwithstanding that no such consent has been obtained.

(3) Nothing contained in an enactment, and no rule of law, relating to the non-disclosure or confidentiality of information or documents, shall operate to prohibit the Executive from furnishing the Minister F184**[**or the Minister for Children, Equality, Disability, Integration and Youth**]** F185**[**...**]** with information or documents under this Part, or render such furnishing unlawful.

(4) Nothing contained in an enactment, and no rule of law, relating to the hearing of proceedings otherwise than in public shall operate to—

(*a*) prohibit the Executive from furnishing the Minister F184**[**or the Minister for Children, Equality, Disability, Integration and Youth**]** F185**[**...**]**, under this Part, with information or documents prepared in relation to, or given in evidence in, such proceedings, whether the proceedings were brought before or after the commencement of this Part, or

(*b*) render such furnishing unlawful.**]**

Annotations

Amendments:

F182 Inserted (3.07.2010) by *Health (Amendment) Act 2010* (15/2010), s. 1, commenced on enactment.

F183 Inserted (1.03.2023) by *Health (Miscellaneous Provisions) Act 2022* (6/2022), s. 37(a), S.I. No. 666 of 2022.

F184 Inserted (1.03.2023) by *Health (Miscellaneous Provisions) Act 2022* (6/2022), s. 37(b), (c), (d), S.I. No. 666 of 2022.

F185 Deleted (1.01.2014) by *Child and Family Agency Act 2013* (40/2013), s. 97 and sch. 2 part 19 item 6(b), (c), (d), S.I. No. 502 of 2013.

Editorial Notes:

E36 Previous affecting provision: subs. (1A) inserted (8.09.2011) by *Child Care (Amendment) Act 2011* (19/2011), s. 35(b)(i), S.I. No. 453 of 2011; deleted (1.01.2014) by *Child and Family Agency Act 2013* (40/2013), s. 97 & sch. 2 part 19 item 6(a), S.I. No. 502 of 201. Subsection reinserted as per F-note above.

E37 Previous affecting provision: subss. (2)-(4)(a) amended (8.09.2011) by *Child Care (Amendment) Act 2011* (19/2011), s. (b)(ii)-(iv), S.I. No. 453 of 2011; amendments deleted (1.01.2014) as per F-note above.

F186**[**Minister may share information and documents in certain circumstances.

40D.— (1) Where the Minister F187**[**or the Minister for Children, Equality, Disability, Integration and Youth**]** has appointed a person to examine or inquire into any matter, and considers that any information or document that has been furnished F188**[**to him or her**]** under *section 40B* or *40C* may be relevant to that examination or inquiry, the Minister F187**[**or the Minister for Children, Equality, Disability, Integration and Youth**]** may furnish that information or document to the person, and that person may receive that information or document.

F188**[**(1A) F189**[**...**]]**

(2) Nothing contained in an enactment, and no rule of law, which would require obtaining the consent of another person in order for F190**[**the Minister F187**[**or the Minister for Children, Equality, Disability, Integration and Youth**]** to furnish a person referred to in *subsection (1)* with information**]** or documents under this Part, shall operate to prohibit or render unlawful such furnishing, notwithstanding that no such consent has been obtained.

(3) Nothing contained in an enactment, and no rule of law, relating to the non-disclosure or confidentiality of information or documents, shall operate to prohibit F190**[**the Minister F187**[**or the Minister for Children, Equality, Disability, Integration and Youth**]** from furnishing a person referred to in *subsection (1)* with information**]** or documents under this Part, or render such furnishing unlawful.

(4) Nothing contained in an enactment, and no rule of law, relating to the hearing of proceedings otherwise than in public shall operate to—

(*a*) prohibit F190**[**the Minister F187**[**or the Minister for Children, Equality, Disability, Integration and Youth**]** from furnishing a person referred to in *subsection (1)* with information**]** or documents prepared in relation to, or given in evidence in, such proceedings, whether the proceedings were brought before or after the commencement of this Part, or

(*b*) render such furnishing unlawful.**]**

Annotations

Amendments:

F186 Inserted (3.07.2010) by *Health (Amendment) Act 2010* (15/2010), s. 1, commenced on enactment.

F187 Inserted (1.03.2023) by *Health (Miscellaneous Provisions) Act 2022* (6/2022), s. 38, S.I. No. 666 of 2022.

F188 Inserted (8.09.2011) by *Child Care (Amendment) Act 2011* (19/2011), s. 35(c)(i), (ii), S.I. No. 453 of 2011.

F189 Deleted (1.01.2014) by *Child and Family Agency Act 2013* (40/2013), s. 97 and sch. 2 part 19 item 7(a), S.I. No. 502 of 2013.

F190 Substituted (1.01.2014) by *Child and Family Agency Act 2013* (40/2013), s. 97 and sch. 2 part 19 item 7(b), (c), (d), S.I. No. 502 of 2013.

Editorial Notes:

E38 Previous affecting provision: subss. (2), (3), (4)(a) amended (8.09.2011) by *Child Care (Amendment) Act 2011* (19/2011), s. 35(c)(iii)-(v), S.I. No. 453 of 2011; amended as per F-note above.

F191**[**Use of information and documents.

40E.— (1) Subject to *subsection (2)*, the Minister F192**[**or the Minister for Children, Equality, Disability, Integration and Youth**]** may use information and documents furnished F193**[**to him or her**]** under this Part as he or she requires for the performance of his or her functions (whether under this Act or otherwise).

F193**[**(1A) F194**[**...**]**.**]**

(2) Where information or a document has been furnished under *section 40B* or *40C*, nothing in this Part is to be taken to permit publication, in whole or in part, of the information or document if such publication would not otherwise be lawful.**]**

Annotations

Amendments:

F191 Inserted (3.07.2010) by *Health (Amendment) Act 2010* (15/2010), s. 1, commenced on enactment.

F192 Inserted (1.03.2023) by *Health (Miscellaneous Provisions) Act 2022* (6/2022), s. 39, S.I. No. 666 of 2022.

F193 Inserted (8.09.2011) by *Child Care (Amendment) Act 2011* (19/2011), s. 35(d)(i), (ii), S.I. No. 453 of 2011.

F194 Deleted (1.01.2014) by *Child and Family Agency Act 2013* (40/2013), s. 97 and sch. 2 part 19 item 8, S.I. No. 502 of 2013.

F195**[**Saver.

F196**[40F.—**Nothing in this Part is to be taken to limit any power of the Minister or, in relation to the performance by the Executive of its specialist community-based disability services functions, the Minister for Children, Equality, Disability, Integration and Youth, to require information from or issue directions to the Executive (whether under this Act or otherwise), or to affect, except to the extent required by this Part, the functions of the Executive, the Minister or the Minister for Children, Equality, Disability, Integration and Youth.**]]**

Annotations

Amendments:

F195 Inserted (3.07.2010) by *Health (Amendment) Act 2010* (15/2010), s. 1, commenced on enactment.

F196 Substituted (1.03.2023) by *Health (Miscellaneous Provisions) Act 2022* (6/2022), s. 40, S.I. No. 666 of 2022.

Editorial Notes:

E39 Previous affecting provision: section substituted (1.01.2014) by *Child and Family Agency Act 2013* (40/2013), s. 97 and sch. 2 part 19 item 9(a), (b), S.I. No. 502 of 2013; section substituted as per F-note above.

E40 Previous affecting provision: section amended (8.09.2011) by *Child Care (Amendment) Act 2011* (19/2011), s. 35(e)(i), (ii), S.I. No. 453 of 2011; section substituted as per E-note above.

F197[PART 7B

ACCOUNTING OFFICER AND AUDIT COMMITTEE]

Annotations

Amendments:

F197 Inserted (25.07.2013) by *Health Service Executive (Governance) Act 2013* (23/2013), s. 17, S.I. No. 275 of 2013.

F198[F199[Director General to be accounting officer of Executive for specified period.

40G.— The F200[chief executive officer] shall be the accounting officer, for the purposes of the Comptroller and Auditor General Acts 1866 to 1998, in relation to the appropriation accounts of the Executive for the financial year ending on 31 December 2014 and for each of the previous financial years back to and including the financial year ending on 31 December 2005.]]

Annotations

Amendments:

F198 Inserted (25.07.2013) by *Health Service Executive (Governance) Act 2013* (23/2013), s. 17, S.I. No. 275 of 2013.

F199 Substituted (17.07.2014) by *Health Service Executive (Financial Matters) Act 2014* (17/2014), s. 13, commenced on enactment.

F200 Substituted (28.06.2019) by *Health Service Executive (Governance) Act 2019* (17/2019), s. 22, S.I. No. 283 of 2019.

F201[Audit committee.

F202[**40H.—** (1) As soon as practicable after the commencement of section 23 of the Health Service Executive (Governance) Act 2019, the Board shall establish an audit committee to perform the functions specified in *section 40I*.

(2) The audit committee shall be appointed by the Board and shall consist of—

(*a*) not fewer than 3 of the Board members, and

(*b*) subject to *subsection (3)*, not fewer than 4 other persons who, in the opinion of the Board, have the relevant skills and experience to perform the functions

of the committee, at least one of whom shall hold a professional qualification in accountancy or auditing.

(3) A person is not eligible for appointment to the audit committee pursuant to *subsection (2)(b)* if that person is an employee of the Executive.

F203**[**(4) The Board shall designate one of the persons appointed pursuant to *subsection (2)* to be the chairperson of the audit committee.**]**

(5) The duration of a person's membership of the audit committee shall be determined by the Board when appointing that person.

(6) A member of the audit committee may resign from the committee by letter addressed to the chairperson of the Board.

(7) The Board may at any time remove a member of the audit committee for stated reasons.

(8) The Minister may, with the consent of the Minister for Public Expenditure and Reform, determine the remuneration and expenses payable under this section.

(9) The remuneration and allowances for expenses, if any, determined in accordance with *subsection (8)* are payable by the Executive out of funds at its disposal to a member of the audit committee.

(10) The chief executive officer shall ensure that the audit committee is provided with the necessary secretarial and other resources to enable it to perform its functions.**]]**

Annotations

Amendments:

F201 Inserted (25.07.2013) by *Health Service Executive (Governance) Act 2013* (23/2013), s. 17, S.I. No. 275 of 2013.

F202 Substituted (28.06.2019) by *Health Service Executive (Governance) Act 2019* (17/2019), s. 23, S.I. No. 283 of 2019.

F203 Substituted (1.07.2022) by *Health (Miscellaneous Provisions) Act 2022* (6/2022), s. 41, S.I. No. 326 of 2022.

Editorial Notes:

E41 Relevant day appointed (9.08.2019) by *Health Act 2004 (Section 40H) (Relevant Day) Order 2019* (S.I. No. 412 of 2019), art. 2.

F204**[**Provisions supplementary to section 40H

40HA.— (1) The Minister shall, by order, appoint a day to be the relevant day for the purposes of *section 40H*.

(2) The old audit committee shall stand dissolved on the relevant day.

(3) Anything commenced and not completed before the relevant day by or under the authority of the old audit committee may, in so far as it relates to a function of the new audit committee, be carried on or completed on or after that day by the new audit committee.

(4) Every document granted or made, by the old audit committee, if and in so far as it was operative immediately before the relevant day, shall have effect on and after that day as if it had been granted or made by the new audit committee.

(5) Each record held by the old audit committee immediately before the relevant day shall, on that day, stand transferred to the new audit committee and shall, on

and after that day, be the property of the new audit committee and be regarded as being held by the new audit committee.

(6) In this section and *section 40I*—

"new audit committee" means the audit committee established pursuant to *section 40H* after the commencement of section 23 of the Health Service Executive (Governance) Act 2019;

"old audit committee" means the audit committee established pursuant to section 40H before the commencement of section 23 of the Health Service Executive (Governance) Act 2019;

"relevant day" shall be construed in accordance with *subsection (1)*.**]**

Annotations

Amendments:

F204 Inserted (28.06.2019) by *Health Service Executive (Governance) Act 2019* (17/2019), s. 24, S.I. No. 283 of 2019.

Editorial Notes:

E42 Power pursuant to subs. (1) exercised (9.08.2019) by *Health Act 2004 (Section 40H) (Relevant Day) Order 2019* (S.I. No. 412 of 2019).

E43 The section heading is taken from the amending section in absence of one included in the amendment.

F205**[**Functions of audit committee.

F206**[40I.—** (1) The audit committee shall, on and after the relevant day—

(*a*) advise the chief executive officer on financial matters relating to his or her functions,

(*b*) report in writing at least once in every year to the chief executive officer on those matters and on the activities of the committee in the previous year, and

(*c*) provide a copy of that report to the Board F207**[**, the Minister and the Minister for Children, Equality, Disability, Integration and Youth**]**.

(2) The audit committee shall, on and after the relevant day—

(*a*) advise the Board on financial matters relating to its functions,

(*b*) report in writing at least once in every year to the Board on those matters, and

(*c*) provide a copy of that report to the Minister F208**[**and the Minister for Children, Equality, Disability, Integration and Youth**]**.

(3) The audit committee's functions under *subsections (1)(a)* and *(2)(a)* include advising on the following matters:

(*a*) the proper implementation by the Executive of Government guidelines on financial issues;

(*b*) compliance by the Executive with—

(i) *sections 33* and *33B*, and

(ii) any other obligations imposed by law relating to financial matters;

(*c*) compliance by the chief executive officer with *section 34A*;

(*d*) the appropriateness, effectiveness and efficiency of the Executive's procedures relating to—

(i) public procurement,

(ii) seeking sanction for expenditure and complying with that sanction,

(iii) the acquisition, holding and disposal of assets,

(iv) risk management,

(v) financial reporting, and

(vi) internal audits.

(4) Subject to *subsection (7)*, the audit committee shall meet at least 4 times in each year and may invite any person it considers appropriate (whether that person is or is not an employee of the Executive) to attend a meeting of the committee.

(5) The chief executive officer shall—

(*a*) ensure that the audit committee is provided with all of the Executive's audit reports, audit plans and monthly reports on expenditure, and

(*b*) if he or she has reason to suspect that any material misappropriation of the Executive's money, or any fraudulent conversion or misapplication of the Executive's property, may have taken place, report that matter to the audit committee as soon as practicable.

(6) The chief executive officer shall furnish to the audit committee information on any financial matter or procedure necessary for the performance of its functions by the committee when requested to do so by the audit committee and where such information relates to—

(*a*) any contract that the Executive proposes to enter into involving expenditure of an amount in excess of a threshold specified by the committee, and

(*b*) any legal proceedings taken or threatened against the Executive that may give rise to potential financial liability.

(7) A meeting of the old audit committee held in the same year as the year in which the relevant day falls shall count as a meeting of the new audit committee for the purposes of *subsection (4)*.**]]**

Annotations

Amendments:

F205 Inserted (25.07.2013) by *Health Service Executive (Governance) Act 2013* (23/2013), s. 17, S.I. No. 275 of 2013.

F206 Substituted (28.06.2019) by *Health Service Executive (Governance) Act 2019* (17/2019), s. 25, S.I. No. 283 of 2019.

F207 Substituted (1.03.2023) by *Health (Miscellaneous Provisions) Act 2022* (6/2022), s. 42(a), S.I. No. 666 of 2022.

F208 Inserted (1.03.2023) by *Health (Miscellaneous Provisions) Act 2022* (6/2022), s. 42(b), S.I. No. 666 of 2022.

Editorial Notes:

E44 Previous affecting provision: subs. (3)(b) substituted and (ba) inserted (17.07.2014) by *Health Service Executive (Financial Matters) Act 2014* (17/2014), s. 14(a), commenced on enactment; section substituted as per F-note above.

E45 Previous affecting provision: subs. (5)(b) amended (17.07.2014) by *Health Service Executive (Financial Matters) Act 2014* (17/2014), s. 14(b), commenced on enactment; section substituted as per F-note above.

PART 8

Public Representation and User Participation

National Health Consultative Forum.

41.— F209**[**(1) The Minister, after consultation with the Minister for Children, Equality, Disability, Integration and Youth, may convene, at such time as the Minister may determine, a National Health Consultative Forum to advise the Minister or the Minister for Children, Equality, Disability, Integration and Youth, as appropriate, on matters relating to the provision of health and personal social services.**]**

(2) The Minister F210**[**, after consultation with the Minister for Children, Equality, Disability, Integration and Youth,**]** may, F211**[**...**]**—

(*a*) specify the number of members of the Forum,

(*b*) determine the manner in which the members are to be nominated,

(*c*) appoint the members, and

(*d*) determine the rules and procedures of the Forum.

(3) The expenses of the Forum are payable by the Minister out of moneys provided by the Oireachtas.

Annotations

Amendments:

F209 Substituted (1.03.2023) by *Health (Miscellaneous Provisions) Act 2022* (6/2022), s. 43(a), S.I. No. 666 of 2022.

F210 Substituted (1.03.2023) by *Health (Miscellaneous Provisions) Act 2022* (6/2022), s. 43(b), S.I. No. 666 of 2022.

F211 Deleted (15.05.2007) by *Health Act 2007* (23/2007), s. 105 and sch. 2 part 4 item 5, S.I. No. 226 of 2007.

Editorial Notes:

E46 Power pursuant to section exercised (12.09.2006) by *Health Act 2004 (National Health Consultative Forum Appointment of Members) Order 2006* (S.I. No. 479 of 2006).

E47 Power pursuant to section exercised (27.06.2006) by *Health Act 2004 (National Health Consultative Forum) Order 2006* (S.I. No. 333 of 2006).

Regional health forums.

42.— (1) After consulting the Minister for the Environment, Heritage and Local Government, the Minister shall, by regulation—

(*a*) establish such number (not exceeding 4) of regional health forums as the Minister considers appropriate, and

(*b*) appoint the establishment day of each regional health forum.

(2) The function of a regional health forum is to make such representations to the Executive as the forum considers appropriate on the range and operation of health and personal social services provided within its functional area, but it may not consider or make representations concerning any of the following matters:

(*a*) a matter relating solely to the exercise of clinical judgment by a person acting on behalf of the Executive or a service provider;

(*b*) a matter relating to an action taken by the Executive or a service provider if the action was taken solely on the advice of a person exercising clinical judgment in the circumstances described in *paragraph (a);*

(*c*) a matter relating to the recruitment or appointment of employees by the Executive or by a service provider;

(*d*) a matter relating to or affecting the terms or conditions (including those relating to superannuation benefits, disciplinary procedures or grievance procedures) of a contract of employment that the Executive has entered into or proposes to enter into.

(3) A regional health forum is to be composed of members of each city council and each county council within the functional area of the forum who are to be appointed as members of the forum by that city council or county council as follows:

(*a*) in the case of the first appointment of the members of a regional health forum, at the meeting of the city council or county council held next after the establishment of the regional health forum;

(*b*) in any other case, at the meeting of the city council or county council held next after the election of members of the council concerned.

(4) A person ceases to be a member of a regional health forum on ceasing to be a member of the city council or county council that appointed the person as a member of the forum.

(5) Regulations under this section shall—

(*a*) specify the title of each regional health forum and define its functional area,

(*b*) specify the number of members for each regional health forum and the number of members from each city council and each county council to be nominated to each regional health forum, and

(*c*) specify requirements relating to the manner in which the functions of a regional health forum are to be performed.

(6) Regulations under this section may, among other things, prescribe requirements concerning the following matters:

(*a*) the appointment of members to a regional health forum;

(*b*) the election of a chairperson and vice-chairperson of each regional health forum;

(*c*) the filling of casual vacancies;

(*d*) the meetings and procedures of a regional health forum;

(*e*) the establishment of committees of a regional health forum and the appointment of their members;

(*f*) rules and procedures to ensure the proper administration of each regional health forum.

(7) The Executive shall provide, or arrange for the provision of, such administrative services as may be necessary to enable a regional health forum to perform its function.

(8) The expenses of a regional health forum are payable by the Executive.

(9) A member of a regional health forum or a committee established by such forum may be paid by the Executive travelling and subsistence allowances in accordance with such scales as may, from time to time, be approved by the Minister with the consent of the Minister for Finance.

Annotations

Modifications (not altering text):

C10 References to "county council" and "city council" construed (1.06.2014) by *Local Government Reform Act 2014* (1/2014), s. 9(2), (3), S.I. No. 214 of 2014, art. 2.

Cesser and amalgamation of certain local government areas

9. …

(2) Except where otherwise provided for by this Act, a reference, however expressed, in any enactment—

(*a*) to a county council or a city council (including a reference construed by section 3(2) of, and Schedule 2 to, the Principal Act as a reference to a county council or to a city council, as the case may be) shall, if the context permits, be read as a reference to a county council, a city council or a city and county council, and

(*b*) to a county council and a city council (including a reference so construed) shall, if the context permits, be read as a reference to a county council, a city council and a city and county council.

(3) Except where otherwise provided for by this Act, a reference, however expressed, in any enactment—

(*a*) to the administrative area of a county council or the administrative area of a city council shall, if the context permits, be read as a reference to the administrative area of a county council, the administrative area of a city council or the administrative area of a city and county council, and

(*b*) to the administrative area of a county council and the administrative area of a city council shall, if the context permits, be read as a reference to the administrative area of a county council, the administrative area of a city council and the administrative area of a city and county council.

C11 Functions under subs. (9) transferred and references to "Department of Finance" and "Minister for Finance" construed (29.07.2011) by *Finance (Transfer of Departmental Administration and Ministerial Functions) Order 2011* (S.I. No. 418 of 2011), arts. 2, 3, 5 and sch. 1 part 2, in effect as per art. 1(2), subject to transitional provisions in arts. 6-9.

2. (1) The administration and business in connection with the performance of any functions transferred by this Order are transferred to the Department of Public Expenditure and Reform.

(2) References to the Department of Finance contained in any Act or instrument made thereunder and relating to the administration and business transferred by paragraph (1) shall, on and after the commencement of this Order, be construed as references to the Department of Public Expenditure and Reform.

3. The functions conferred on the Minister for Finance by or under the provisions of –

(*a*) the enactments specified in Schedule 1, and

(*b*) the statutory instruments specified in Schedule 2,

are transferred to the Minister for Public Expenditure and Reform.

5. References to the Minister for Finance contained in any Act or instrument under an Act and relating to any functions transferred by this Order shall, from the commencement of this Order, be construed as references to the Minister for Public Expenditure and Reform.

...

Schedule 1

Enactments

...

Part 2

1922 to 2011 Enactments

Number and Year (1)	Short Title (2)	Provision (3)
...	...	...
No. 42 of 2004	Health Act 2004	Sections 34, 42(9) and 43(7)
...	...	...

Editorial Notes:

E48 Power pursuant to section exercised (12.12.2005) by *Health Act 2004 (Regional Health Forums) Regulations 2005* (S.I. No. 797 of 2005).

Mechanisms (including advisory panels) to enable Executive to consult with local communities and others.

43.— (1) The Executive may take such steps as it considers appropriate to consult with local communities or other groups about health and personal social services.

(2) Such steps may include the establishment by the Executive of panels to advise the Executive or to enable it to seek the views of—

(*a*) persons who are being or have been provided with a health or personal social service or who are seeking or have sought a health or personal social service,

(*b*) carers of persons referred to in *paragraph (a),*

(*c*) service providers, and

(*d*) such other persons as the Executive considers appropriate.

(3) Subject to *subsection (4),* the Executive shall determine for each panel established under this section—

(*a*) its terms of reference,

(*b*) the manner in which its members are to be nominated, and

(*c*) the rules governing its meetings and procedures.

(4) A panel may not consider, or provide advice or views to the Executive concerning, a matter that under *paragraphs (a)* to *(d)* of *section 42(2)* a regional health forum is not authorised to consider.

(5) In providing advice to the Executive, a panel shall have regard to—

(*a*) the approved corporate plan in operation at the time,

(*b*) the approved service plan in operation at the time, and

(*c*) any arrangement under *section 38* with a service provider.

(6) The Executive shall provide, or arrange for the provision of, such administrative services as may be necessary to enable a panel to perform its functions.

(7) The following allowances and expenses are payable by the Executive:

(*a*) the travelling and subsistence allowances of panel members in accordance with such scales as may be determined from time to time by the Minister with the consent of the Minister for Finance;

(*b*) the expenses of a panel.

(8) The Executive may dissolve a panel established under this section.

Annotations

Modifications (not altering text):

C12 Functions under subs. (7) transferred and references to "Department of Finance" and "Minister for Finance" construed (29.07.2011) by *Finance (Transfer of Departmental Administration and Ministerial Functions) Order 2011* (S.I. No. 418 of 2011), arts. 2, 3, 5 and sch. 1 part 2, in effect as per art. 1(2), subject to transitional provisions in arts. 6-9.

2. (1) The administration and business in connection with the performance of any functions transferred by this Order are transferred to the Department of Public Expenditure and Reform.

(2) References to the Department of Finance contained in any Act or instrument made thereunder and relating to the administration and business transferred by paragraph (1) shall, on and after the commencement of this Order, be construed as references to the Department of Public Expenditure and Reform.

3. The functions conferred on the Minister for Finance by or under the provisions of –

(*a*) the enactments specified in Schedule 1, and

(*b*) the statutory instruments specified in Schedule 2,

are transferred to the Minister for Public Expenditure and Reform.

5. References to the Minister for Finance contained in any Act or instrument under an Act and relating to any functions transferred by this Order shall, from the commencement of this Order, be construed as references to the Minister for Public Expenditure and Reform.

...

Schedule 1

Enactments

...

Part 2

1922 to 2011 Enactments

Number and Year (1)	Short Title (2)	Provision (3)
...	...	...
No. 42 of 2004	Health Act 2004	Sections 34, 42(9) and 43(7)
...	...	...

Other advisory panels to be established on Minister's direction.

44.— (1) The Minister F212**[**or, in relation to the performance by the Executive of its specialist community-based disability services functions, the Minister for Children, Equality, Disability, Integration and Youth,**]** may direct the Executive in writing to—

(*a*) establish an advisory panel for a purpose specified by the Minister F212**[**or, in relation to the performance by the Executive of its specialist community-

based services functions, the Minister for Children, Equality, Disability, Integration and Youth**]**, and

(*b*) appoint one or more than one person specified by the Minister F212**[**or, in relation to the performance by the Executive of its specialist community-based services functions, the Minister for Children, Equality, Disability, Integration and Youth,**]** as a member of the panel.

(2) The Minister F212**[**or, in relation to the performance by the Executive of its specialist community-based services functions, the Minister for Children, Equality, Disability, Integration and Youth,**]** may determine the terms of reference of a panel established under this section and may dissolve the panel at any time.

(3) *Subsections (4)* to *(7)* of *section 43* apply with the necessary modifications in relation to an advisory panel established under this section.

Annotations

Amendments:

F212 Inserted (1.03.2023) by *Health (Miscellaneous Provisions) Act 2022* (6/2022), s. 44(a)(i)-(iii), (b), S.I. No. 666 of 2022.

PART 9

Complaints

Annotations

Modifications (not altering text):

C13 Application restricted (10.01.2007) by *Health Act 2004 (Complaints) Regulations 2006* (S.I. No. 652 of 2006), reg. 17, in effect as per reg. 1(2).

Ombudsman and Ombudsman for Children

17. Any notification, under these Regulations (other than one under Regulation 7(1) or 12), or reports forwarded to a person who has made a complaint shall advise that nothing in Part 9 of the Act prohibits or prevents any person who is dissatisfied with a recommendation made or step taken in response to a complaint or a review that the matter may be referred by him or her to the Ombudsman or the Ombudsman for Children, as appropriate.

C14 Function of complaint officer in relation to complaints under Part prescribed (1.01.2007) by *Health Act 2004 (Complaints) Regulations 2006* (S.I. No. 652 of 2006), reg. 6(1), in effect as per reg. 1(2).

Functions of complaints officers

6. (1) A complaints officer shall investigate, subject to section 50(2), all complaints received or assigned to him or her for investigation after having satisfied himself or herself that the complaint falls within the provisions of Part 9 of the Act.

...

Definitions (*Part 9*).

45.— In this Part—

"action" means anything done or omitted to be done—

(*a*) by the Executive, or

(*b*) by a service provider in connection with the provision of—

(i) a health or personal social service that is the subject of an arrangement under *section 38* , or

(ii) a service in respect of which assistance is given under *section 39* ;

"close relative", in relation to another person, means a person who—

(*a*) is a parent, guardian, son, daughter or spouse of the other person, or

(*b*) is cohabiting with the other person;

"complaints officer" means a person designated—

(*a*) by the Executive for the purpose of dealing with complaints made to it in accordance with procedures established under *section 49(1)(a)*, or

(*b*) by a service provider for the purpose of dealing with complaints made to the service provider in accordance with procedures established under *section 49(1)(a)* or *(2);*

"complaint" means a complaint made under this Part about any action of the Executive or a service provider that—

(*a*) it is claimed, does not accord with fair or sound administrative practice, and

(*b*) adversely affects the person by whom or on whose behalf the complaint is made;

"complainant" means a person who is entitled under *section 46* to make a complaint under this Part on the person's own behalf or on behalf of another.

Who may make complaints.

46.— (1) Any person who is being or was provided with a health or personal social service by the Executive or by a service provider or who is seeking or has sought provision of such service may complain, in accordance with the procedures established under this Part, about any action of the Executive or a service provider that—

(*a*) it is claimed, does not accord with fair and sound administrative practice, and

(*b*) adversely affects or affected that person.

(2) For the purposes of this Part, an action does not accord with fair and sound administrative practice if it is—

(*a*) taken without proper authority,

(*b*) taken on irrelevant grounds,

(*c*) the result of negligence or carelessness,

(*d*) based on erroneous or incomplete information,

(*e*) improperly discriminatory,

(*f*) based on undesirable administrative practice, or

(*g*) in any other respect contrary to fair or sound administration.

(3) If a person entitled under this section to make a complaint is unable to do so because of age, illness or disability, the complaint may be made on that person's behalf by—

(*a*) a close relative F213**[**or civil partner within the meaning of the Civil Partnership and Certain Rights and Obligations of Cohabitants Act 2010**]** or carer of the person,

(*b*) any person who, by law or by appointment of a court, has the care of the affairs of that person,

(*c*) any legal representative of the person,

(*d*) any other person with the consent of the person, or

(*e*) any other person who is appointed as prescribed in the regulations.

(4) If a person who would otherwise have been entitled under this section to make a complaint is deceased, a complaint may be made by a person who, at the time of the action in relation to which the complaint is made, was a close relative F213**[**or civil partner within the meaning of the Civil Partnership and Certain Rights and Obligations of Cohabitants Act 2010**]** or carer of that person.

Annotations

Amendments:

F213 Inserted (1.01.2011) by *Civil Partnership and Certain Rights and Obligations of Cohabitants Act 2010* (24/2010), s. 170 and sch. part 5 item 22, S.I. No. 648 of 2010.

Time limit for making complaints.

47.— (1) A complaint must be made within the specified period or Time limit for any extension of that period allowed under *subsection (3).* making complaints.

(2) The specified period is 12 months beginning before or after the commencement of this section, but not later than—

(*a*) the date of the action giving rise to the complaint, or

(*b*) if the person by whom or on whose behalf the complaint is to be made did not become aware of that action until after that date, the date on which he or she becomes aware of it.

(3) A complaints officer may extend the time limit for making a complaint if in the opinion of the complaints officer special circumstances make it appropriate to do so.

Matters excluded from right to complain.

48.— (1) A person is not entitled to make a complaint about any of the following matters:

(*a*) a matter that is or has been the subject of legal proceedings before a court or tribunal;

(*b*) a matter relating solely to the exercise of clinical judgment by a person acting on behalf of either the Executive or a service provider;

(*c*) an action taken by the Executive or a service provider solely on the advice of a person exercising clinical judgment in the circumstances described in *paragraph (b);*

(*d*) a matter relating to the recruitment or appointment of an employee by the Executive or a service provider;

(*e*) a matter relating to or affecting the terms or conditions of a contract of employment that the Executive or a service provider proposes to enter into or of a contract with an adviser that the Executive proposes to enter into under *section 24* ;

(*f*) a matter relating to the Social Welfare Acts;

(*g*) a matter that could be the subject of an appeal under section 60 of the Civil Registration Act 2004;

(*h*) a matter that could prejudice an investigation being undertaken by the Garda Síochána;

(*i*) a matter that has been brought before any other complaints procedure established under an enactment.

(2) *Subsection (1)(i)* does not prevent a complaints officer from dealing with a complaint that was made to the Ombudsman or the Ombudsman for Children and that is referred by him or her to a complaints officer.

(3) In relation to a contract referred to in *subsection (1)(e)* "terms or conditions" includes terms or conditions relating to superannuation benefits, disciplinary procedures or grievance procedures.

Complaint and review procedures to be established.

49.— (1) Subject to *subsection (2)* and any regulations under *section 53* , the Executive shall establish procedures for—

(*a*) dealing with complaints against the Executive or a service provider, and

(*b*) reviewing, at the request of a complainant, any recommendation made by a complaints officer following the investigation of a complaint.

(2) Any service provider may, with the agreement of the Executive, establish procedures, in place of the procedures established under *subsection (1)(a),* for dealing with complaints against the service provider.

(3) The Executive may agree to a service provider establishing such procedures if satisfied that they will be of a comparable standard to the procedures established by the Executive under *subsection (1)(a).*

(4) Subject to any regulations under *section 53* , the Executive may assign to another body the Executive's functions in relation to reviewing, and establishing procedures for reviewing, any recommendation made by a complaints officer.

Refusal to investigate or further investigate complaints.

50.— (1) A complaints officer shall not investigate a complaint if—

(*a*) the person who made the complaint is not entitled under *section 46* to do so either on the person's own behalf or on behalf of another,

(*b*) the complaint is made after the expiry of the period specified in *section 47(2)* or any extension of that period allowed under *section 47(3)*.

(2) A complaints officer may decide not to investigate or further investigate an action to which a complaint relates if, after carrying out a preliminary investigation into the action or after proceeding to investigate such action, that officer—

(*a*) is of the opinion that—

(i) the complaint does not disclose a ground of complaint provided for in *section 46*,

(ii) the subject-matter of the complaint is excluded by *section 48*,

(iii) the subject-matter of the complaint is trivial, or

(iv) the complaint is vexatious or not made in good faith,

or

(*b*) is satisfied that the complaint has been resolved.

(3) A complaints officer shall, as soon as practicable after determining that he or she is prohibited by *subsection (1)* from investigating a complaint or after deciding under *subsection (2)* not to investigate or further investigate a complaint, inform the complainant in writing of the determination or decision and the reasons for it.

Restriction on type of recommendations complaints officers may make and power to suspend implementation of recommendations.

51.— (1) A complaints officer may not, following the investigation of a complaint, make a recommendation the implementation of which would require or cause—

(*a*) the Executive to make a material amendment to its approved service plan, or

(*b*) a service provider and the Executive to make a material amendment to an arrangement under *section 38*.

(2) If, in the opinion of the relevant person, such a recommendation is made, that person shall either—

(*a*) amend the recommendation in such manner as makes the amendment to the applicable service plan or arrangement unnecessary, or

(*b*) reject the recommendation and take such other measures to remedy, mitigate or alter the adverse effect of the matter to which the complaint relates as the relevant person considers appropriate.

(3) Pending the outcome of a review, the relevant person may suspend the implementation of a recommendation made by a complaints officer if satisfied that, in the interests of fair and sound administration, it is appropriate to do so.

(4) In this section "relevant person" means—

(*a*) in relation to a complaint dealt with by the Executive in accordance with the procedures established under *section 49(1),* the F214**[**chief executive officer**]** and

(*b*) in relation to a complaint dealt with in accordance with the procedures established by a service provider under *section 49(2),* the service provider.

Annotations

Amendments:

F214 Substituted (28.06.2019) by *Health Service Executive (Governance) Act 2019* (17/2019), s. 26, S.I. No. 283 of 2019.

Editorial Notes:

E49 Previous affecting provision: subs. (4)(a) amended (25.07.2013) by *Health Service Executive (Governance) Act 2013* (23/2013), s. 18, S.I. No. 275 of 2013; substituted as per F-note above.

Adherence to complaint and review procedures to be condition of arrangements with service providers.

52.— (1) It is a condition of any arrangement under *section 38* with a service provider that the service provider will—

(*a*) adhere to the complaints procedures established by the Executive in accordance with *section 49(1)* and any regulations under *section 53*, or

(*b*) establish the procedures agreed under *section 49(2)* and adhere to those procedures.

(2) In addition, it is a condition of such arrangement that the service provider will co-operate with the Executive, or with any body to which the Executive assigns its functions under *section 49(4)*, in any review of a recommendation made by a complaints officer following the investigation of a complaint against the service provider.

(3) The Executive shall exercise any rights or remedies available to it under such arrangement if the service provider concerned does not fulfil any of the applicable conditions specified in *subsections (1)* and *(2).*

Minister to make regulations for purposes of this Part.

53.— (1) The Minister F215**[**, after consultation with the Minister for Children, Equality, Disability, Integration and Youth,**]** may make regulations for the purposes of this Part.

(2) Regulations under this section may, among other things, make provision for the following matters:

(*a*) requirements to be complied with by complainants;

(*b*) the appointment of persons as complaints officers and the functions of complaints officers;

(*c*) the procedure to be followed in investigating complaints;

(*d*) the making of recommendations by complaints officers following the investigation of complaints and the nature of the recommendations that, subject to *section 51*, they are authorised to make;

(*e*) the implementation of recommendations made by complaints officers;

(*f*) the appointment of persons as review officers and the functions of those officers;

(*g*) the procedure to be followed in undertaking reviews;

(*h*) the making of recommendations by review officers following the review of a complaint and the nature of the recommendations that they are authorised to make;

(*i*) the implementation of recommendations made by review officers;

(*j*) the assignment by the Executive of the review functions referred to in *section 49(4)* to any other body or person.

Annotations

Amendments:

F215 Inserted (1.03.2023) by *Health (Miscellaneous Provisions) Act 2022* (6/2022), S. 45, S.I. No. 666 of 2022.

Editorial Notes:

E50 Power pursuant to section exercised (4.12.2018) by *Health Act 2004 (Complaints) (Amendment) Regulations 2018* (S.I. No. 519 of 2018).

E51 Power pursuant to section exercised (1.01.2007) by *Health Act 2004 (Complaints) Regulations 2006* (S.I. No. 652 of 2006), in effect as per reg. 1(2).

Referral of complaints to Ombudsman or Ombudsman for Children.

54.— (1) Nothing in this Part prohibits or prevents any person who is dissatisfied with a recommendation made or step taken in response to a complaint under this Part or with a review under this Part from referring the complaint to the Ombudsman or the Ombudsman for Children.

(2) For the purposes of the Ombudsman Acts 1980 to 1984 and the Ombudsman for Children Act 2002, any action taken by a service provider in relation to a health or personal social service in respect of which the service provider has entered into an arrangement under *section 38* or received assistance under *section 39* is deemed to have been taken by the Executive.

Annual report to include report on complaints and reviews.

55.— (1) The Executive shall submit to the Minister, as part of the Executive's annual report, a general report on the performance of its functions under this Part during the previous year containing such information as the Executive considers appropriate or as the Minister may specify.

(2) A service provider who has established a complaints procedure by agreement with the Executive shall in each year, at such time and in such manner as the Executive may determine, provide the Executive with a general report on the complaints received by the service provider during the previous year indicating—

(*a*) the total number of complaints received,

(*b*) the nature of the complaints,

(*c*) the number of complaints resolved by informal means, and

(*d*) the outcome of any investigations into the complaints.

(3) If the Executive assigns its functions under *section 49(4)* to another body, that body shall in each year, at such time and in such manner as the Executive may determine, provide the Executive with a general report on the reviews conducted by it during the previous year indicating—

(*a*) the total number of reviews,

(*b*) the nature of the reviews, and

(*c*) the outcome of the reviews.

F216[PART 9A

Protected Disclosures of Information]

Annotations

Amendments:

F216 Inserted (1.03.2009) by *Health Act 2007* (23/2007), s. 103(1), S.I. No. 27 of 2009.

Modifications (not altering text):

C15 Complaints to Preliminary Proceedings Committee concerning registered nurses and registered midwives classified as protected disclosures under Part (2.10.2012) by *Nurses and Midwives Act 2011* (41/2011), s. 55(9), S.I. No. 385 of 2012, art. 2(i).

Complaints concerning registered nurses and registered midwives.

55.— …

(9) A complaint is a protected disclosure under the Health Act 2004 (as amended by the Health Act 2007).

F217[Definition of expressions in this Part.

55A.— In this Part and *Schedule 2A*:

"actions" means anything done or omitted to be done;

"authorised person" means, unless otherwise specified, a person appointed in accordance with *section 55H(3)*;

"chief inspector" means the person who is appointed to the Office of the Chief Inspector of Social Services in accordance with section 40 of the Health Act 2007;

"designated centre" means a designated centre as defined in section 2 (1) of the Health Act 2007;

"employee" means a person who has entered into or works under (or, where the employment has ceased, had entered into or worked under) a contract of employment with or is (or was) placed for the purpose of vocational training with any of the following:

(*a*) the Executive;

(*b*) another person providing a service similar to a service provided by the Executive who employs or has a contractual arrangement with a person registered with a professional regulatory body;

(*c*) a service provider;

(*d*) any other person receiving assistance in accordance with *section 39* of this Act or section 10 of the Child Care Act 1991 ;

(*e*) a designated centre other than a designated centre operated by a relevant body;

(*f*) a mental health service other than a mental health service operated by a relevant body;

(*g*) a body established under the Health (Corporate Bodies) Act 1961 ; or

(*h*) any other person who provides a service for the purpose of providing staff to any of the persons or bodies referred to in *paragraphs (a)* to *(g)*;

"employer", in relation to an employee, means a person or body (including a service provider or designated centre or mental health service) listed in the definition of "employee";

"Health Information and Quality Authority" means the body established in accordance with section 6 of the Health Act 2007;

"mental health services" means mental health services as defined in section 2 (1) of the Mental Health Act 2001 ;

"Pharmaceutical Society of Ireland" means the body constituted in accordance with section 4 of the Pharmacy Act (Ireland) 1875;

"professional regulatory body" means—

(*a*) an Bord Altranais,

(*b*) the Dental Council,

(*c*) the Health and Social Care Professionals Council,

(*d*) the Medical Council, or

(*e*) the Pharmaceutical Society of Ireland;

"relevant body" means—

(*a*) the Executive,

(*b*) a service provider,

(*c*) any other person who has received or is receiving assistance in accordance with *section 39* of this Act or section 10 of the Child Care Act 1991, or

(*d*) a body established under the Health (Corporate Bodies) Act 1961;

"Scheduled body" means a body referred to in *Schedule 2A*.**]**

Annotations

Amendments:

F217 Inserted (1.03.2009) by *Health Act 2007* (23/2007), s. 103(1), S.I. No. 27 of 2009.

Modifications (not altering text):

C16 Terms "Medical Council" and "Medical Registration Council" construed (3.07.2008) by *Medical Practitioners Act 2007* (25/2007), s. 108(3), S.I. No. 231 of 2008, art. 2(j).

Construction of references to registered medical practitioner and Medical Council, etc.

108. — ...

(3) Every reference to—

(*a*) the Medical Council, or

(*b*) the Medical Registration Council,

contained in any other enactment or any statutory instrument shall be construed as the Council within the meaning of section 2.

F218[Protected disclosure of information by an employee of a relevant body.

55B.— Where an employee of a relevant body makes, in good faith, a disclosure to an authorised person and the employee has reasonable grounds for believing that it will show one or more of the following:

(*a*) that the health or welfare of a person who is receiving a health or personal social service in accordance with this Act has been, is or is likely to be at risk;

(*b*) that the actions of any person employed by or acting on behalf of the relevant body has posed, is posing or is likely to pose a risk to the health or welfare of the public;

(*c*) that the relevant body or a person employed by or acting on behalf of the relevant body failed, is failing or is likely to fail to comply with any legal obligation to which the relevant body or person is subject in the performance of the relevant body's or person's functions;

(*d*) that the conduct of the relevant body or of a person employed by or acting on behalf of the relevant body has led, is leading or is likely to lead to a misuse or substantial waste of public funds;

(*e*) that evidence of any matter falling within any of *paragraphs (a)* to *(d)* has been, is being or is likely to be deliberately concealed or destroyed;

the disclosure shall be a protected disclosure under this Act.**]**

Annotations

Amendments:

F218 Inserted (1.03.2009) by *Health Act 2007* (23/2007), s. 103(1), S.I. No. 27 of 2009.

F219[Protected disclosure of information by an employee of a designated centre.

55C.— Where an employee of a person carrying on the business of a designated centre other than a centre operated by a relevant body makes, in good faith, a disclosure to the chief inspector and the employee has reasonable grounds for believing that the disclosure will show one or more of the following:

(*a*) that the actions of any person employed by or acting on behalf of a person carrying on the business of a designated centre has posed, is posing or is likely to pose a risk to the health or welfare of a resident of the centre;

(*b*) that the person carrying on the business of a designated centre has failed, is failing or is likely to fail to comply with any of the following which are applicable to the designated centre:

(i) a provision of regulations made under the Health Act 2007;

(ii) a standard made under the Health Act 2007;

(iii) any other statutory obligation;

(*c*) that evidence of any matter falling within either of *paragraphs (a)* and *(b)* has been, is being or is likely to be deliberately concealed or destroyed;

the disclosure shall be a protected disclosure under this Act.**]**

Annotations

Amendments:

F219 Inserted (1.08.2009) by *Health Act 2007* (23/2007), s. 103(1), S.I. No. 268 of 2009.

F220**[**Protected disclosure of information by an employee of a mental health service provider.

55D.— Where an employee of a person providing mental health services other than a relevant body makes, in good faith, a disclosure to the Mental Health Commission or the Inspector of Mental Health Services, and the employee has reasonable grounds for believing that the disclosure will show one or more of the following:

(*a*) that the actions of any person employed by or acting on behalf of the person providing the services has posed, is posing or is likely to pose a risk to the health or welfare of a person receiving the service;

(*b*) that a person providing the services has failed, is failing or is likely to fail to comply with any of the following which are applicable to the person:

(i) a provision of the Mental Health Acts 1945 to 2001;

(ii) a provision of regulations made under those Acts;

(iii) any other statutory obligation;

(*c*) that evidence of any matter falling within either of *paragraphs (a)* and *(b)* has been, is being or is likely to be deliberately concealed or destroyed;

the disclosure shall be a protected disclosure under this Act.**]**

Annotations

Amendments:

F220 Inserted (1.03.2009) by *Health Act 2007* (23/2007), s. 103(1), S.I. No. 27 of 2009.

F221**[**Protected disclosure of information in relation to regulated professions.

55E.— Where a person makes, in good faith, a disclosure to a professional regulatory body, which the person has reasonable grounds for believing will show that the actions of any person, the exercise of whose profession requires him or her to be registered with a professional regulatory body, has posed, is posing or is likely to pose a risk to the health or welfare of the public, the disclosure shall be a protected disclosure under this Act.**]**

Annotations

Amendments:

F221 Inserted (1.03.2009) by *Health Act 2007* (23/2007), s. 103(1), S.I. No. 27 of 2009.

F222**[**Applications and complaints about health professionals to be protected disclosures.

55F.— (1) An application in accordance with—

(*a*) section 45 of the Medical Practitioners Act 1978,

(*b*) section 38 of the Dentists Act 1985,

(*c*) section 38 of the Nurses Act 1985,

is a protected disclosure under this Act.

(2) A complaint under section 52 of the Health and Social Care Professionals Act 2005 is a protected disclosure under this Act.**]**

Annotations

Amendments:

F222 Inserted (1.03.2009) by *Health Act 2007* (23/2007), s. 103(1), S.I. No. 27 of 2009.

F223**[**Protected disclosure of information: monitoring, investigations and inspections.

55G.— Where a person makes, in good faith, a disclosure to—

(*a*) an authorised person appointed by the Health Information and Quality Authority in accordance with section 70 of the Health Act 2007 to—

(i) monitor compliance with standards in accordance with section 8 (1)(c) of the Health Act 2007, or

(ii) undertake an investigation under section 9 of the Health Act 2007,

(*b*) the chief inspector who is in the course of an inspection carried out in accordance with section 41 of the Health Act 2007, or

(*c*) the Inspector of Mental Health Services who is in the course of an inspection carried out in accordance with section 51 of the Mental Health Act 2001,

which the person has reasonable grounds for believing will show a risk to the health or welfare of the public, the disclosure is a protected disclosure under this Act.**]**

Annotations

Amendments:

F223 Section, other than para. (b), inserted (1.03.2009) by *Health Act 2007* (23/2007), s. 103(1), S.I. No. 27 of 2009; para. (b) inserted (1.08.2009) by *Health Act 2007* (23/2007), s. 103(1), S.I. No. 268 of 2009.

F224**[**Duty of relevant body to establish procedures.

55H.— (1) The Executive shall establish procedures, applicable to the Executive, service providers and any other person who has received or is receiving assistance in accordance with *section 39* of this Act or section 10 of the Child Care Act 1991 —

(*a*) to facilitate the making of protected disclosures, and

(*b*) for the investigation of any matter which is the subject matter of a protected disclosure.

(2) A body established under the Health (Corporate Bodies) Act 1961 which is not a service provider shall establish procedures—

(*a*) to facilitate the making of protected disclosures, and

(*b*) for the investigation of any matter which is the subject matter of a protected disclosure.

(3) The Executive, or as the case may be, a body referred to in *subsection (2)*, shall appoint a person (the "authorised person") to whom protected disclosures may be made.

(4) A service provider may, with the agreement of the Executive, establish procedures for the purposes set out in *paragraphs (a)* and *(b)* of *subsection (1)* so far as relating to matters within the remit of the service provider.

(5) The Executive may agree under *subsection (4)* only if satisfied that the procedures being established under that subsection are of a standard equivalent to those established, or which it would otherwise have established, under *subsection (1)*.

(6) Procedures established under *subsection (4)* are in place of those established, or which the Executive would have established, under *subsection (1)*, so far as applicable to the service provider.

(7) Where a body established under the Health (Corporate Bodies) Act 1961 is a service provider, the provisions of *subsections (1)*, *(4)*, *(5)* and *(6)* shall apply to the body.

(8) The Executive or a body referred to in *subsection (2)* shall, before establishing procedures under this section—

F225**[**(*a*) submit a draft of the proposed procedures to the Data Protection Commission for its opinion as to whether any provision of the procedures would, if given effect, be likely to result in a contravention of the Data Protection Regulation or the Data Protection Act 2018, and**]**

(*b*) request that the opinion be given in writing to the Executive, or as the case may be, the body referred to in *subsection (2)* before the date specified in the request.

(9) If, before that date, the F225**[**the Data Protection Commission**]** provides a written opinion that a provision of the draft procedures would, if given effect, be likely to have the results referred to in *subsection (8)(a)*, the Executive, or as the case may be, the body referred to in *subsection (2)* shall have regard to that opinion in its further deliberations on the draft procedures.**]**

F226**[**(10) In this section, "Data Protection Regulation" means Regulation (EU) 2016/679 of the European Parliament and of the Council of 27 April 201630 on the protection of natural persons with regard to the processing of personal data and on the free movement of such data, and repealing Directive 95/46/EC (General Data Protection Regulation).**]**

Annotations

Amendments:

F224 Inserted (1.03.2009) by *Health Act 2007* (23/2007), s. 103(1), S.I. No. 27 of 2009.

F225 Substituted (25.05.2018) by *Data Protection Act 2018* (7/2018), s. 199(a), (b), S.I. No. 174 of 2018.

F226 Inserted (25.05.2018) by *Data Protection Act 2018* (7/2018), s. 199(c), S.I. No. 174 of 2018.

F227[Adherence to procedures governing protected disclosure of information to be a condition of arrangements made by the Executive.

55I.— (1) It is a condition of any arrangement under section 38 or of assistance given under section 39 of this Act or section 10 of the Child Care Act 1991 that a service provider or person receiving assistance will—

(*a*) adhere to the procedures established by the Executive in accordance with *section 55H(1)*, or

(*b*) where procedures have been established by the service provider under *section 55H(4)*, adhere to those procedures.

(2) The Executive may exercise any rights or remedies available to it by virtue of an arrangement or the giving of assistance referred to in *subsection (1)* if the service provider or person receiving assistance, as the case may be, is in breach of that subsection.**]**

Annotations

Amendments:

F227 Inserted (1.03.2009) by *Health Act 2007* (23/2007), s. 103(1), S.I. No. 27 of 2009.

F228[Duties in respect of protected disclosures.

55J.— (1) Where a protected disclosure is made to an authorised person, the authorised person shall investigate the subject matter of the disclosure.

(2) An authorised person may refer that subject matter or any part of it to an appropriate Scheduled body or a professional regulatory body or, where the authorised person believes that a criminal offence has been committed, to the Garda Síochána.

(3) An authorised person may inform a person in charge of the body to whom the disclosure relates of the subject matter of the disclosure.

(4) Notwithstanding a referral under *subsection (2)*, the authorised person may investigate the subject matter if the authorised person or the person in charge of the body to which the disclosure relates considers it appropriate to do so.

(5) The person in charge of the body to whom the disclosure relates may, with the consent of the authorised person, appoint another person to investigate the subject matter.

(6) If, at any time during an investigation, the authorised person believes the disclosure is false, misleading, frivolous or vexatious, he or she may cease the investigation.**]**

Annotations

Amendments:

F228 Inserted (1.03.2009) by *Health Act 2007* (23/2007), s. 103(1), S.I. No. 27 of 2009.

F229[Disclosure to a Scheduled body.

55K.— (1) An employee of a relevant body may make a protected disclosure only in accordance with—

(*a*) *sections 55E*, *55F* or *55G*, or

(*b*) the procedures established under *section 55H*.

(2) Notwithstanding *subsection (1)*, an employee of a relevant body may make a disclosure to a Scheduled body if the employee has reasonable grounds to believe—

(*a*) that the disclosure is justified by reason of the urgency of the matter, or

(*b*) there has been no investigation of the matter, or if an investigation has taken place, there has been no action or recommended action on the subject matter of the disclosure.**]**

Annotations

Amendments:

F229 Inserted (1.03.2009) by *Health Act 2007* (23/2007), s. 103(1), S.I. No. 27 of 2009.

F230**[**Protection from civil liability of persons who have made a protected disclosure.

55L.— (1) A person is not liable in damages in consequence of a protected disclosure.

(2) *Subsection (1)* does not apply in respect of a person who makes a disclosure knowing it to be or reckless as to whether it is false, misleading, frivolous or vexatious or who, in connection with a disclosure, furnishes information that the person knows to be false or misleading.

(3) The reference in *subsection (1)* to liability in damages shall include a reference to any other form of relief.**]**

F231**[**(4) This section does not apply where the protected disclosure is a protected disclosure within the meaning of the Protected Disclosures Act 2014.**]**

Annotations

Amendments:

F230 Inserted (1.03.2009) by *Health Act 2007* (23/2007), s. 103(1), S.I. No. 27 of 2009.

F231 Inserted (15.07.2014) by *Protected Disclosures Act 2014* (14/2014), s. 24(1) and sch. 4 part 1 item 6, S.I. No. 327 of 2014.

F232**[**Protection of employees from penalisation for having made a protected disclosure.

55M.— (1) An employer shall not penalise an employee for making a protected disclosure.

F233**[**(1A) *Subsection (1)* does not apply where the protected disclosure is a protected disclosure within the meaning of the Protected Disclosures Act 2014.**]**

(2) A contravention of *subsection (1)* is a ground of complaint by an employee to a F234**[**adjudication officer under section 41 of the Workplace Relations Act 2015**]**.

(3) In proceedings F234**[**under Part 4 of the Workplace Relations Act 2015**]** in relation to a complaint of a contravention of *subsection (1)*, it shall be presumed, unless the contrary is proved, that the disclosure was a protected disclosure.

(4) If the contravention of *subsection (1)* was a dismissal of the employee within the meaning of the Unfair Dismissals Acts 1977 to 2005, relief may not be granted to the employee both under F234**[**Part 4 of the Workplace Relations Act 2015**]** and under those Acts.

(5) F235**[**...**]**

F234**[**(6) A decision of an adjudication officer under section 41 of the Workplace Relations Act 2015 in relation to a complaint of a contravention of *subsection (1)* shall do one or more of the following, namely—

(*a*) declare that the complaint was or, as the case may be, was not well founded,

(*b*) require the employer to comply with *subsection (1)* and to take a specified course of action, or

(*c*) order the employer to pay to the employee compensation of such amount (if any) as the adjudication officer considers just and equitable having regard to all the circumstances.**]**

(7) F235**[**...**]**

(8) F235**[**...**]**

(9) F235**[**...**]**

(10) F235**[**...**]**

F234**[**(11) A decision of the Labour Court under section 44 of the Workplace Relations Act 2015, on appeal from a decision of an adjudication officer referred to in *subsection (6)*, shall affirm, vary or set aside the decision of the adjudication officer.**]**

(12) F235**[**...**]**

(13) F235**[**...**]**

(14) F235**[**...**]**

(15) F235**[**...**]**

(16) F235**[**...**]**

(17) F235**[**...**]]**

Annotations

Amendments:

F232 Inserted (1.03.2009) by *Health Act 2007* (23/2007), s. 103(1), S.I. No. 27 of 2009.

F233 Inserted (15.07.2014) by *Protected Disclosures Act 2014* (14/2014), s. 24(1), sch. 4 part 1 item 6, S.I. No. 327 of 2014.

F234 Substituted (1.10.2015) by *Workplace Relations Act 2015* (16/2015), s. 52(1) and sch. 7 part 1 item 20(a)-(e), S.I. No. 410 of 2015, subject to transitional provision in subs. (3).

F235 Repealed (1.10.2015) by *Workplace Relations Act 2015* (16/2015), s. 8(1) and sch. 2 part 1 item 19, commenced as per subs. (7) and S.I. No. 410 of 2015, subject to transitional provision in subs. (2).

Modifications (not altering text):

C17 Redress procedure in respect of subs. (1) specified (1.01.2015) by *Workplace Relations Act 2015* (16/2015), s. 41(1) and sch. 5 part 1 item 14, S.I. No. 410 of 2015.

Presentation of complaints and referral of disputes

41. (1) An employee (in this Act referred to as a "complainant") or, where the employee so consents, a specified person may present a complaint to the Director General that the employee's employer has contravened a provision specified in Part 1 or 2 of Schedule 5 in relation to the employee and, where a complaint is so presented, the Director General shall, subject to section 39, refer the complaint for adjudication by an adjudication officer.

...

SCHEDULE 5

Provisions and Enactments Specified for Purposes of Part 4

Part 1

Section 41

...

14. Section 55M(1) of the Health Act 2004

...

Editorial Notes:

E52 Subs. (1) included in definitions of employment enactments and relevant enactments (1.08.2015) by *Workplace Relations Act 2015* (16/2015), s. 2 and sch. 1 part 2, S.I. No. 338 of 2015.

F236[Proceedings before Labour Court.

55N.— F237[...]]

Annotations

Amendments:

F236 Inserted (1.03.2009) by *Health Act 2007* (23/2007), s. 103(1), S.I. No. 27 of 2009.

F237 Repealed (1.10.2015) by *Workplace Relations Act 2015* (16/2015), s. 8(1), (2), (7), sch. 2 part 1 item 19, S.I. No. 410 of 2015.

F238[Enforcement of determinations of Labour Court.

55O.— F239[...]]

Annotations

Amendments:

F238 Inserted (1.03.2009) by *Health Act 2007* (23/2007), s. 103(1), S.I. No. 27 of 2009.

F239 Repealed (1.10.2015) by *Workplace Relations Act 2015* (16/2015), s. 8(1), sch. 2 part 1 item 19, commenced as per subs. (7) and S.I. No. 410 of 2015, subject to transitional provision in subs. (2).

F240[Evidence of failure to attend before or give evidence or produce documents to Labour Court.

55P.— F241[...]]

Annotations

Amendments:

F240 Inserted (1.03.2009) by *Health Act 2007* (23/2007), s. 103(1), S.I. No. 27 of 2009.

F241 Repealed (1.10.2015) by *Workplace Relations Act 2015* (16/2015), s. 8(1), sch. 2 part 1 item 19, commenced as per subs. (7) and S.I. No. 410 of 2015, subject to transitional provision in subs. (2).

F242[Interpretation of 'penalise'.

55Q.— (1) In this Part, "penalise" includes any act or omission by an employer or a person acting on behalf of an employer that affects an employee to his or her detriment with respect to any term or condition of his or her employment and which is consequent upon a protected disclosure by the employee.

(2) For the purposes of *subsection (1)* but without prejudice to its generality, penalisation includes—

(*a*) suspension, lay-off or dismissal (including a dismissal within the meaning of the Unfair Dismissals Acts 1977 to 2005), or the threat of suspension, lay-off or dismissal,

(*b*) demotion or loss of opportunity for promotion,

(*c*) transfer of duties, change of location of place of work, reduction in wages or a change in working hours,

(*d*) imposition of any discipline, reprimand or other penalty (including a financial penalty),

(*e*) coercion, intimidation or harassment,

(*f*) injury, damage or loss, and

(*g*) threats of reprisal.

(3) *Paragraph (c)* of *subsection (2)* shall not be construed in a manner which prevents an employer from ensuring that the business of the body concerned is carried on in an efficient and effective manner.**]**

Annotations

Amendments:

F242 Inserted (1.03.2009) by *Health Act 2007* (23/2007), s. 103(1), S.I. No. 27 of 2009.

F243**[**Continuity of employer's business.

55R.— References in this Part to an employer shall be construed, in a case where ownership of the business of the employer changes after the contravention to which the complaint relates occurred, as references to the person who, by virtue of the change, becomes entitled to ownership of the business.**]**

Annotations

Amendments:

F243 Inserted (1.03.2009) by *Health Act 2007* (23/2007), s. 103(1), S.I. No. 27 of 2009.

F244**[**Making false reports.

55S.— (1) A person who makes a disclosure which the person knows or reasonably ought to know to be false is guilty of an offence.

F245**[**(1A) This section does not apply where the disclosure is a protected disclosure within the meaning of the Protected Disclosures Act 2014.**]**

(2) F246**[**...**]**

(3) F246**[**...**]**

(4) F246**[**...**]]**

Annotations

Amendments:

F244 Inserted (1.03.2009) by *Health Act 2007* (23/2007), s. 103(1), S.I. No. 27 of 2009.

F245 Inserted (15.07.2014) by *Protected Disclosures Act 2014* (14/2014), s. 24(1), sch. 4 part 1 item 6, S.I. No. 327 of 2014.

F246 Deleted (28.06.2019) by *Health Service Executive (Governance) Act 2019* (17/2019), s. 27, S.I. No. 283 of 2019.

F247**[**Saver.

55T.— This Part is without prejudice to the provisions of the Protections for Persons Reporting Child Abuse Act 1998.**]**

Annotations

Amendments:

F247 Inserted (1.03.2009) by *Health Act 2007* (23/2007), s. 103(1), S.I. No. 27 of 2009.

PART 10

Dissolution of Certain Health Bodies and the Transfer of their Functions and Employees, etc., to the Executive

Definitions (*Part 10*).

56.— In this Part "specified body" means—

(*a*) the health boards,

(*b*) the Eastern Regional Health Authority,

(*c*) the Area Health Boards,

(*d*) the Hospital Bodies Administrative Bureau,

(*e*) the Health Boards Executive,

(*f*) the General Medical Services (Payments) Board,

(*g*) the Health Service Employers Agency, and

(*h*) the Interim Health Service Executive.

Dissolution of Comhairle na nOspidéal and transfer of its functions.

57.— (1) Comhairle na nOspidéal is, by this Act, dissolved on the establishment day.

(2) The functions that are specified in section 41(1)(*b*)(i) and (ii) of the Health Act 1970 and that, immediately before the establishment day, were the functions of Comhairle na nOspidéal are, by this Act, transferred to the Executive on that day.

(3) Despite the repeal of section 41 of the Health Act 1970 by this Act, subsection (1)(*c*) of that section (duty to consult with colleges) applies to the Executive in relation to the function that is specified in subsection (1)(*b*) of that section and is transferred to the Executive.

(4) In this section and *section 67* "Comhairle na nOspidéal" means the body of that name established under section 41 of the Health Act 1970.

Dissolution of health boards and other specified bodies.

58.— The specified bodies are, by this Act, dissolved on the establishment day.

Transfer of functions of specified bodies to Executive.

59.— (1) The functions that, immediately before the establishment day, were the functions of a specified body under or in connection with the enactments referred to in *Schedule 3* are, by this Act, transferred to the Executive on that day.

(2) If a provision of an enactment referred to in *Schedule 3*, or a provision of an instrument made under such enactment, does not come into effect until on or after the establishment day, a function that on the passing of that enactment or the making of that instrument was assigned under or in connection with that provision to a specified body is, by this Act, transferred to the Executive on the commencement of that provision.

(3) The functions transferred by this Act to the Executive include the functions specified in any enactment referred to in *Schedule 3* as a function of the following:

(*a*) the chief executive officer of a health board;

(*b*) the Regional Chief Executive of the Eastern Regional Health Authority;

(*c*) the area chief executive of an Area Health Board.

(4) This section does not apply in relation to the functions of the Hospital Bodies Administrative Bureau.

Transfer of employees of specified bodies to Executive.

60.— (1) Each person who, immediately before the establishment day, was an employee of a specified body is, on that day, transferred to and becomes an employee of the Executive.

(2) Except in accordance with a collective agreement negotiated with a recognised trade union or association of employees, a person transferred under this section is entitled, while in the employment of the Executive, to terms and conditions of employment no less favourable than those to which the person was entitled immediately before the establishment day.

(3) Until the terms and conditions of employment to which a person transferred under this section was entitled immediately before the establishment day are varied by the Executive after consulting and reaching a collective agreement with the recognised trade union or association of employees concerned, they continue to apply to that person while in the employment of the Executive.

(4) The previous service of a person transferred under this section is to be counted as service for the purposes of, but subject to any exceptions or exclusions in, the following Acts:

(*a*) the Redundancy Payments Acts 1967 to 2003;

(*b*) the Protection of Employees (Part-Time Work) Act 2001;

(*c*) the Protection of Employees (Fixed-Term Work) Act 2003;

(*d*) the Organisation of Working Time Act 1997;

(*e*) the Minimum Notice and Terms of Employment Acts 1973 to 2001;

(*f*) the Unfair Dismissals Acts 1977 to 2001;

(*g*) the Maternity Protection Act 1994;

(*h*) the Parental Leave Act 1998;

(*i*) the Adoptive Leave Act 1995;

(*j*) the Carer's Leave Act 2001.

(5) Any superannuation benefits awarded to or in respect of a person transferred under this section and the terms relating to those benefits shall be no less favourable than those applicable to or in respect of that person immediately before the establishment day.

(6) If, in the period beginning on the establishment day and ending immediately before the commencement of a superannuation scheme under *section 23* , a superannuation benefit becomes payable to or in respect of a person transferred under this section—

(*a*) the Executive shall calculate the benefit in accordance with such superannuation scheme, or such enactments in relation to superannuation, as applied to the person immediately before the establishment day,

(*b*) the person's pensionable service with the Executive shall, for the purpose of calculating the benefit, be aggregated with the person's previous pensionable service, and

(*c*) the benefit shall be paid by the Executive.

(7) In this section—

"previous service" means service before the applicable transfer day with a specified body;

"recognised trade union or association of employees" means a trade union or association of employees recognised by the Executive for the purposes of negotiations that are concerned with the terms and conditions of employment and the working conditions of employees;

"terms and conditions of employment" includes terms and conditions in respect of tenure of office, remuneration and related matters.

Transfer of pension liabilities relating to former employees of specified bodies.

61.— (1) The pension payments and other superannuation liabilities of each specified body in respect of its former employees become on the establishment day the liabilities of the Executive.

(2) *Subsection (1)* is not to be taken to limit the generality of *section 62(3)* or *(4).*

Transfer of property and liabilities to Executive.

62.— (1) On the establishment day, all land that, immediately before that day, was vested in a specified body and all rights, powers and privileges relating to or connected with that land are, without any conveyance or assignment, transferred to and vested in the Executive.

(2) On the establishment day, all property other than land (including choses-in-action) that, immediately before that day, was the property of a specified body is transferred to and vested in the Executive without any assignment.

(3) All rights and liabilities of a specified body arising by virtue of any contract or commitment (express or implied) entered into by that body before the establishment day are on that day transferred to the Executive.

(4) Each right and liability transferred under *subsection (3)* may on or after its transfer be sued on, recovered or enforced by or against the Executive in its own name and it shall not be necessary for the Executive to give notice of the transfer to the person whose right or liability is transferred.

Preservation of contracts, etc., and adaptation of references.

63.— Every contract, agreement or arrangement made between a specified body and any other person and in force immediately before the establishment day—

(*a*) continues in force on and after that day,

(*b*) is to be read and have effect as if the name of the Executive were substituted in the contract, agreement or arrangement for that of the specified body, and

(*c*) is enforceable by and against the Executive.

Pending legal proceedings.

64.— (1) If, immediately before the establishment day, any legal proceedings to which a specified body or Comhairle na nOspidéal is a party are pending in any court or tribunal, the Executive's name shall be substituted in the proceedings for the name of the specified body or Comhairle na nOspidéal and the proceedings shall not abate because of the substitution.

(2) *Subsection (1)* applies with the necessary modifications in relation to any legal proceedings to which, immediately before the establishment day, any of the following officers is, in his or her official capacity, a party:

(*a*) the chief executive officer of a health board;

(*b*) the Regional Chief Executive of the Eastern Regional Health Authority;

(*c*) the area chief executive of an Area Health Board.

(3) Any reference to a specified body or Comhairle na nOspidéal in an order made by a court before the establishment day shall, on the establishment day, be construed as a reference to the Executive.

Preservation of orders, notices, rules, records, etc.

65.— (1) Any resolution passed, order made or notice served by a specified body before the establishment day the operation, effect or term of which has not ceased or expired immediately before that day continues in force on and after that day, and has effect as if it were a resolution passed, an order made or a notice served by the Executive.

(2) Any rule or regulation made by a specified body that was in force immediately before the establishment day continues in force on and after that day, and has effect as if it were a rule or regulation made by the Executive.

(3) Each rule or regulation continued in force under *subsection (2)* may be varied or revoked, and penalties and forfeitures arising under the rule or regulation may be recovered and enforced by the Executive.

(4) Each record held by a specified body immediately before the establishment day is on that day transferred to the Executive and is, on and from that day, deemed to be held by the Executive.

References to specified bodies.

66.— Subject to this Act, references (however expressed) to a specified body in any Act passed before the establishment day, or in any instrument made before that day under an Act, are to be read as references to the Executive, unless the context otherwise requires.

Functional areas of dissolved health boards.

67.— (1) An area that before the establishment day was a functional area of—

(*a*) a health board,

(*b*) the Eastern Regional Health Authority, or

(*c*) an Area Health Board,

becomes on that day a functional area of the Executive with the same geographical boundaries as it had before that day.

(2) References (however expressed) in any enactment referred to in *Schedule 3* to a functional area of a health board, the Eastern Regional Health Authority or an Area Health Board are on and after the establishment day to be read as references to—

(*a*) the corresponding functional area of the Executive or that area as redefined in accordance with this section, or

(*b*) if the context so requires, the area comprising all of the corresponding functional areas of the Executive or comprising all of those areas as redefined in accordance with this section.

(3) Subject to *subsection (4)* and section 15(2)(*a*) of the Civil Registration Act 2004, the Executive may, by notice published in *Iris Oifigiúil*, redefine for any purpose specified by it in the notice the geographical boundaries of a functional area of the Executive.

(4) If the Executive proposes to redefine the geographical boundaries of a functional area for the purpose of any function that is the subject of an agreement under *section 8* with a public authority, the Executive shall consult that public authority before redefining those boundaries.

References to chief executives of dissolved health boards.

68.— F248**[**...**]**

Annotations

Amendments:

F248 Repealed (25.07.2013) by *Health Service Executive (Governance) Act 2013* (23/2013), s. 3, S.I. No. 275 of 2013, subject to transtional provision in s. 23.

References to deputy chief executives of dissolved health boards.

69.— F249**[**...**]**

Annotations

Amendments:

F249 Repealed (25.07.2013) by *Health Service Executive (Governance) Act 2013* (23/2013), s. 3, S.I. No. 275 of 2013, subject to transitional provision in s. 23.

Dissolution of bodies established under Health (Corporate Bodies) Act 1961.

70.— F250**[**...**]**

Annotations

Amendments:

F250 Repealed (21.12.2007) by *Health (Miscellaneous Provisions) Act 2007* (42/2007), s. 4, commenced on enactment.

Final accounts of specified bodies and other dissolved bodies.

71.— (1) The Executive shall prepare, in accordance with the accounting standards specified by the Minister for the purposes of *section 36(3)* and in respect of the period specified under *subsection (3)* of this section, final accounts of each body dissolved under *section 58* or in accordance with an order under *section 70* .

(2) The Executive shall submit the final accounts to the Comptroller and Auditor General for audit not later than 3 months after—

(*a*) the establishment day, in the case of a body dissolved under *section 58* , or

(*b*) the dissolution of the body, in the case of a body dissolved in accordance with an order under *section 70* .

(3) For the purpose of *subsection (1),* the Minister may specify a period that is longer or shorter than a financial year of the body concerned.

(4) Despite the repeal of section 6 of the Comptroller and Auditor General (Amendment) Act 1993, that section continues, subject to *subsections (1)* and *(2)* of this section, to apply in relation to the final accounts of the Eastern Regional Health Authority and a health board.

(5) Despite the repeal of section 18 of the Health (Amendment) (No. 3) Act 1996, that section continues, subject to *subsections (1)* and *(2)* of this section, to apply in relation to the final accounts of the Eastern Regional Health Authority and the Area Health Boards.

Executive to prepare final annual report for specified bodies and other dissolved bodies.

72.— (1) The Executive shall prepare the final annual report for each body dissolved under *section 58* or in accordance with an order under *section 70* and submit the report to the Minister not later than—

(*a*) 6 months after the establishment day of the Executive, in the case of a body dissolved under *section 58* , or

(*b*) as soon as practicable after the dissolution of the body, in the case of a body dissolved in accordance with an order under *section 70* .

(2) *Subsections (4)* and *(5)* of *section 37* apply with the necessary modifications in relation to an annual report prepared under this section.

PART 11

Repeals, Transitional Provisions and Amendment of Other Acts

Repeals and revocations.

73.— (1) Each Act specified in the second column of *Part 1* of *Schedule 4* is repealed to the extent specified in the third column, but the repeal does not affect any notice or certificate given under the repealed Act and such notice or certificate has effect as if given under this Act.

(2) Each order specified in the second column of *Part 2* of *Schedule 4* is revoked to the extent specified in the third column.

(3) Each order, regulation and rule that was made under a provision of an enactment repealed or revoked by this Act and that was in force immediately before such repeal or revocation continues in force under the corresponding provision, if any, of this Act, subject to such adaptations and modifications as the Minister may, by regulation, make for the purpose of bringing any such order, regulation or rule into conformity with this Act.

Savings and transitional provisions.

74.— The savings and transitional provisions in *Schedule 5* have effect.

Amendment of other Acts.

75.— The Acts specified in *Schedules 6* and *7* are amended as indicated in those Schedules.

Annotations

Editorial Notes:

E53 Previous affecting provision: power pursuant to section exercised (1.01.2005) by *National Breast Screening Board (Establishment) Order 2004* (S.I. No. 891 of 2004), in effect as per art. 2; revoked (1.01.2007) by *National Cancer Screening Service Board (Establishment) Order 2006* (S.I. No. 632 of 2006), art. 8, in effect as per art. 2.

PART 12

Miscellaneous Provisions

Effect of delegation and subdelegation of functions.

F251**[76.—** (1) If a function of the Executive is delegated by the Board to the chief executive officer under *section 16P(4)*, references in a provision of this Act or any other enactment that assign that function to the Executive or that regulate the manner in which the function is to be performed are to be construed as including references to the chief executive officer.

(2) If a function of the chief executive officer under *section 21C* is delegated by him or her to an employee of the Executive under *section 21D(1)(a)(i)* or is subdelegated by an employee authorised to do so under *section 21D(1)(a)(ii)*, references in any provision of this Act or any other enactment that regulates the manner in which that function is to be performed are to be construed as including references to the employee to whom the function is delegated or subdelegated.

(3) If a function is delegated under *section 16P(4)* or *section 21D* or subdelegated under *section 21D*, the delegation or subdelegation is to be taken to include the delegation or subdelegation of any duty or power incidental to or connected with that function.

(4) An act or thing done by the chief executive officer pursuant to a delegation by the Board under *section 16P(4)* has the same force and effect as if done by the Board.

(5) An act or thing done by an employee of the Executive pursuant to a delegation or subdelegation under *section 21D* has the same force and effect as if done by the chief executive officer.

(6) The revocation of a delegation by the Board or the chief executive officer does not affect a subdelegation authorised under *section 21D*, unless the Board or chief executive officer, as the case may be, otherwise directs.

(7) A delegation or subdelegation of a function does not cease to have effect solely because the person who delegated or subdelegated the function or authorised its

subdelegation no longer holds the position that the person held when the function was delegated, subdelegated or authorised to be subdelegated.**]**

Annotations

Amendments:

F251 Substituted (28.06.2019) by *Health Service Executive (Governance) Act 2019* (17/2019), s. 28, S.I. No. 283 of 2019.

Editorial Notes:

E54 Previous affecting provision: section substituted (25.07.2013) by *Health Service Executive (Governance) Act 2013* (23/2013), s. 19, S.I. No. 275 of 2013; section substituted as per F-note above.

F252**[**Certificate evidence concerning delegation of functions.

77.— (1) In any legal proceedings, a certificate that—

(*a*) states that a specified function of the Executive was on a specified day delegated to the F253**[**chief executive officer**]**,

(*b*) states that the delegation of the function concerned remained in force on a specified day, and

F253**[**(*c*) is signed by the chairperson,**]**

shall, unless the contrary is proved, be evidence of the matters stated in the certificate.

(2) In any legal proceedings, a certificate that—

(*a*) states that a specified function was on a specified day delegated or subdelegated to an employee of the Executive,

(*b*) states that the delegation or subdelegation of the function concerned remained in force on a specified day,

(*c*) specifies the limitations, if any, imposed on the delegation or subdelegation of the function concerned, and

F253**[**(*d*) is signed by the chief executive officer or an employee of the Executive who has subdelegated a specified function of the Executive delegated or subdelegated to him or her under *section 21D*,**]**

shall, unless the contrary is proved, be evidence of the matters stated in the certificate.

(3) A certificate referred to in *subsection (1)* or *(2)* that appears to be signed by F253**[**the chairperson, the chief executive officer or**]** the employee concerned, as the case may be, shall be admissible in any proceedings as evidence of the matters stated in the certificate without proof of his or her signature.**]**

Annotations

Amendments:

F252 Substituted (25.07.2013) by *Health Service Executive (Governance) Act 2013* (23/2013), s. 20, S.I. No. 275 of 2013.

F253 Substituted (28.06.2019) by *Health Service Executive (Governance) Act 2019* (17/2019), s. 29(a)(i), (a)(ii), (b), (c), S.I. No. 283 of 2019.

General power to make regulations and orders.

78.— (1) The Minister may make regulations—

(*a*) for any purpose in relation to which regulations are provided for in this Act,

(*b*) for prescribing any matter or thing referred to in this Act as prescribed or to be prescribed, and

(*c*) generally for the purpose of giving effect to this Act.

(2) A regulation under this section may contain such consequential, supplementary and ancillary provisions as the Minister considers necessary or expedient.

(3) The Minister may—

(*a*) make orders for any matter in relation to which orders are provided for in this Act, and

(*b*) amend or revoke any such order (other than an order under *section 3* or *4*).

F254**[**(4) Subject to section 64 of the Health (Miscellaneous Provisions) Act 2022, the Government may by order, on the request of the Minister or the Minister for Children, Equality, Disability, Integration and Youth, make provision in relation to the processes and procedures by which the functions of the Minister or the Minister for Children, Equality, Disability, Integration and Youth are performed under this Act or transferred (whether before or after the commencement of section 46 of the Health (Miscellaneous Provisions) Act 2022) by an order under section 6 (1) of the Ministers and Secretaries (Amendment) Act 1939.**]**

Annotations

Amendments:

F254 Inserted (1.03.2023) by *Health (Miscellaneous Provisions) Act 2022* (6/2022), s. 46, S.I. No. 666 of 2022.

Editorial Notes:

E55 Power pursuant to section exercised (4.12.2018) by *Health Act 2004 (Complaints) (Amendment) Regulations 2018* (S.I. No. 519 of 2018).

E56 Power pursuant to section exercised (1.01.2007) by *Health Act 2004 (Complaints) Regulations 2006* (S.I. No. 652 of 2006), in effect as per reg. 1(2).

E57 Power pursuant to section exercised (12.12.2005) by *Health Act 2004 (Dealings with members of either House of the Oireachtas) Regulations 2005* (S.I. No. 798 of 2005).

E58 Power pursuant to section exercised (12.12.2005) by *Health Act 2004 (Regional Health Forums) Regulations 2005* (S.I. No. 797 of 2005).

Regulations relating to members of either House of Oireachtas.

79.— (1) The Executive shall conduct its dealings with members of either House of the Oireachtas in accordance with regulations under *subsection (2).*

(2) The Minister may make regulations for the purposes of *subsection (1)* including regulations relating to—

(*a*) the supply by the Executive of specified documents or specified information to members of either House,

(*b*) correspondence by the Executive with those members, and

(*c*) such other matters as the Minister may consider appropriate for the purposes of *subsection (1).*

(3) Nothing in this section or in any regulations under this section is to be taken to require the Executive to disclose confidential information or information that it is otherwise precluded by law from disclosing.

(4) In this section—

"confidential information" has the same meaning as in F255**[***section 26(4)***]**;

"dealing", in relation to a member of either House of the Oireachtas, means any dealing with the member in his or her capacity as such a member.

Annotations

Amendments:

F255 Substituted (28.06.2019) by *Health Service Executive (Governance) Act 2019* (17/2019), s. 30, S.I. No. 283 of 2019.

Editorial Notes:

E59 Power pursuant to section exercised (12.12.2005) by *Health Act 2004 (Dealings with members of either House of the Oireachtas) Regulations 2005* (S.I. No. 798 of 2005).

Laying of regulations and orders before Houses of Oireachtas.

80.— (1) The Minister shall ensure that every regulation and every order made by the Minister under this Act (other than an order under *section 3* or *4*) is laid before each House of the Oireachtas as soon as practicable after it is made.

(2) Either House of the Oireachtas may, by a resolution passed within 21 sitting days after the day on which a regulation or order is laid before it under this section, annul the regulation or order.

(3) The annulment of a regulation or order under *subsection (2)* takes effect immediately on the passing of the resolution concerned, but does not affect the validity of anything done under the regulation or order before the passing of that resolution.

F256**[**(4) Every order under *subsection (4)* of *section 78* shall be laid before each House of the Oireachtas as soon as may be after it is made and, if a resolution annulling the order is passed by either such House within the next 21 days on which that House sits after the order is laid before it, the order shall be annulled accordingly, but without prejudice to the validity of anything previously done thereunder.**]**

Annotations

Amendments:

F256 Inserted (1.03.2023) by *Health (Miscellaneous Provisions) Act 2022* (6/2022), s. 47, S.I. No. 666 of 2022.

F257**[**Savers

81.— (1) *Subsection (2)* applies where the Executive commenced but did not complete before the relevant date—

(*a*) the performance of a function under this Act or any other enactment, or

(*b*) the taking of an action or the doing of a thing for the purposes of this Act or any other enactment.

(2) The Board may, on or after the relevant date, complete—

(*a*) the performance of that function, or

(*b*) the taking of that action or the doing of that thing,

to the extent that to do so is not inconsistent with, in the case of *paragraph (a)*, the Board's functions under this Act or any other enactment and, in the case of paragraph (b), the actions that the Board may take or the things that the Board may do for the purposes of this Act or any other enactment.

(3) *Subsection (4)* applies where the Director General commenced but did not complete before the relevant date—

(*a*) the performance of a function under this Act or any other enactment other than an excluded function, or

(*b*) the taking of an action or the doing of a thing for the purposes of this Act or any other enactment other than an excluded action or thing.

(4) The chief executive officer may, on or after the relevant date, complete—

(*a*) the performance of that function, or

(*b*) the taking of that action or the doing of that thing,

to the extent that to do so is not inconsistent with, in the case of *paragraph (a)*, the officer's functions under this Act or any other enactment and, in the case of *paragraph (b)*, the actions that the officer may take or the things that the officer may do for the purposes of this Act or any other enactment.

(5) Subject to *subsection (6)*, a relevant delegation or relevant subdelegation shall, subject to its terms, continue to have effect on and after the relevant date.

(6) The chief executive officer may vary or revoke a relevant delegation or relevant subdelegation made by the Director General.

(7) In this section—

"excluded action or thing", in relation to the Director General, means an action taken, or a thing done, by the Director General for the purpose of this Act or any other enactment in his or her capacity as a member of the Directorate or as the chairperson of the Directorate;

"excluded function", in relation to the Director General, means a function of the Director General in his or her capacity as a member of the Directorate or as the chairperson of the Directorate;

"relevant date" means the date of commencement of section 31 of the Health Service Executive (Governance) Act 2019;

"relevant delegation" means a delegation made in accordance with this Act before the relevant date and which was in force immediately before that date;

"relevant subdelegation" means a subdelegation made in accordance with this Act before the relevant date and which was in force immediately before that date.**]**

Annotations

Amendments:

F257 Inserted (28.06.2019) by *Health Service Executive (Governance) Act 2019* (17/2019), s. 31, S.I. No. 283 of 2019.

F258**[**Offences **82.—** (1) A person guilty of an offence under this Act shall be liable—

(*a*) on summary conviction, to a class A fine or imprisonment for a term not exceeding 6 months or both, or

(*b*) on conviction on indictment, to a fine not exceeding €50,000 or imprisonment for a term not exceeding 3 years or both.

(2) Where an offence under this Act is committed by a body corporate and is proved to have been so committed with the consent or connivance of any person, being a director, manager, secretary or other officer of the body corporate, or a person who was purporting to act in any such capacity, that person shall, as well as the body corporate, be guilty of an offence and shall be liable to be proceeded against and punished as if he or she were guilty of the first-mentioned offence.**]**

Annotations

Amendments:

F258 Inserted (28.06.2019) by *Health Service Executive (Governance) Act 2019* (17/2019), s. 31, S.I. No. 283 of 2019. A class A fine means a fine not greater than €5,000 as provided (4.01.2011) by *Fines Act 2010* (8/2010), ss. 3, 4(1), S.I. No. 662 of 2010.

F259**[**References to Board and chief executive officer

83.— Unless the context otherwise requires—

(*a*) a reference to the Board which was, before the commencement of section 3 (b) of the Health Service Executive (Governance) Act 2019, construed, by virtue of section 22 of the Health Service Executive (Governance) Act 2013, as a reference to the Directorate shall, on and after that commencement, be construed as a reference to the Board, and

(*b*) a reference to the chief executive officer which was, before the commencement of the said section 3 (b), construed, by virtue of such section 22, as a reference to the Director General shall, on and after that commencement, be construed as a reference to the chief executive officer.**]**

Annotations

Amendments:

F259 Inserted (28.06.2019) by *Health Service Executive (Governance) Act 2019* (17/2019), s. 31, S.I. No. 283 of 2019.

Section 2 .

SCHEDULE 1

Acts Referred to in Definition of Health and Personal Social Services

1. Health Acts 1947 to 2001
2. Public Health (Tobacco) Acts 2002 and 2004
3. Mental Health Acts 1945 to 2001
4. Births and Deaths Registration Acts 1863 to 1996
5. Notification of Births Acts 1907 and 1915
6. Marriages (Ireland) Act 1844
7. Registration of Marriages (Ireland) Act 1863
8. Civil Registration Act 2004
9. Adoption Acts 1952 to 1998
10. Protections for Persons Reporting Child Abuse Act 1998
11. Child Care Acts 1991 and 2001
12. Children Acts 1908 and 1989
13. Poisons Act 1961
14. Registration of Maternity Homes Act 1934
15. Rats and Mice (Destruction) Act 1919
16. Blind Persons Act 1920
17. State Lands (Workhouses) Act 1930
18. State Lands (Workhouses) Act 1962
19. Social Welfare Acts
20. Family Law (Maintenance of Spouses and Children) Act 1976
21. European Communities Act 1972
22. International Carriage of Perishable Foodstuffs Act 1987
23. Domestic Violence Acts 1996 and 2002
24. Refugee Act 1996
25. Children Act 1997
26. Food Safety Authority of Ireland Act 1998
27. Immigration Act 1999
28. Education (Welfare) Act 2000
29. Children Act 2001 53
30. Protection of the Environment Act 2003
31. Licensing of Indoor Events Act 2003

32. Immigration Act 2003

33. Education for Persons with Special Educational Needs Act 2004

34. Residential Tenancies Act 2004

35. Any other Act that is prescribed by the Minister for the purposes of the definition of "health and personal social services" in *section 2* .

Sections 6(3) and *11(6)* .

SCHEDULE 2

Miscellaneous Provisions Relating to the Executive and the Board

Seal of Executive

1. (1) The Executive shall provide itself with a seal as soon as practicable after the establishment day.

F260**[**(2) The seal of the Executive must be authenticated—

(*a*) by the signature of 2 members of the Board, or

(*b*) by the signature of both—

(i) a member of the Board, and

(ii) an employee of the Executive authorised by the Board to authenticate the seal.**]**

(3) Judicial notice shall be taken of the seal of the Executive.

(4) Each instrument purporting to be made by the Executive and to be sealed with its seal (purporting to be authenticated in accordance with *subparagraph (2))* is admissible in evidence and is deemed, in the absence of evidence to the contrary, to be such instrument.

Term of office of chairperson and other appointed members of Board

2. F261**[**...**]**

F262**[***Meetings of Board*

2A. (1) The Minister, in consultation with the chairperson, shall fix the date, time and place of the first meeting of the Board.

(2) The Board shall hold such and so many meetings as may be necessary for the due fulfilment of its functions, but in each year shall hold not fewer than one meeting in each of 11 months of that year.

(3) The chairperson may at any reasonable time call a meeting of the Board.

(4) Any 8 or more members may call a meeting of the Board if the chairperson—

(*a*) refuses to call a meeting after being presented with a requisition for that purpose signed by not fewer than 8 members, or

(*b*) without refusing to call a meeting, does not call one within 7 days after being presented with such requisition.

(5) The members present at a meeting called under *subparagraph (4)* shall choose one of their number to chair the meeting.**]**

F262**[***Quorum and procedures*

2B. (1) The quorum for a meeting of the Board shall be F263**[**7 members**]** of the Board and—

(*a*) subject to *paragraph (b)*, the chairperson, deputy chairperson or other member chosen in accordance with *subparagraph (2)(c)* to be the chairperson of the meeting, or

(*b*) for such a meeting called in accordance with *paragraph 2A(4)*, the member chosen under *paragraph 2A(5)* to chair the meeting.

(2) Subject to *paragraph 2A(5)*, at a meeting of the Board—

(*a*) the chairperson shall, if present, be the chairperson of the meeting,

(*b*) if and so long as the chairperson is not present or if the office of chairperson is vacant, the deputy chairperson shall, if present, be the chairperson of the meeting, or

(*c*) if and so long as the chairperson is not present or the office of chairperson is vacant and the deputy chairperson is not present or the office of deputy chairperson is vacant, the other members of the Board who are present shall choose one of their number to be chairperson of the meeting.

(3) Every question at a meeting of the Board shall be determined by a majority of the votes of the members of the Board present and voting on the question, and, in the case of an equal division of votes, the chairperson of the meeting shall have a second or casting vote.

(4) Subject to *subparagraph (1)*, the Board may act notwithstanding one or more vacancies among its members.

(5) Subject to the provisions of this Act, the Board shall regulate its procedure by rules or otherwise.**]**

Resignations and casual vacancies

3. F261**[**...**]**

Meetings of Board

4. F261**[**...**]**

Quorum and procedures

5. F261**[**...**]**

Annotations

Amendments:

F260 Substituted (28.06.2019) by *Health Service Executive (Governance) Act 2019* (17/2019), s. 32(a), S.I. No. 283 of 2019.

F261 Deleted (25.07.2013) by *Health Service Executive (Governance) Act 2013* (23/2013), s. 21(b), S.I. No. 275 of 2013.

F262 Inserted (28.06.2019) by *Health Service Executive (Governance) Act 2019* (17/2019), s. 32(b), S.I. No. 283 of 2019.

F263 Substituted (1.07.2022) by *Health (Miscellaneous Provisions) Act 2022* (6/2022), s. 48, S.I. No. 326 of 2022.

Editorial Notes:

E60 Previous affecting provision: para. 1, sub. para. 2 substituted (25.07.2013) by *Health Service Executive (Governance) Act 2013* (23/2013), s. 21(a), S.I. No. 275 of 2013; substituted as per F-note above.

F264**[**SCHEDULE 2A

BODIES AND OFFICE-HOLDERS REFERRED TO IN *PART 9A* AS SCHEDULED BODIES

Adoption Board

Chief Inspector

Comptroller and Auditor General

Health Information and Quality Authority

Inspector of Mental Health Services

Irish Medicines Board

Mental Health Commission**]**

Annotations

Amendments:

F264 Inserted (1.03.2009 and 1.08.2009) by *Health Act 2007* (23/2007), s. 103(2)(b), S.I. No. 27 of 2009 and S.I. No. 268 of 2009.

Section 59 and *67*.

SCHEDULE 3

TRANSFER OF FUNCTIONS AND REFERENCES TO FUNCTIONAL AREAS

1. Health Acts 1947 to 2001
2. Public Health (Tobacco) Acts 2002 and 2004
3. Mental Health Acts 1945 to 2001
4. Births and Deaths Registration Acts 1863 to 1996
5. Notification of Births Acts 1907 and 1915
6. Marriages (Ireland) Act 1844
7. Registration of Marriages (Ireland) Act 1863
8. Protections for Persons Reporting Child Abuse Act 1998
9. Child Care Acts 1991 and 2001
10. Children Acts 1908 and 1989
11. Poisons Act 1961
12. Registration of Maternity Homes Act 1934
13. Rats and Mice (Destruction) Act 1919
14. Blind Persons Act 1920
15. State Lands (Workhouses) Act 1930
16. State Lands (Workhouses) Act 1962
17. Social Welfare Acts
18. Family Law (Maintenance of Spouses and Children) Act 1976
19. European Communities Act 1972
20. International Carriage of Perishable Foodstuffs Act 1987
21. Domestic Violence Acts 1996 and 2002
22. Refugee Act 1996
23. Children Act 1997
24. Food Safety Authority of Ireland Act 1998
25. Immigration Act 1999
26. Education (Welfare) Act 2000
27. Children Act 2001
28. Protection of the Environment Act 2003
29. Licensing of Indoor Events Act 2003
30. Immigration Act 2003
31. Education for Persons with Special Educational Needs Act 2004
32. Residential Tenancies Act 2004
33. Child Abduction and Enforcement of Custody Orders Act 1991

34. Protection of Children (Hague Convention) Act 2000

35. Nurses Act 1985

36. Dentists Act 1985

37. Medical Practitioners Acts 1978 to 2002

38. National Beef Assurance Scheme Act 2000

39. Irish Medicines Board Act 1995

40. Misuse of Drugs Acts 1977 and 1984

41. Freedom of Information Acts 1997 and 2003

42. Data Protection Acts 1988 and 2003

43. Housing Acts 1966 to 2002

44. Ombudsman Acts 1980 to 1984

45. Ombudsman for Children Act 2002

46. Finance Acts 1989 to 2002

47. Committees of the Houses of the Oireachtas (Compellability, Privileges and Immunities of Witnesses) Act 1997

48. Family Law (Miscellaneous Provisions) Act 1997

49. Family Law Act 1995

50. Redundancy Payments Acts 1967 to 2003

51. Protection of Employees (Part-Time Work) Act 2001

52. Protection of Employees (Fixed-Term Work) Act 2003

53. Organisation of Working Time Act 1997

54. Minimum Notice and Terms of Employment Acts 1973 to 2001

55. Unfair Dismissals Acts 1977 to 2001

56. Maternity Protection Act 1994

57. Carer's Leave Act 2001

58. Parental Leave Act 1998

59. Adoptive Leave Act 1995

60. Youth Work Act 2001

61. Local Government Act 2001 59

62. National Development Finance Agency Act 2002

63. Adoption Acts 1952 to 1998

64. Civil Registration Act 2004

65. Any other enactment prescribed by the Minister for the purpose of *sections 59* and *67* and *paragraph 2* of *Schedule 5*.

Section 73. .

SCHEDULE 4

REPEALS AND REVOCATIONS

PART 1

Acts Repealed

Number and Year (1)	Short Title (2)	Extent of Repeal (3)
No. 26 of 1953	Health Act 1953	Section 65.
No. 1 of 1970	Health Act 1970	Sections 4(1), 4(5), 4(6), 5(1)(*a*)to (*c*), 6, 11, 13, 14, 15, 16(1) to 16(6), 17(4), 17(5), 18, 19, 20, 21(1), 21(4), 21(5), 22, 23(1) to 23(3), 24, 25, 26, 32(1), 33, 34, 35, 36, 37, 41(1), 41(3) to 41(8), 41(11) to 41(16), 42, 73, 83 and the Second Schedule.
No. 17 of 1991	Child Care Act 1991	Section 72.
No. 8 of 1993	Comptroller and Auditor General (Amendment) Act 1993	Section 6.
No. 32 of 1996	Health (Amendment) (No. 3) Act 1996	Sections 1, 2(1), 2(3), 3, 4(3), 5, 6(1) to 6(3), 6(6), 7(1) to 7(5), 8(1), 8(2), 9(1), 10, 11(1) to 11(4), 13, 14, 15(1), 15(2), 15(4), 15(5), 16, 17(*a*) to 17(*d*), 18(*a*), 18(*c*), 19, 23, 24 and 25(3).
No. 13 of 1999	Health (Eastern Regional Health Authority) Act 1999	Sections 2 to 8, 10, 12(1) to 12(5), 13, 14, 15(1) to 15(5), 16, 17(1) to 17(4), 17(6) to 17(10), 18 to 22, 24, First Schedule and Second Schedule.
No. 19 of 2004	Health (Amendment) Act 2004	The Whole Act.

PART 2

Orders Revoked

Number and Year (1)	Short Title (2)	Extent of Revocation (3)
1973 No. 53	Hospital Bodies Administrative Bureau (Establishment) Order 1973	The Whole Order.
1996 No. 213	Health Service Employers Agency (Establishment) Order 1996	The Whole Order.
2004 No. 90	Interim Health Service Executive (Establishment) Order 2004	The Whole Order.

Section 74. .

SCHEDULE 5

Savings and Transitional Provisions

Continuation of authority to perform delegated functions

1. (1) Subject to *subparagraph (2)*, a person who is transferred to the Executive on the establishment day and who immediately before that day had, pursuant to a delegation or subdelegation made or deemed to have been made under an enactment, authority to perform a relevant function continues on and after that day to have authority to perform the function within the area to which it relates as though the function had been delegated or subdelegated under *section 19* .

(2) *Sections 19*, *76* and *77* apply, with the necessary modifications, in relation to a delegation or subdelegation continued under *subparagraph (1).*

(3) Nothing in this Schedule prevents the Executive or an employee of the Executive from performing the functions that immediately before the establishment day were, under any enactment, the functions of a specified body.

(4) In this paragraph—

"relevant function" means a function that—

(*a*) before the establishment day was a function of a specified body, and

(*b*) on the establishment day becomes a function of the Executive;

"specified body" has the same meaning as in *Part 10*.

Continuation of appointments of authorised officers and other officers

2. A person who is transferred to the Executive on the establishment day and who immediately before that day held an appointment to perform functions on behalf of a health board, an Area Health Board or the Eastern Regional Health Authority as—

(*a*) an authorised officer under—

(i) the Poisons Act 1961,

(ii) the European Communities Act 1972,

(iii) the Tobacco Products (Control of Advertising, Sponsorship and Sales Promotion) Act 1978,

(iv) the Tobacco (Health Promotion and Protection) Act 1988,

(v) the Domestic Violence Act 1996,

(vi) the Food Safety Authority of Ireland Act 1998,

(vii) the National Beef Assurance Scheme Act 2000, or

(viii) the Public Health (Tobacco) Acts 2002 and 2004,

(*b*) a designated officer under the Protection for Persons Reporting Child Abuse Act 1998,

(*c*) an investigation or appeals officer under the Social Welfare Acts,

(*d*) a liaison officer under the Education (Welfare) Act 2000,

(*e*) an inspector under the International Carriage of Perishable Foodstuffs Act 1987,

(*f*) an authorised person or officer, or a designated person or officer, under the Child Care Acts 1991 and 2001,

(*g*) a family welfare conference coordinator or a person authorised to perform functions under Part 2 of the Children Act 2001,

(*h*) an authorised officer or a person authorised to perform functions under the Adoption Acts 1952 to 1998,

(*i*) an authorised officer or person holding office under the Births and Deaths Registration Acts 1863 to 1996 and the Registration of Marriages (Ireland) Act 1863,

(*j*) a designated officer or other person authorised to carry out inspections, hear appeals or perform other functions under the Health (Nursing Homes) Act 1990,

(*k*) a person authorised to perform functions under the Mental Health Acts 1945 to 2001, or

(*l*) an officer, however described, whose functions under any of the Acts referred to in clauses (*a*) to (*k*) or any enactment referred to in *Schedule 3* are analogous to those of an officer, inspector, coordinator or other person referred to in any of those clauses,

continues to hold that appointment until it is revoked or amended by the Executive.

Transitional provision relating to inquiries and requests under section 24 of Health Act 1970

3. (1) If, before the repeal of section 24 of the Health Act 1970 by this Act, a committee was appointed under that section to perform functions relating to the proposed removal from office of an officer of a health board, the Eastern Regional Health Authority or an Area Health Board and the committee has not made a recommendation under section 24(5) of that Act before that repeal—

(*a*) the committee may, until it makes a recommendation, continue to perform its functions in relation to the matter as if section 24 of that Act had not been repealed, and

(*b*) section 24 of that Act continues to apply in respect of all matters relating to the removal of the officer until those matters are concluded, except that—

(i) the committee shall make its recommendation to the Executive,

(ii) any request made to the Minister under section 24(10) of that Act relating to the committee's recommendation is deemed to be a request to issue a direction to the chief executive officer of the Executive, and

(iii) any direction by the Minister under section 24(11) of that Act relating to the request shall be given to the chief executive officer of the Executive.

(2) If, before the repeal of section 24 of the Health Act 1970 by this Act, a request was made to the Minister under section 24(10) of that Act and the Minister has not given a direction under section 24(11) of that Act before that repeal, section 24 of that Act continues to apply in respect of all matters relating to the request until those matters are concluded, except that the Minister's direction shall be given to the chief executive officer of the Executive.

Continuation of authority to perform functions of medical officers

4. (1) Any function under the Health Acts 1947 to 1953 of a medical officer of health may be performed on and after the establishment day by an appropriately qualified medical practitioner who is an employee of the Executive and is designated in writing by it to perform such function.

(2) Any function under the Health Acts 1947 to 1953 of a chief medical officer may be performed on and after the establishment day by an appropriately qualified medical practitioner who is an employee of the Executive and is designated in writing by it to perform such function.

(3) Any function under an enactment of the Director of Community Care and Medical Officer of Health may be performed on and after the establishment day by an appropriately qualified medical practitioner who is an employee of the Executive and is designated in writing by it to perform such function.

Transitional provisions relating to net expenditure determinations

5. If, before the establishment day, the Minister determines pursuant to the Act of 1996 the maximum amount of net expenditure that may be incurred by the Eastern Regional Health Authority or by a health board in respect of a financial year or other period beginning before but ending after the establishment day the determination ceases to have effect on that day.

Transitional provision relating to option to use existing service plan or plans

6. (1) If, before the establishment day, the Minister has approved a service plan submitted in accordance with the Act of 1996 by—

(*a*) a health board or the chief executive officer of a health board, or

(*b*) the Eastern Regional Health Authority or the Regional Chief Executive of that Authority,

in respect of a period beginning before but ending after the establishment day, the Minister may, after consulting the Executive, decide that such service plan or a combination of such service plans constitutes the service plan of the Executive for the remainder of that period.

(2) If the Minister decides in accordance with this paragraph that a service plan submitted and approved before the establishment day or a combination of such plans constitutes the service plan of the Executive for the remainder of the period concerned, the requirements of this Act, and in particular *section 31* , in relation to the adoption and submission of a service plan by the Executive are fulfilled for that period.

(3) *Section 32* (amendment of approved service plan) and *section 33* (implementation of approved service plan) apply with the necessary modifications in relation to a service plan of the Executive constituted in accordance with this section.

Transitional provision relating to funding for the year 2005

7. (1) On the establishment day, there shall be established a Vote for the Executive, to be known as the Health Service Executive Vote, which shall be Vote 40.

(2) The Vote shall read "Estimate of the amount required in the year ending 31 December 2005 for the salaries and expenses of the Health Service Executive and certain other services administered by the Executive, including miscellaneous grants".

(3) For the purpose of establishing a Vote under *subparagraph (1),* an amount not exceeding €7 billion shall be allocated to the Vote.

(4) This section ceases to have effect on the approval by the Dáil of a financial resolution in respect of the funding of the Executive in 2005.

Transitional provision relating to complaints under Ombudsman for Children Act 2002

8. (1) An action that, before the establishment day, was taken by or on behalf of a health board, an Area Health Board or the Eastern Regional Health Authority and that, but for the dissolution by *section 58* of the body that took that action, could have been the subject of an investigation or complaint under the Ombudsman for Children Act 2002 is deemed to have been taken by or on behalf of the Executive.

(2) An action that—

(*a*) before the establishment day, was taken by—

(i) a voluntary hospital within the meaning of the Health (Eastern Regional Health Authority) Act 1999 in connection with the provision by it of services (within the meaning of that Act) in accordance with an arrangement made under section 10 of that Act with the Eastern Regional Health Authority or an Area Health Board, or

(ii) a specified voluntary hospital in connection with the provision by it of services under the Health Acts 1947 to 2001 for persons eligible for such services in accordance with an arrangement made by it under section 26 of the Health Act 1970 with a health board,

and

(*b*) but for the dissolution by *section 58* of the Eastern Regional Health Authority, the Area Health Board or the health board concerned could have been the subject of an investigation or complaint under the Ombudsman for Children Act 2002,

is deemed to have been taken by the voluntary hospital concerned in accordance with an arrangement under *section 38* .

(3) In this paragraph, "specified voluntary hospital" means a voluntary hospital that was specified in Schedule 2 of the Ombudsman for Children Act 2002 before the amendment of that Act by *section 75* of this Act.

Transitional provision relating to complaints under Ombudsman Act 1980

9. An action that, before the establishment day, was taken by or on behalf of a health board, an Area Health Board or the Eastern Regional Health Authority and that, but for the dissolution by *section 58* of the body that took the action, could have

been the subject of an investigation or complaint under the Ombudsman Act 1980 is deemed to have been taken by or on behalf of the Executive.

Transitional provision relating to records of dissolved health boards

10. (1) Any right of access, under the Freedom of Information Acts 1997 and 2003, to records that before the establishment day of the Executive were held by a health board, an Area Health Board or the Eastern Regional Health Authority and that are transferred to the Executive under *section 65(4)* is not affected by the transfer of those records.

(2) For the purpose of section 18 of the Freedom of Information Act 1997, any act done by a health board before the establishment day of the Executive is deemed to have been done by the Executive.

Section 75 .

SCHEDULE 6

AMENDMENT OF OTHER ACTS

PART 1

Amendment of Health Act 1947

Item	Provision affected	Amendment
1.	Section 33	In paragraph (*b*), substitute "medical officer of health for the area" for "district medical officer for the district".
2.	Section 36	In subsection (1)(*c*), substitute "medical officer of health for the area" for "district medical officer for the district".
3.	Section 37	In subsections (1) to (3), substitute "medical officer of health" for "district medical officer" wherever occurring.
4.	Section 78 (as amended by the Health (Amendment) Act 2004)	Substitute the following subsection for subsection (1): "(1) The Health Service Executive may acquire land either— (*a*) by agreement, subject to any general directions given by the Minister with the consent of the Minister for Finance, or (*b*) compulsorily under this Part of this Act or the Acts incorporated with this Act.".
5.	Section 89 (as amended by the Health (Amendment) Act 2004)	Substitute the following subsection for subsection (1): "(1) The Health Service Executive may, subject to any general directions given by the Minister with the consent of the Minister for Finance, sell, exchange, let or otherwise dispose of any land vested in it.".

PART 2

Amendment of Health Act 1953

Item	Provision affected	Amendment
1.	Section 62	In subsection (1)(*b*)(ii), substitute "the Health Service Executive" for each reference to "the Minister" and substitute "any board constituted by the Public Appointments Service in accordance with the Public Service Management (Recruitment and Appointments) Act 2004 " for "any board constituted by the Local Authorities (Officers and Employers) Act 1926 (No. 39 of 1926)".

PART 3

AMENDMENT OF HEALTH (CORPORATE BODIES) ACT 1961

Item	Provision inserted	Amendment
1.	Section 3A	Insert the following section after section 3: "3A (1) The Minister may by order establish a body to perform, subject to such modifications as are specified in the order, functions that, immediately before the establishment day, were being performed by a specified body. (2) An establishment order shall include provision for— (*a*) the transfer, without further conveyance or assignment, of any property, rights and liabilities of the specified body to the body established under this section, (*b*) the preservation of continuing contracts and commitments made by the specified body, and (*c*) the continuance of pending legal proceedings. (3) Each person who, immediately before the establishment day of a body established under this section, is an employee of the specified body is, on that day, transferred to and becomes an employee of the body established under this section. (4) Except in accordance with a collective agreement negotiated with a recognised trade union or association of employees, a person transferred under this section is entitled, while in the employment of the body established under this section, to terms and conditions of employment no less favourable than those to which the person was entitled immediately before the establishment day of that body. (5) Until the terms and conditions of employment to which a person transferred under this section was entitled immediately before the establishment day are varied by the body established under this section after consulting and reaching a collective agreement with the recognised trade union or association of the employees concerned, they continue to apply to that person while in the employment of that body. (6) The previous service of a person transferred under this section is to be counted as service for the purposes of, but subject to any exceptions or exclusions in, the following Acts: (*a*) the Redundancy Payments Acts 1967 to 2003; (*b*) Adoptive Leave Act 1995; (*c*) Maternity Protection Act 1994;

Item	Provision inserted	Amendment
		(*d*) Protection of Employees (Fixed-Term Work) Act 2003; (*e*) the Protection of Employees (Part-Time Work) Act 2001; (*f*) the Organisation of Working Time Act 1997; (*g*) the Minimum Notice and Terms of Employment Acts 1973 to 2001; (*h*) the Unfair Dismissals Acts 1977 to 2001; (*i*) the Carer's Leave Act 2001; (*j*) the Parental Leave Act 1998. (7) Any superannuation benefits awarded to or in respect of a person transferred under this section and the terms relating to those benefits shall be no less favourable than those applicable to or in respect of that person immediately before the applicable transfer day. (8) A body established under this section shall make payments in respect of remuneration and allowances to its employees out of funds at its disposal. (9) The pension payments and other superannuation liabilities in respect of former employees of the specified body become, on the establishment day, the liability of the body established under this section. (10) In this section— 'previous service' means service with the specified body before the establishment day of the body established under this section; 'recognised trade union or association of employees' means a trade union or association of employees recognised by the specified body for the purposes of negotiations that are concerned with the terms and conditions of employment and the working conditions of employees; 'specified body' means a body that was established under section 11 of the Health Act 1970 and that is specified by the Minister in an establishment order under this section; 'terms and conditions of employment' includes terms and conditions in respect of remuneration and tenure of office and related matters.".

PART 4

AMENDMENT OF POISONS ACT 1961

Item	Provision affected	Amendment
1.	Section 14	(*a*) In subsection (3)(*j*), substitute the following subparagraph for subparagraph (iv): "(iv) by the Health Service Executive and its employees,". (*b*) In subsection (3)(*k*), substitute "and in the case of an employee of the Health Service Executive, a written authorisation of the

Item	Provision affected	Amendment
		Executive" for "and in the case of an officer of a health board, a written authorisation of the board". (*c*) In subsection (3)(*o*), substitute "the Health Service Executive" for "health boards"

PART 5

AMENDMENT OF FAMILY LAW (MAINTENANCE OF SPOUSES AND CHILDREN) ACT 1976

Item	Provision affected	Amendment
1.	Section 16	In subsection (1), substitute "the Health Service Executive" for "a health board".

PART 6

AMENDMENT OF UNFAIR DISMISSALS ACT 1977

Item	Provision affected	Amendment
1.	Section 2	In subsection (1) (as amended by the Unfair Dismissals (Amendment) Act 1993), substitute the following paragraphs for paragraph (*j*): "(*j*) officers of a vocational committee established by the Vocational Education Act 1930, (*k*) the chief executive officer of the Health Service Executive for the purposes of *section 17* of the *Health Act 2004*.".

PART 7

AMENDMENT OF MISUSE OF DRUGS ACT 1977

Item	Provision affected	Amendment
1.	Section 28 (as amended by the Misuse of Drugs Act 1984)	(*a*) In subsection (1)(*a*), substitute "the Health Service Executive" for "a health board". (*b*) In subsection (1)(*b*), substitute "the Health Service Executive" for "a health board". (*c*) In subsection (2), substitute "the Health Service Executive" for "a health board". (*d*) In subsection (11), delete the definition of "health board".

PART 8

Amendment of the Ombudsman Act 1980

Item	Provision affected	Amendment
1.	First Schedule (as amended by the Ombudsman Act (First Schedule) (Amendment) Order 1984)	Substitute "the Health Service Executive" for "Health boards", wherever occurring.
2.	Second Schedule (as amended by the Ombudsman Act 1980 (Second Schedule) (Amendment) Order 1985)	Substitute "the Health Service Executive" for "Health boards".

PART 9

Amendment of Misuse of Drugs Act 1984

Item	Provision affected	Amendment
1.	Section 8	In subsection (1), substitute "the Health Service Executive" for "a health board".

PART 10

Amendment of International Carriage Of Perishable Foodstuffs Act 1987

Item	Provision affected	Amendment
1.	Section 8	(*a*) In subsection (1), delete ", with the consent of the Minister for Health,". (*b*) In subsection (1), substitute "the Health Service Executive" for "a health board".

PART 11

Amendment of Housing Act 1988

Item	Provision affected	Amendment
1.	Section 9	In subsection (4), substitute the following paragraph for paragraph (*b*): "(*b*) the Health Service Executive, and".
2.	Section 11	Substitute the following subsection for subsection (4): "(4) A scheme made under this section may provide that the housing authority shall obtain and have regard to a report from a medical practitioner employed by the Health Service Executive in the making

Item	Provision affected	Amendment
		of lettings of dwellings where priority is claimed on grounds consisting of, or including, medical grounds.".

PART 12

AMENDMENT OF CHILD ABDUCTION AND ENFORCEMENT OF CUSTODY ORDERS ACT 1991

Item	Provision affected	Amendment
1.	Section 2	Delete the definition of "health board".
2.	Section 14	Substitute "the Health Service Executive" for "a health board".
3.	Section 30	Substitute "the Health Service Executive" for "a health board".
4.	Section 37	(*a*) Substitute the following subsection for subsection (2): "(2) Where a child is detained under this section a member of the Garda Síochána shall as soon as possible— (*a*) return the child to the custody of a person (not being the Health Service Executive) in favour of whom a court has made an order referred to in subsection (1) of this section unless the member has reasonable grounds for believing that such person will act in breach of such order, or (*b*) where the child has been in the care of the Health Service Executive, return the child to it, or (*c*) in a case other than one to which paragraph (*a*) or (*b*) of this subsection applies, or where the member is of the belief referred to in the said paragraph (*a*), deliver the child into the care of the Health Service Executive.". (*b*) In subsections (3) to (5), substitute "the Health Service Executive" for "a health board", wherever occurring. (*c*) In subsections (3) to (5), substitute "the Health Service Executive" for "the health board", wherever occurring.

PART 13

AMENDMENT OF FAMILY LAW ACT 1995

Item	Provision affected	Amendment
1.	Section 47	(*a*) In subsection (1), substitute the following paragraph for paragraph (*b*): "(*b*) such person nominated by the Health Service Executive specified in the order as the Health Service Executive may nominate, being a person who in its opinion is suitably qualified for the purpose, or". (*b*) Delete subsection (7).

PART 14

AMENDMENT OF DOMESTIC VIOLENCE ACT 1996

Item	Provision affected	Amendment
1.	Section 1	In subsection (1), delete the definition of "health board".
2.	Section 2	(*a*) In subsection (1)(*a*), substitute "the Health Service Executive" for "a health board" and "the health board" wherever occurring. (*b*) In subsection (3), substitute "the Health Service Executive" for "a health board" and "the health board" wherever occurring.
3.	Section 3	(*a*) In subsection (1), substitute "the Health Service Executive" for "a health board" and "the health board" wherever occurring. (*b*) In subsection (6), substitute "the Health Service Executive" for "a health board" and "the health board" wherever occurring.
4.	Section 5	In subsection (2), substitute "the Health Service Executive" for "a health board" and "the health board" wherever occurring.
5.	Section 6	(*a*) In subsection (1), substitute "the Health Service Executive" for "a health board". (*b*) In subsection (2), substitute "the Health Service Executive" for "a health board". (*c*) In subsection (3), substitute "the Health Service Executive" for "a health board". (*d*) In subsection (5), substitute "the Health Service Executive" for "the health board". (*e*) Delete subsection (6).
6.	Section 7	(*a*) In subsection (1), substitute "the Health Service Executive" for "the health board for the area in which such dependent person resides or is for the time being". (*b*) In subsection (2), substitute "the Health Service Executive" for "the health board concerned". (*c*) In subsection (3), substitute "the Health Service Executive" for "the health board concerned". (*d*) In subsection (4), substitute "the Health Service Executive" for "a health board".
7.	Section 11	(*a*) In subsection (3), substitute "the Health Service Executive" for "the health board" and "a health board" wherever occurring. (*b*) In subsection (2), substitute "the Health Service Executive" for "a health board" and "the health board" wherever occurring. (*c*) In subsection (3), substitute "the Health Service Executive" for "the health board for the area in which the person resides".
8.	Section 13	Substitute "the Health Service Executive" for "a health board" and "the health board" wherever occurring.

PART 15

AMENDMENT OF REFUGEE ACT 1996

Item	Provision affected	Amendment
1.	Section 8	(*a*) In subsection (5)(*a*) (as amended by section 11 of the Immigration Act 1999), substitute "Health Service Executive" for "health board in whose functional area the child is". (*b*) In subsection (5), substitute the following paragraph for paragraph (*b*): "(*b*) Where it appears to the Health Service Executive, on the basis of information available to it, that an application for a declaration should be made by or on behalf of a child referred to in paragraph (*a*), the Health Service Executive shall arrange for the appointment of an employee of the Health Service Executive or such other person as it may determine to make an application on behalf of the child.". (*c*) In subsection (5)(*c*), substitute "Health Service Executive" for "health board concerned.". (*d*) In subsection (5), delete paragraph (*d*).
2.	Section 9	In subsection (12), substitute the following paragraph for paragraph (*c*): "(*c*) Where an unmarried child under the age of 18 years is in the custody of any person (whether a parent or a person acting *in loco parentis* or any other person) and such person is detained pursuant to the provisions of this section, the immigration officer or the member of the Garda Síochána concerned shall, without delay, notify the Health Service Executive of the detention and of the circumstances thereof.".
3.	Section 9A (as amended by section 7 of the Immigration Act 2003)	In subsection (2), substitute the following paragraph for paragraph (*b*): "(*b*) an employee of the Health Service Executive or other person appointed by the Health Service Executive under section 8(5)(*b*).".

PART 16

AMENDMENT OF HOUSING (MISCELLANEOUS PROVISIONS) ACT 1997

Item	Provision affected	Amendment
1.	Section 3 (as amended by section 197 of the Residential Tenancies Act 2004)	In subsection (2), substitute the following paragraph for paragraph (*a*): "(*a*) having consulted the tenant or the relevant purchaser and the Health Service Executive, believe that the tenant or relevant purchaser— (i) may be deterred or prevented by violence, threat, or fear from pursuing an application for an exclusion order, or (ii) does not intend, for whatever other reason, to make such an application, and".
2.	Section 3A (as amended by section 197 of the Residential Tenancies Act 2004)	In subsection (2), substitute the following paragraph for paragraph (*a*): "(*a*) having consulted the authorised person concerned and the Health Service Executive believe that such authorised person—

Item	Provision affected	Amendment
		(i) may be deterred or prevented by violence, threat or fear from pursuing an application for a site excluding order, or (ii) does not intend, for whatever other reason, to make such an application, and".
3.	Section 7	In subsection (1), substitute the following paragraphs for paragraphs (*c*) and (*d*): "(*c*) the housing authority in whose functional area the house in respect of which the application for the order was made is situate, (*d*) the Health Service Executive, and (*e*) the member of the Garda Síochána in charge of the Garda Síochána station for the area in which the house in relation to which the application for the order was made is situate.".

PART 17

AMENDMENT OF HOUSING (TRAVELLER ACCOMMODATION) ACT 1998

Item	Provision affected	Amendment
1.	Section 8	Substitute the following paragraph for paragraph (*c*): "(*c*) the Health Service Executive,".

PART 18

AMENDMENT OF IMMIGRATION ACT 1999

Item	Provision affected	Amendment
1.	Section 5	In subsection (4)(*c*), substitute "Health Service Executive" for "health board for the area in which the person is being detained".

PART 19

AMENDMENT OF NATIONAL BEEF ASSURANCE SCHEME ACT 2000

Item	Provision affected	Amendment
1.	Section 2	In the definition of "authorised officer", substitute the following paragraph for paragraph (*c*): "(*c*) an employee of the Health Service Executive authorised in writing by the chief executive officer of the Health Service Executive to be an authorised officer for the purposes of section 6(1)(*d*) and (2);".
2.	Section 29	Substitute the following subsection for subsection (2):

Item	Provision affected	Amendment
		"(2) The Health Service Executive may appoint such and so many persons as it considers necessary to be authorised officers for the purpose of the implementation of section 6(1)(*d*) and (2).".

PART 20

AMENDMENT OF SEX OFFENDERS ACT 2001

Item	Provision affected	Amendment
1.	Section 25	In subsection (1), in the definition of "state work or a service", substitute the following paragraphs for paragraph (*d*): "(*d*) is an officer or servant of a harbour authority or vocational education committee, or (*e*) is an employee of the Health Service Executive.".

PART 21

AMENDMENT OF LOCAL GOVERNMENT ACT 2001

Item	Provision affected	Amendment
1.	Section 2	In subsection (1), in the definition of "public authority", substitute the following paragraph for paragraph (*d*): "(*d*) the Health Service Executive established under *section 6* of the *Health Act 2004*;".
2.	Section 13	In subsection (1), insert the following subparagraph after subparagraph (i): "(ii) is a person employed by the Health Service Executive and is at a grade or of a description of employment designated by order of the Minister for Health and Children, or".
3.	Section 85	Substitute the following subsection for subsection (7): "(7) This section is without prejudice to *section 8* of the *Health Act 2004* and an agreement may not be entered into under this section in any case in which an agreement could be entered into under that section.".
4.	Section 220	In subsection (1) in the definition of "linked body" (as amended by the Health (Amendment) Act 2004) insert "a Regional Health Forum established under the Health Act 2004," after "means".

PART 22

AMENDMENT OF PUBLIC HEALTH (TOBACCO) ACT 2002

Item	Provision affected	Amendment
1.	Section 2 (as amended by section 2 of the Public Health (Tobacco) (Amendment) Act 2004)	In subsection (1), delete the definition of "health board".
2.	Section 6	(*a*) Substitute the following subsection for subsection (2): "(2) Summary proceedings for an offence under this Act may be brought and prosecuted by the Health Service Executive.". (*b*) In subsection (3), substitute "the Health Service Executive," for "the health board concerned,".
3.	Section 10	In subsection (1)(*h*), substitute "the Health Service Executive" for "health boards" and "the health boards".
4.	Section 47 (as amended by section 16 of the Public Health (Tobacco) (Amendment) Act 2004)	In subsection (7), substitute the following definition for the definition of "health premises": " 'health premises' means any hospital, sanatorium, home, laboratory, clinic, health care centre or similar premises required for the provision of services under the *Health Acts 1947* to *2004*, provided and maintained by the Health Service Executive;".
5.	Section 48	(*a*) Substitute the following subsection for subsection (2): "(2) The Health Service Executive shall appoint such one or more persons, as it considers appropriate, to be an authorised officer or authorised officers for the purposes of this Act.". (*b*) In subsection (3)(*b*), substitute "Health Service Executive," for "health board concerned,".
6.	Section 49	In subsection (2), substitute "the Health Service Executive" for "a health board" and "the health board".
7.	Section 51	In subsection (3)(*b*), substitute "the Health Service Executive" for "the health board" and "the health board concerned".

PART 23

AMENDMENT OF OMBUDSMAN FOR CHILDREN ACT 2002

Item	Provision affected	Amendment
1.	Section 2	(*a*) In subsection (1), delete the definition of "health board". (*b*) In subsection (1), substitute the following definition for the definition of "voluntary hospital": " 'voluntary hospital' means a hospital which is substantially funded by means of an arrangement with the Health Service Executive under *section 38* of the *Health Act 2004* and the governing body of which is not the Health Service Executive or a committee of it.".
2.	Section 9	(*a*) In subsection (1)(*a*), insert "or" after "the Act of 1988,". (*b*) In subsection (1), substitute the following paragraph for paragraphs (*b*) and (*c*):

Item	Provision affected	Amendment
		"(*b*) a voluntary hospital in connection with the provision by it of health and personal social services within the meaning of the *Health Act 2004* in accordance with an arrangement made by it under *section 38* of that Act with the Health Service Executive,". (*c*) Delete subsection (4).
3.	Section 13	In subsection (2)(*b*), substitute the following subparagraph for subparagraph (iii): "(iii) where the investigation relates to an action taken by or on behalf of a voluntary hospital, to the Health Service Executive,".
4.	Schedule 1	(*a*) In Part 1(4), substitute "The Health Service Executive." for "a health board.". (*b*) In Part 2, substitute "the Health Service Executive" for "a health board" and "the health board" wherever occurring.

PART 24

AMENDMENT OF LICENSING OF INDOOR EVENTS ACT 2003

Item	Provision affected	Amendment
1.	Section 1	Delete the definition of "health board".
2.	Section 13	Substitute the following subsection for subsection (1): "13.—(1) No action or other proceeding shall lie or be maintainable against— (*a*) the Minister or a fire authority or any officer of or person employed by the fire authority, (*b*) the Health Service Executive or any person employed by the Health Service Executive, (*c*) any person engaged by a fire authority or the Health Service Executive, (*d*) a member of the Garda Síochána, or (*e*) an authorised officer, for the recovery of damages in respect of any injury to persons, damage to property or other loss alleged to have been caused or contributed to by a failure to exercise any function conferred or imposed on the fire authority or the Health Service Executive by or under this Act.".
3.	Section 21	Substitute the following subsection for subsection (1): "(1) A fire authority may appoint in writing such and so many persons to be authorised officers for the purposes of Part 1 or 2 and without prejudice to the generality of the foregoing such persons may include a person who is employed by the Health Service Executive.".

PART 25

AMENDMENT OF IMMIGRATION ACT 2003

Item	Provision affected	Amendment
1.	Section 5	In subsection (2)(*d*), substitute "Health Service Executive" for "health board for the area in which the person is being detained".
2.	Section 8	In subsection (4), substitute "the Health Service Executive," for "a health board,".

PART 26

AMENDMENT OF CIVIL REGISTRATION ACT 2004

Item	Provision affected	Amendment
1.	Section 2	(*a*) Delete the definition of "authority". (*b*) Insert the following definition: " 'Executive' means the Health Service Executive;". (*c*) Delete the definition of "health board". (*d*) Insert the following definition: " 'registration area' shall be construed in accordance with section 15(1) and (2A);". (*e*) Substitute the following for the definition of "scheme": " 'scheme' means a scheme approved under section 14;".
2.	Section 14	(*a*) Substitute the following subsection for subsection (1): "(1) As soon as may be after the appointment of the first Superintendent Registrar of a registration area, he or she shall prepare a scheme in writing for the administration of the Civil Registration Service in that area and shall, after it has been approved by the Executive, submit the scheme to the Minister.". (*b*) In subsection (3)(*a*), substitute "of the registration area concerned" for "of the authority concerned". (*c*) In subsections (3)(*b*) and (4), substitute "the Executive" for "the authority concerned". (*d*) In subsection (5), substitute "the Executive" for "the authority". (*e*) In subsection (6), substitute "the Executive" for "the relevant authority". (*f*) Substitute the following subsection for subsection (7): "(7) Without prejudice to the generality of subsection (1), a scheme shall specify in relation to a registration area— (*a*) the number of registrars required for the purpose of the performance of the Executive's functions within that area, (*b*) the number of other employees required for that purpose, (*c*) the locations within that area of the offices of the Executive, (*d*) the proposed functions of, and distribution of functions between, the registrars and employees assigned pursuant to the scheme,

Item	Provision affected	Amendment
		(*e*) particulars of the proposed conditions of employment of the registrars and employees assigned pursuant to the scheme, and (*f*) particulars or provisions in relation to any other matter standing specified for the time being by the Minister.". (*g*) In subsection (8), substitute "the Executive in relation to the registration area concerned" for "the authority concerned".
3.	Section 15	(*a*) Substitute the following subsections for subsections (1) and (2): "(1) Each functional area of the Health Service Executive shall, subject to subsection (2A), be a registration area for the purposes of this Act. (2) After consulting with an tArd Chláraitheoir, the Executive shall assign a name to each registration area. (2A) The Executive may, with the consent of an tArd Chláraitheoir, redefine for the purposes of this Act the boundaries of any of its functional areas, and, if it does so, that functional area as redefined shall be a registration area for those purposes.". (*b*) Substitute the following for subsection (3): "(3) Under the overall management, control and supervision of an tArd Chláraitheoir, the Executive shall, in accordance with the provisions of the relevant scheme, manage, control and administer, through the Superintendent Registrar of each registration area, the Civil Registration Service in that area and perform in the area the other functions conferred on it by or under this Act.". (*c*) In subsection (4)— (i) substitute "the Executive" for "an authority" wherever occurring, (ii) delete "its expenditure on and", and (iii) substitute "a registration area" for "its functional area". (*d*) Substitute the following for subsection (5): "(5) The Executive shall, in each year beginning with the year 2005, prepare an estimate in writing of its income and expenditure in the next following year in respect of each registration area and shall submit a copy of it to an tArd Chláraitheoir.".
4.	Section 16	(*a*) Delete subsection (1). (*b*) In subsection (2), substitute "Accounts of the Executive relating to each scheme" for "Accounts of an authority". (*c*) Delete subsection (3).
5.	Section 17	(*a*) Substitute the following subsections for subsections (1) to (3): "(1) Subject to the provisions of this section, the Executive, after consulting with an tArd Chláraitheoir, shall— (*a*) appoint, in respect of each registration area, an employee of the Executive as the chief officer of that area to be known as the Superintendent Registrar, (*b*) appoint such number of employees of the Executive as registrars of births, stillbirths, deaths and marriages and assign them to each registration area, and

Item	Provision affected	Amendment
		(*c*) assign such number of other employees to each registration area, as it considers necessary for the performance of its functions. (2) The appointment and assignment of a registrar under paragraph (*b*) and the assignment of an employee under paragraph (*c*) of subsection (1) to a registration area shall be in accordance with the scheme relating to the area. (3) The Superintendent Registrar of a registration area shall manage, control and administer the Civil Registration Service on behalf of and subject to the control and direction of the Executive in that area and shall perform such other functions in relation to the Civil Registration Service as may from time to time be specified in writing to him or her by the Executive.". (*b*) In subsection (4), substitute "in the registration area to which he or she is assigned" for "in the functional area of the authority by which he or she was appointed" and substitute "a scheme relating to that area" for "a scheme made by the authority by which he or she was appointed". (*c*) In subsection (5), substitute "the registration area to which the registrar or officer is assigned" for "the authority by which the registrar or officer was appointed". (*d*) Substitute the following subsection for subsection (6): "(6) A Superintendent Registrar of a registration area may give a direction to a registrar or authorised officer assigned to that area.". (*e*) In subsection (8), substitute "the Executive" for "the authority concerned". (*f*) Substitute the following subsection for subsection (9): "(9) A person holding office under this section (including a Superintendent Registrar and a registrar) may be removed from office by the Executive if, in its opinion, the person is incapable by reason of ill health of performing the functions of the office or has committed stated misbehaviour or his or her removal from office appears to the Executive to be necessary for the effective performance of the functions of the office.". (*g*) In subsection (10), substitute the following paragraph for paragraph (*a*): "(*a*) The Executive may appoint any of its employees to be authorised officers either, as may be specified in the instrument of appointment, for the purposes of this Act or for the purposes of specified provisions of this Act and shall assign such officers to a registration area.".
6.	Section 19	(*a*) In subsection (3)— (i) substitute "the Superintendent Registrar in whose registration area" for "the authority in whose functional area" and substitute "the Superintendent Registrar may" for "the authority may", and (ii) substitute the following paragraph for paragraph (*a*): "(*a*) to attend before a registrar in that registration area, at the office of the registrar or such other (if any) convenient place

Item	Provision affected	Amendment
		as may be specified by the Superintendent Registrar on or before a day so specified (not being less than 7 days from the date of the notice nor more than 12 months from the date of the birth),". (*b*) In subsection (5), substitute "in whose registration area" for "of the authority in whose functional area".
7.	Section 20	In subsection (1), substitute "of the registration area to which the registrar is assigned" for "of the authority by which he or she was appointed".
8.	Section 23	In subsection (2), substitute "of the registration area to which the registrar is assigned" for "of the authority by which the registrar is employed".
9.	Section 24	In subsection (3), substitute "of the registration area to which the registrar is assigned" for "of the authority by which the registrar is employed".
10.	Section 28	(*a*) In subsection (4), substitute "Superintendent Registrar in whose registration area" for "the authority in whose functional area" and substitute "in that registration area" for "of the authority". (*b*) In subsection (7), substitute "registration area" for "functional area of the authority".
11.	Section 29	Substitute "registration area" for "authority".
12.	Section 30	In subsections (1) and (2), substitute "Superintendent Registrar in whose registration area" for "authority in whose functional area".
13.	Section 37	(*a*) In subsection (2), substitute "Superintendent Registrar in whose registration area" for "authority in whose functional area". (*b*) In subsection (2)(*a*), substitute "that registration area or in the registration area" for "that functional area or in the functional area of the authority".
14.	Section 40	In subsection (1), substitute "of the registration area to which the registrar is assigned" for "of the authority by which the registrar is employed".
15.	Section 41	In subsection (4), substitute "registration area" for "functional area of the authority".
16.	Section 43	In subsections (1) and (2), substitute "registration area" for "functional area of the authority".
17.	Section 45	In the definition of "body" substitute "the Executive" for "an authority".
18.	Section 52	(*a*) In subsection (1), substitute "the Executive" for "the authority by which the registrar is employed" and for "that authority". (*b*) In subsection (2)(*a*), substitute "the Executive" for "the authority by whom the registrar is employed". (*c*) In subsection (2)(*b*), substitute "the Executive" for "the authority by which he or she is employed".
19.	Section 53	In subsection (4)(*a*), substitute "the Executive" for "an authority".
20.	Section 54	In subsection (2), substitute the following paragraph for paragraph (*a*): "(*a*) in case the body is the Executive, for the registration of a registrar named in the application who is employed by the Executive and is aged 18 years or more.".
21.	Section 56	(*a*) In subsection (5)(*a*), substitute "the Executive" for "an authority".

Item	Provision affected	Amendment
		(*b*) In subsection (5)(*c*)(i), substitute "the Executive" for "an authority" and for "the authority". (*c*) In subsection (5)(*c*)(ii), substitute "the Executive" for "an authority". (*d*) In subsection (5)(*c*)(iii), substitute "the Executive" for "an authority" wherever occurring and for "the authority".
22.	Section 58	In subsection (2), substitute the following for everything before paragraph (*c*): "(2) Where an objection under subsection (1) is received by a registrar assigned to a registration area other than the registration area to which is assigned the registrar who, in relation to the marriage concerned, was given the notification referred to in section 46 or a copy of an order referred to in that section— (*a*) the registrar by whom the objection is received shall refer the objection to the Superintendent Registrar of the registration area to which is assigned the registrar who was given the notification or the copy of the court order, (*b*) the Superintendent Registrar to whom the objection is referred shall direct a registrar assigned to his or her registration area to perform the function conferred by this section on the registrar who received the objection,".
23.	Section 60	In subsection (2), substitute— (*a*) "the Executive" for "the authority concerned", (*b*) "by the Executive to such employee of the Executive" for "by the authority to such officer of the authority", and (*c*) "as the Executive" for "as the authority".
24.	Section 61	(*a*) In subsection (1)(*b*), in subparagraph (i), delete "or" where it occurs after "a true copy,"; in subparagraph (ii), insert "or" after "a copy"; and insert the following subparagraph: "(iii) a certified extract,". (*b*) In subsection (2)(*b*), in subparagraph (i), delete "or" where it occurs after "a true copy,"; in subparagraph (ii), insert "or" after "a copy"; and insert the following subparagraph: "(iii) a certified extract,". (*c*) Insert the following subsection: "(5) The Minister may make regulations specifying particulars to be included in a certified extract referred to in subsection (1) or (2).".
25.	Section 64	(*a*) In subsection (1), substitute "of the registration area to which the registrar is assigned" for "of the authority by which the registrar is employed". (*b*) In subsection (2), substitute "any registration area" for "any authority" and substitute "in that registration area" for "of that authority".
26.	Section 66	(*a*) In subsection (1)(*g*), substitute "the Executive" for "a health board". (*b*) In subsection (1)(*i*), substitute "the Executive" for "a health board".
27.	Section 68	In subsection (3), substitute "the Executive" for "the relevant authority".

Item	Provision affected	Amendment
28.	Section 71	(*a*) In subsection (1), substitute "the Executive" for "the authority in whose functional area the offence was committed". (*b*) In subsections (2) and (3), substitute "the Executive" for "the authority concerned".
29.	Section 73	In subsection (5), substitute "medical practitioners employed by the Executive" for "medical officers of health boards".
30.	First Schedule	In Part 2, delete "Personal public service number of child".

Section 75 .

SCHEDULE 7

PART 1

Amendment Of Adoption Act 1952

Item	Provision affected	Amendment
1.	Section 3 (as amended by section 2 of the Adoption Act 1998)	Delete the definition of "health board".
2.	Section 3A	Insert the following after section 3: "Transitional provision. 3A.—Any function or provision. action performed or any decision made by or on behalf of a health board under the Adoption Acts 1952 to 1998, before the establishment day of the Health Service Executive, in connection with an application or any other matter that has not been concluded before that day shall be deemed to have been performed or made by or on behalf of the Executive.".
3.	Section 16 (as amended by section 5 of the Adoption Act 1998)	In subsection (1)(*h*), substitute "the Health Service Executive" for "health board".
4.	Section 19A (as inserted by section 6 of the Adoption Act 1998)	In subsection (6), substitute "The Health Service Executive" for "A health board".

PART 2

Amendment of Guardianship of Infants Act 1964

Item	Provision affected	Amendment
1.	Section 15 (as amended by section 76 of the Child Care Act 1991)	Substitute the following section for section 15: "Power of Court to order repayment of costs of bringing up child. 15.—(1) Where, upon application by a parent for the production of a child, the court finds that the child is being brought up at the expense of another person, the court may, in its discretion, if it orders that the child be given up to the parent, further order that the parent shall pay to that person the whole of the costs properly incurred by the person in bringing up the child or such portion of those costs as the court considers reasonable. (2) Where, upon application by a parent for the production of a child, the court finds that— (*a*) assistance has been provided for the child at any time by a health authority under section 55 of the Health Act 1953, (*b*) the child has been maintained in the care of a health board under section 4 of the Child Care Act 1991 at any time before the amendment of that provision by the *Health Act 2004*, or (*c*) the child has been maintained in the care of the Health Service Executive under section 4 of the Child Care Act 1991 at any time after the amendment of that provision by the *Health Act 2004*, the court may, in its discretion, if it orders that the child be given up to the parent, further order that the parent shall pay to the Health Service Executive the whole of the costs properly incurred by the health authority in providing such assistance or by the health board or the Executive in maintaining the child in care or such portion of those costs as the court considers reasonable. (3) In determining the amount to be repaid under this section, the court shall have regard to the circumstances of the case including, in particular, the means of the parent.".
2.	Section 16 (as amended by section 77 of the Child Care Act 1991)	In paragraph (*b*), substitute "to be maintained as described in section 15(2)(*b*) or (*c*) in the care of a health board or the Health Service Executive" for "to be maintained in the care of a health board under section 4 of the Child Care Act, 1991 ".

PART 3

AMENDMENT OF ADOPTION ACT 1988

Item	Provision affected	Amendment
1.	Section 2	(*a*) In subsection (1)(*c*), substitute "the Health Service Executive" for "the health board in whose functional area the applicants ordinarily reside,".

Item	Provision affected	Amendment
2.	Section 3	(*a*) In subsection (1), substitute "the Health Service Executive" for "the health board in whose functional area they ordinarily reside,". (*b*) In subsection (1)(*a*), substitute "the Health Service Executive" for each reference to "the health board". (*c*) In subsection (1)(*b*), substitute "the Health Service Executive" for "the health board". (*d*) In subsection (4), substitute "The Health Service Executive" for "The health board concerned". (*e*) Delete subsection (6). (*f*) In subsection (7), substitute "the Health Service Executive," for "a health board" and substitute "the Executive" for each reference to "the board".

PART 4

AMENDMENT OF HEALTH (NURSING HOMES) ACT 1990

Item	Provision affected	Amendment
1.	Section 1	(*a*) In subsection (1), substitute the following definition for the definition of "register": " 'register' means a register of nursing homes that is established or deemed to have been established by the Health Service Executive under section 4, and cognate words shall be construed accordingly;". (*b*) Substitute the following definition for the definition of "registered proprietor": " 'registered proprietor', in relation to a registered nursing home means the person whose name is entered in the register as the person carrying on the home;".
2.	Section 2	(*a*) In subsection (1)(*a*), (*e*) and (*f*), substitute "the Health Service Executive" for "a health board". (*b*) In subsection (1)(*g*)(ii) and (iii), substitute "the Health Service Executive" for "a health board".
3.	Section 4	(*a*) Substitute the following subsection for subsection (1): "(1) The Health Service Executive shall establish and maintain a register of nursing homes in each functional area of the Executive. (1A) For the purpose of subsection (1), each register of nursing homes established by a health board before the amendment of this Act by the *Health Act 2004* shall be deemed to have been established by the Health Service Executive and shall be maintained by the Executive.". (*b*) In subsection (3)(*a*), substitute "The Health Service Executive" for "A health board" and delete "in its functional area". (*c*) In subsection (3)(*c*), substitute "the Health Service Executive" for "a health board".

Item	Provision affected	Amendment
		(*d*) In subsection (3) insert the following paragraph after paragraph (*c*): "(*d*) An application for a declaration under subsection (4)(*a*) or for registration that is made to a health board before the amendment of this subsection by the *Health Act 2004* shall be deemed to have been made to the Health Service Executive if the health board has not, before the establishment day of the Executive, given or refused to give the declaration or granted or refused to grant registration for the nursing home in relation to which the application was made, as the case may be.". (*e*) In subsection (4)(*a*), substitute "the Health Service Executive" for "the health board in whose functional area the home will be situated". (*f*) In subsection (4)(*a*), (*b*) and (*c*) substitute "the Executive" for "the board", wherever occurring. (*g*) In subsection (4)(*b*), substitute "the Health Service Executive" for "a health board". (*h*) In subsections (4)(*c*), (5) and (6), substitute "The Health Service Executive" for "A health board". (*i*) In subsection (6)(*b*)(iii), substitute "the Executive" for "the board", wherever occurring. (*j*) In subsection (7)(*a*) and (*b*), substitute "The Health Service Executive" for "A health board" and substitute "the Executive" for "the board". (*k*) In subsections (8)(*a*) and (10)(*a*), substitute "The Health Service Executive" for "A health board". (*l*) In subsection (10)(*b*), substitute "the Health Service Executive" for "a health board" and substitute "the Executive" for "the board". (*m*) In subsection (11), substitute "the Health Service Executive" for "the health board concerned" and substitute "the Executive" for "the board". (*n*) In subsection (12)(*a*)(ii), substitute "the Health Service Executive" for "the health board concerned". (*o*) In subsection (13)(*a*), substitute "the Health Service Executive" for "a health board". (*p*) In subsection (13)(*b*), substitute "the Health Service Executive" for "the health board concerned" and substitute "the Executive" for "the board". (*q*) In subsection (14), substitute "the Health Service Executive" for "a health board", wherever occurring and substitute "the Executive" for "the board".
4.	Section 5	(*a*) In subsection (1), substitute "the Health Service Executive" for "a health board" and "the health board". (*b*) In subsection (4)(*a*), substitute "the Health Service Executive" for "the health board concerned". (*c*) In subsection (4)(*b*)(II), substitute "the Health Service Executive" for "the health board".

Item	Provision affected	Amendment
		(*d*) In subsection (5), substitute "The Health Service Executive" for "The health board concerned".
5.	Section 6	(*a*) In subsection (2)(*g*), substitute "employees of the Health Service Executive," for "officers of health boards,". (*b*) In subsection (2)(*i*), substitute "the Health Service Executive" for "the health board concerned". (*c*) In subsection (2)(*j*), substitute "the Health Service Executive" for "a health board" and "Health Service Executive and its employees," for "appropriate health boards and their officers,". (*d*) In subsection (2)(*k*), substitute "Health Service Executive" for "appropriate health boards" and "health boards". (*e*) In subsection (2)(*l*), substitute "Health Service Executive" for "health boards concerned". (*f*) In subsection 2(*m*)(i), substitute "Health Service Executive" for "health board concerned". (*g*) In subsection (2)(*m*)(ii), substitute "the Health Service Executive" for "a health board" and substitute "the Executive" for "the board", wherever occurring. (*h*) Substitute the following subsection for subsection (2)(*n*): "(*n*) authorise the provision by or on behalf of the Health Service Executive to nursing homes of such services (being services of a kind provided by or on behalf of the Health Service Executive for the purposes of its functions), upon such terms and conditions and to such extent as the Health Service Executive may determine, and". (*i*) In subsection (4)(*a*), substitute "Health Service Executive" for "health board concerned". (*j*) In subsection (5), substitute "the Health Service Executive or an employee of the Health Service Executive" for "a health board or an officer of a health board", wherever occurring.
6.	Section 7 (as amended by the Health (Miscellaneous Provisions) Act 2001)	F265**[**...**]**
7.	Section 8	(*a*) In subsection (1)(*a*), substitute "the Health Service Executive" for "a health board" and substitute "the Executive" for "the board". (*b*) In subsection (1)(*b*), substitute "the Health Service Executive" for "a health board".
8.	Section 9	(*a*) In subsection (1)(*a*), substitute "the Health Service Executive" for "a health board" and "the health board" and delete "in its functional area". (*b*) In subsection (1)(*c*), substitute "the Health Service Executive" for "a health board". (*c*) In subsection (1)(*d*), substitute "the Health Service Executive" for "a health board" and substitute "the Executive" for "the board", wherever occurring.

Item	Provision affected	Amendment
		(*d*) In subsection (2)(*a*), substitute "the Health Service Executive" for "a health board" and "the health board" and substitute "the Executive" for "the board" and delete "in the functional area of the board".
9.	Section 10	(*a*) Substitute the following subsection for subsection (1): "(1) The Health Service Executive may in accordance with regulations under this section make and carry out an arrangement for the boarding out in a private dwelling of a person to whom this section applies and the arrangement may provide for the payment of all or part of the costs of the boarding out by the Executive.". (*b*) In subsection (2)(*a*)(i) and (ii), substitute "the Health Service Executive and its employees" for "the health boards concerned and their officers". (*c*) In subsection (2)(*a*)(iii), substitute "the Health Service Executive" for "health boards". (*d*) In subsection (2)(*a*)(v), substitute "the Health Service Executive" for "the health board concerned". (*e*) In subsection (2)(*b*), substitute "the Health Service Executive or an employee of the Health Service Executive" for "a health board or an officer of a health board", wherever occurring. (*f*) In subsection (4), substitute "the Health Service Executive" for "a health board". (*g*) Substitute the following subsection for subsection (5): "(5) In this section 'person to whom this section applies', in relation to the Health Service Executive, means a person who, in the opinion of the Executive, ought, having regard to his or her means and circumstances, to be boarded out under this section and who consents to be so boarded out.".
10.	Section 12	(*a*) Substitute the following subsection for subsection (1): "(1) Proceedings for a summary offence under this Act may be brought and prosecuted by the Health Service Executive.". (*b*) Delete subsection (4).

Annotations

Amendments:

F265 Deleted (8.06.2007) by *Health (Nursing Homes) (Amendment) Act 2007* (1/2007), s. 8, S.I. No. 409 of 2007.

PART 5

AMENDMENT OF ADOPTION ACT 1991

Item	Provision affected	Amendment
1.	Section 1	Delete the definition of "health board".

Item	Provision affected	Amendment
2.	Section 5	In subsection (1)(*b*)(iii)(II)(B), substitute "the Health Service Executive" for "the health board in whose functional area the adopters were ordinarily resident at the time of the assessment,".
3.	Section 8	(*a*) In subsection (1), substitute "the Health Service Executive" for "a health board" and delete "who is or are ordinarily resident in its functional area". (*b*) In subsection (2), substitute "the Health Service Executive" for "the health board concerned". (*c*) Delete subsection (4).

PART 6

AMENDMENT OF CHILD CARE ACT 1991

Item	Provision affected	Amendment
1.	Section 2	(*a*) In the definition of "area" substitute "the Health Service Executive" for "health board". (*b*) Delete the definition of "health board".
2.	Section 3	(*a*) In subsection (1), substitute "the Health Service Executive" for "every health board" and delete "in its area". (*b*) In subsection (2), substitute "the Health Service Executive" for "a health board" and in paragraph (*a*) delete "in its area". (*c*) In subsection (3), substitute "The Health Service Executive" for "A health board". (*d*) Substitute the following subsection for subsection (4): "(4) The provisions of the *Health Acts 1947* to *2004* shall apply in relation to the functions of the Health Service Executive and its employees under this Act and the powers of the Minister under those Acts shall have effect accordingly as if those Acts and this Act were one Act.".
3.	Section 4	(*a*) In subsection (1), substitute "the Health Service Executive that a child requires" for "a health board that a child who resides or is found in its area requires" and substitute "the Executive" for "the Health Board". (*b*) In subsection (2), substitute "the Health Service Executive" for "a health board". (*c*) In subsection (3), substitute "the Health Service Executive" for "a health board" and substitute "the Executive" for each reference to "the board". (*d*) In subsection (4), substitute "the Health Service Executive" for "a health board" and substitute "the Executive" for each reference to "the board". (*e*) Insert the following subsection after subsection (4): "(5) A child who was taken into care under this section by a health board before the amendment of this section by the *Health Act 2004* and who is in the care of the health board immediately before the

Item	Provision affected	Amendment
		establishment day of the Health Service Executive shall be deemed for the purposes of this Act to have been taken into care by the Executive and to be in its care on and from that day.".
4.	Section 5	Substitute— (*a*) "the Health Service Executive that a child is homeless, the Executive shall" for "a health board that a child in its area is homeless, the board shall", (*b*) "if it" for "if the board", (*c*) "care of the Executive" for "care of the board", and (*d*) "the Executive shall take" for "the board shall take".
5.	Section 6	(*a*) Substitute the following subsection for subsection (1): "(1) The Health Service Executive shall provide or ensure the provision of a service for the adoption of children in accordance with the Adoption Acts 1952 to 1998.". (*b*) In subsection (2), substitute "the Health Service Executive" for "a health board". (*c*) In subsection (3), substitute "The Health Service Executive" for "A health board". (*d*) In subsection (4), substitute "the Health Service Executive" for "a health board".
6.	Section 7	(*a*) Substitute the following subsections for subsection (1): "(1) The Health Service Executive shall establish for each functional area of the Executive a child care advisory committee to advise the Executive on the performance of its functions under this Act and the Executive shall consider and have regard to any advice so tendered to it. (1A) A child care advisory committee that, before the amendment of this section by the *Health Act 2004*, was established for a functional area of a health board and that was in existence immediately before the establishment of the Health Service Executive shall be deemed to have been established by the Executive in compliance with subsection (1) of this section for the corresponding functional area of the Executive or for that area as redefined under *section 67(3)* of the *Health Act 2004*.". (*b*) In subsection (3), substitute "the Health Service Executive" for "a health board". (*c*) In subsection (5), substitute "the Health Service Executive and each child care advisory committee" for "each health board and child care advisory committee". (*d*) Insert the following subsection after subsection (5): "(5A) Directions given by the Minister in relation to child care advisory committees in existence immediately before the establishment day of the Health Service Executive shall, subject to the amendment or revocation of those directions under subsection (5B), apply to child care advisory committees established or deemed to have been established by the Executive, unless the Minister otherwise directs.

Item	Provision affected	Amendment
		(5B) The Minister may amend or Revoke directions given in relation to child care advisory committees.". (*e*) In subsection (6), substitute "The Health Service Executive" for "A health board" and substitute "a functional area of the Executive" for "its area". (*f*) In subsection (7)— (i) in paragraph (*c*), substitute "Health Service Executive" for "health board", and (ii) substitute "a functional area of the Health Service Executive" for "a health board area".
7.	Section 8	(*a*) Substitute the following for subsection (1): "(1) The Health Service Executive shall— (*a*) not later than 6 months after the establishment day of the Executive, prepare for each health board the report that, but for the amendment of this section by the *Health Act 2004*, the health board would have been required to have prepared under this section, and (*b*) annually thereafter prepare a report on the adequacy of the child care and family support services available in each functional area of the Executive.". (*b*) In subsection (2)— (i) substitute "the Health Service Executive" for "a health board", and (ii) in paragraph (*c*), substitute "the Executive" for "the board". (*c*) Substitute the following for subsection (3): "(3) The Health Service Executive shall give notice of the preparation of a report under subsection (1) to— (*a*) each child care advisory committee, and (*b*) such bodies as the Executive sees fit whose purposes include the provision of child care and family support services, and shall have regard to any views or information furnished by such committees or bodies in the preparation of the report.". (*d*) In subsection (4), substitute "The Health Service Executive" for "A health board".
8.	Section 9	(*a*) Delete subsection (1). (*b*) In subsection (2), substitute "Nothing in the *Health Act 2004* shall empower the Health Service Executive" for "Nothing in this section shall empower a health board".
9.	Section 10	(*a*) Substitute "The Health Service Executive" for "A health board" and "the Executive" for "the health board". (*b*) Renumber section 10 as section 10(1) and insert the following subsection: "(2) Assistance given under this section to a voluntary body or other person that is a service provider as defined in *section 2* of

Item	Provision affected	Amendment
		the *Health Act 2004* shall be deemed for the purpose of *Part 9* of that Act to have been given to the voluntary body or other person under *section 39* of that Act.".
10.	Section 11	In subsection (2), substitute "The Health Service Executive" for "A health board" and substitute "the Executive" for "the board".
11.	Section 12	(*a*) In subsection (1)(*b*), substitute "the Health Service Executive" for "a health board". (*b*) In subsection (3), substitute "Health Service Executive" for "health board for the area in which the child is for the time being". (*c*) In subsection (4), substitute "the Health Service Executive" for "a health board" and substitute "the Executive" for each reference to "the health board". (*d*) Insert the following subsection after subsection (4): "(5) Where a child was removed to safety in accordance with subsection (1) of this section or section 254(4) of the Children Act 2001 before the amendment of those provisions by the *Health Act 2004* and the child is not delivered up to the custody of the health board concerned before the establishment day of the Health Service Executive— (*a*) the child shall as soon as possible be delivered up to the custody of the Executive, and (*b*) subsection (4) of this section applies in relation to the child as though the child had been delivered up to the Executive in accordance with subsection (3) of this section.".
12.	Section 13	(*a*) In subsection (1), substitute "the Health Service Executive" for each reference to "a health board". (*b*) In subsection (2), substitute "the Health Service Executive" for "the health board for the area in which the child is for the time being". (*c*) In subsection (3), substitute "Health Service Executive" for "health board".
13.	Section 14	(*a*) In subsection (1), substitute "the Health Service Executive under this Part, the Executive" for "a health board under this Part, the board". (*b*) In subsection (2), substitute "the Health Service Executive" for "a health board".
14.	Section 15	Substitute "The Health Service Executive" for "A health board".
15.	Section 16	(*a*) Substitute "the Health Service Executive that a child" for "a health board with respect to a child who resides or is found in its area that he". (*b*) Substitute "Executive" for "health board".
16.	Section 17	(*a*) In subsection (1), substitute "the Health Service Executive" for "a health board" and substitute "the Executive" for "the health board". (*b*) In subsection (2), substitute "Health Service Executive" for each reference to "health board".
17.	Section 18	(*a*) In subsection (1), substitute "the Health Service Executive with respect to a child" for "a health board with respect to a child who resides or is found in its area".

Item	Provision affected	Amendment
		(*b*) In subsections (2) and (3), substitute "Health Service Executive" for "health board". (*c*) In subsections (4) and (5)(*b*), substitute "the Health Service Executive" for "a health board" and "the health board". (*d*) In subsections (7) and (8), substitute "Health Service Executive" for "health board".
18.	Section 19	(*a*) In subsection (1), substitute "the Health Service Executive with respect to a child" for "a health board, with respect to a child who resides in its area" and substitute "Health Service Executive" for "health board". (*b*) In subsections (2) to (5) and (7), substitute "the Health Service Executive" for each reference to "a health board", "the health board" or "the board".
19.	Section 20	(*a*) In subsection (1), substitute "the Health Service Executive" for "the health board for the area in which the child resides or is for the time being". (*b*) In subsection (2), substitute "Health Service Executive" for "health board". (*c*) In subsection (3), substitute "Health Service Executive" for "health board concerned". (*d*) In subsection (4), substitute "the Health Service Executive" for "a health board". (*e*) Insert the following subsection after subsection (4): "(5) Where, before the amendment of this section by the *Health Act 2004*, a health board was directed to undertake an investigation into a child's circumstances and the investigation has not been undertaken or all matters relating to or arising from the investigation have not been concluded before the establishment day of the Health Service Executive— (*a*) any direction given under this section by the court to the health board in respect of the child concerned shall be deemed to have been given to the Executive, (*b*) the investigation may be completed by the Executive, and (*c*) subsections (3) and (4) apply as though all of the investigation had been undertaken and completed by the Executive.".
20.	Section 23	(*a*) In paragraph (*a*), substitute "the Health Service Executive" for "a health board". (*b*) In paragraph (*b*), substitute "the Health Service Executive" for "the health board".
21.	Section 23A	(*a*) In subsection (1), substitute "the Health Service Executive that a child" for "a health board with respect to a child who resides or is found in its area that the child" and substitute "the Health Service Executive" for "the health board". (*b*) In subsection (2), substitute "the Health Service Executive" for "the health board". (*c*) In subsection (3), substitute "the Health Service Executive" for "a health board" and substitute "the Executive" for "the board".

Item	Provision affected	Amendment
		(*d*) Insert the following subsections after subsection (3): "(4) Where, before the amendment of this section by the *Health Act 2004*, a health board arranged for the convening of a family welfare conference in respect of a child but the health board did not apply for an order under this Part in respect of the child before the establishment day of the Health Service Executive, the Executive shall be deemed for the purpose of an application by it for such order in respect of the child to have complied with the requirement of subsection (1)(*a*). (5) Where, before the amendment of this section by the *Health Act 2004*, a health board sought the views of the Special Residential Services Board on the health board's proposal to apply for an order under this Part in respect of a child but the health board did not apply for the order before the establishment day of the Health Service Executive, the Executive shall be deemed for the purpose of an application by it for such order in respect of the child to have complied with the requirement of subsection (2)(*b*).".
22.	Section 23B	(*a*) In subsection (1), substitute "the Health Service Executive with respect to a child" for "a health board with respect to a child who is in its care or who resides or is found within its area". (*b*) In subsection (2), substitute "Health Service Executive" for "health board concerned" and for "health board". (*c*) In subsection (3), substitute "Health Service Executive" for "health board". (*d*) In subsection (4)(*b*), substitute "Health Service Executive" for "health board concerned". (*e*) In subsection (5), substitute "Health Service Executive" for "health board concerned" and substitute "it shall" for "the board shall". (*f*) In subsection (7), substitute "Health Service Executive" for "health board" and in paragraph (*a*) of that subsection substitute "as it" for "as the board".
23.	Section 23C	(*a*) In subsection (1), substitute "the Health Service Executive" for "a health board" and substitute the following paragraph for paragraph (*a*): "(*a*) That the Executive is complying with the requirements of section 23A(2) in relation to the making of an application for a special care order in respect of a child or is deemed under section 23A(4) and (5) to have complied with those requirements.". (*b*) In subsection (2)(*b*), substitute "Health Service Executive" for "health board". (*c*) In subsection (3), substitute "Health Service Executive" for "health board concerned".
24.	Section 23D	(*a*) In subsection (1), substitute "the Health Service Executive" for "a health board" and substitute "custody of the Executive and shall inform it" for "custody of the health board for the area in which the child normally resides and shall inform the board". (*b*) In subsection (2), substitute "the Health Service Executive" for each reference to "a health board" and to "the health board".

Item	Provision affected	Amendment
25.	Section 23E	In subsection (1), substitute "Health Service Executive" for "health board concerned".
26.	Section 23F	In subsection (2), substitute "the Health Service Executive" for each reference to "a health board" or to "the health board".
27.	Section 23J	Substitute "the Health Service Executive" for "a health board".
28.	Section 23K	(*a*) Substitute the following subsections for subsection (1): "(1) For the purposes of sections 23B and 23C, the Health Service Executive may, with the Minister's approval, provide special care units and maintain special care units whether provided by the Executive or provided by a health board before the establishment day of the Executive. (1A) The Health Service Executive may, subject to its available resources and any general directions issued by the Minister, make arrangements with a voluntary body or other person for the provision and operation of a special care unit by that body or person on behalf of the Executive. (1B) *Section 38(2)* to *(9)* of the *Health Act 2004* shall apply with the necessary modifications in respect of an arrangement under this section with a voluntary body or other person for the provision and operation of a special care unit and the body or person making such arrangement with the Health Service Executive is for the purpose of *Part 9* of that Act a service provider as defined in *section 2* of that Act.". (*b*) In subsection (2), substitute "the Health Service Executive" for "the health board". (*c*) In subsection (4), substitute "Health Service Executive" for "health board concerned". (*d*) Insert the following subsection after subsection (4): "(4A) A certificate issued by the Minister to a health board before the amendment of this section by the *Health Act 2004* shall be deemed to have been issued to the Health Service Executive.". (*e*) In subsection (6), substitute "the Health Service Executive" for "health boards". (*f*) In subsection (7)(*f*), substitute the following for subparagraph (i): "(i) in case the units were provided in accordance with an arrangement referred to in subsection (1A), the Health Service Executive, and". (*g*) Substitute the following subsection for subsection (8): "(8) Section 10(1) and (2) shall apply with any necessary modifications in relation to a voluntary body or other person with whom the Health Service Executive enters into an arrangement referred to in subsection (1A).". (*h*) In subsection (9), substitute "the Health Service Executive" for "a health board". (*i*) In subsection (10), substitute "subsection (1A)" for "subsection (1)(*b*)".
29.	Section 23O	(*a*) Substitute the following definition for the definition of "authorised officer":

Item	Provision affected	Amendment
		" 'authorised officer' means a person appointed by the Health Service Executive under section 23S;". (*b*) Delete the definition of "health board". (*c*) In the definition of "private foster care arrangement" in paragraphs (*b*) and (*h*), substitute "the Health Service Executive" for "a health board".
30.	Section 23P	(*a*) In subsections (1) and (2), substitute "Health Service Executive" for "health board". (*b*) Substitute the following subsection for subsection (3): "(3) Any person arranging or undertaking a private foster care arrangement before the establishment day of the Health Service Executive who has submitted to a health board before that day the information the health board required in relation to the arrangement or undertaking shall be deemed to have complied with subsection (1).".
31.	Section 23Q	(*a*) In subsection (1), substitute "Health Service Executive" for each reference to "health board". (*b*) In subsection (2), substitute "Health Service Executive" for "relevant health board" and substitute "the Executive" for "the health board".
32.	Section 23S	In subsection (1), substitute "The Health Service Executive shall appoint such and so many of its employees" for "A health board shall appoint such and so many of its officers".
33.	Section 23T	(*a*) In subsection (1), substitute "Health Service Executive" for "relevant health board". (*b*) In subsection (2), substitute "Health Service Executive" for "health board".
34.	Section 23U	Substitute "the Health Service Executive" for "a health board" and for "the health board".
35.	Section 23V	(*a*) In subsection (2)(*b*), substitute "Health Service Executive" for "relevant health board". (*b*) In subsection (3), substitute "Health Service Executive" for "health board".
36.	Section 23W	In subsection (1)(*a*) and (*d*), substitute "Health Service Executive" for "relevant health board".
37.	Section 23X	Substitute "the Health Service Executive" for "a health board".
38.	Section 25	(*a*) In subsection (4), substitute "Health Service Executive" for "health board concerned" and substitute "The Executive" for "The health board". (*b*) In subsection (5), substitute "the Health Service Executive" for "a health board" and substitute "the Executive" for "the board" and for "that board".
39.	Section 26	(*a*) In subsection (2), substitute "Health Service Executive" for "health board concerned" and for "health board". (*b*) In subsection (3), substitute "the Health Service Executive" for "a health board" and substitute "the Executive" for "the board" and for "that board".
40.	Section 34	In subsection (1), substitute "the Health Service Executive" for "a health board" and substitute "the Executive" for "the health board" and for "that board".

Item	Provision affected	Amendment
41.	Section 35	Substitute "the Health Service Executive" for "a health board" and for "the health board".
42.	Section 36	(*a*) In subsection (1), substitute— (i) "care of the Health Service Executive" for "care of a health board", (ii) "the Executive shall" for "the health board shall", (iii) "by the Executive" for "by a health board", and (iv) "as the Executive" for "as the health board". (*b*) In subsections (2) and (3), substitute "the Health Service Executive" for "a health board".
43.	Section 37	(*a*) In subsection (1), substitute "the Health Service Executive" for "a health board" and substitute "the Executive" for each reference to "the board". (*b*) In subsection (2), substitute "by the Health Service Executive under subsection (1) or by a health board under that subsection before the amendment of the subsection by the *Health Act 2004*" for "by a health board under subsection (1)". (*c*) In subsection (3), substitute "the Health Service Executive" for "a health board" and substitute "the Executive" for "the board".
44.	Section 38	(*a*) In subsections (1) and (2), substitute "The Health Service Executive" for "A health board". (*b*) In subsection (3), substitute "the Health Service Executive" for "health boards".
45.	Section 39	(*a*) In subsection (1), substitute "the Health Service Executive" for "health boards". (*b*) In subsection (2)(*b*) and (*c*), substitute "the Health Service Executive" for "a health board".
46.	Section 40	(*a*) In subsection (1), substitute "the Health Service Executive" for "health boards". (*b*) In subsection (2)(*b*) and (*c*), substitute "the Health Service Executive" for "a health board".
47.	Section 41	(*a*) In subsections (1) and (2)(*a*), substitute "the Health Service Executive" for "health boards". (*b*) In subsection (2)(*b*) and (*c*), substitute "the Health Service Executive" for "a health board".
48.	Section 42	(*a*) In subsection (1), substitute "the Health Service Executive" for "a health board". (*b*) In subsection (2)(*c*), substitute "Health Service Executive" for "board".
49.	Section 43	(*a*) Substitute the following subsection for subsection (1): "(1) The Health Service Executive may, in accordance with any regulations made by the Minister, remove a child in its care from the custody of any person with whom the child has been placed under section 36 before or after the amendment of that section by the *Health Act 2004*.".

Item	Provision affected	Amendment
		(*b*) In subsection (2), substitute "the Health Service Executive" for "a health board" and substitute "the Executive" for each reference to "the board". (*c*) In subsection (3), substitute "the Health Service Executive" for "a health board" and substitute "the Executive" for "the health board" and for "that board". (*d*) In subsection (5), substitute "the Health Service Executive" for "the board". (*e*) In subsection (6), substitute "the Health Service Executive" for "a health board".
50.	Section 44	(*a*) Substitute the following subsection for subsection (1): "(1) Where a child becomes adopted under the Adoption Acts 1952 to 1998 and the child was immediately before the adoption being maintained in foster care by a health board or the Health Service Executive with the adopter or adopters, the Health Service Executive may, subject to any general directions given by the Minister and subject to such conditions as the Executive sees fit, contribute to the child's maintenance as if the child continued to be in foster care.". (*b*) In subsection (2), substitute "the Adoption Acts 1952 to 1998" for "the Adoption Acts, 1952 to 1988".
51.	Section 45	(*a*) In subsection (1)(*a*) and (*b*), substitute "the Health Service Executive" for each reference to "a health board" and substitute "the Executive" for each reference to "the board". (*b*) In subsection (2), substitute "The Health Service Executive" for "A health board". (*c*) In subsection (3), substitute "the Health Service Executive" for "a health board". (*d*) In subsection (4), substitute "the Health Service Executive" for "a health board".
52.	Section 46	(*a*) In subsection (1), substitute "the Health Service Executive" for "a health board" and substitute "the Executive" for each reference to "the board". (*b*) In subsection (2), substitute "Health Service Executive" for "health board" and substitute "Executive" for "board". (*c*) Insert the following subsection after subsection (2): "(2A) A request made by a health board to the Garda Síochána under subsection (2) before the amendment of that subsection by the *Health Act 2004* shall be deemed to have been made by the Health Service Executive if the child in respect of whom the request was made is not delivered up to the health board before the establishment day of the Executive.". (*d*) In subsection (3), substitute "Health Service Executive" for "board". (*e*) In subsection (4), substitute "the Health Service Executive" for "a health board" and substitute "the Executive" for each reference to "the health board" or "that board".

Item	Provision affected	Amendment
		(*f*) In subsection (6), substitute "the Health Service Executive" for "the board".
53.	Section 47	Substitute "the Health Service Executive" for "a health board".
54.	Section 49	(*a*) In the definition of "pre-school service" substitute "the Health Service Executive" for "health boards". (*b*) Delete the definition of "relevant health board".
55.	Section 50	In subsection (2)(*b*) and (*c*), substitute "the Health Service Executive" for "health boards".
56.	Section 51	Substitute the following for section 51: "Notice to Health Service Executive. 51.—(1) A person who proposes to carry on a preschool service shall give notice to the Health Service Executive in the prescribed manner. (2) A person who, before the amendment of this section by the *Health Act 2004*, gave notice to a health board in the prescribed manner shall be deemed for the purposes of this Part to have given notice to the Health Service Executive.".
57.	Section 53	Substitute "The Health Service Executive" for "A health board" and delete "in its area".
58.	Section 54	(*a*) In subsection (1), substitute "The Health Service Executive shall appoint such and so many of its employees" for "A health board shall appoint such and so many of its officers". (*b*) In subsection (2), substitute "The Health Service Executive" for "A health board".
59.	Section 55	(*a*) In subsection (1), substitute "Health Service Executive" for "relevant health board". (*b*) In subsection (2), substitute "Health Service Executive" for "relevant health board" and substitute "Executive" for "health board".
60.	Section 56	(*a*) In subsection (1), substitute "The Health Service Executive" for "A health board" and delete "in its area". (*b*) In subsection (2), substitute "the Health Service Executive" for "health boards". (*c*) Substitute the following subsection for subsection (3): "(3) The Health Service Executive shall make available to any interested person information on pre-school services in any of its functional areas, whether those services are provided by the Executive or otherwise.".
61.	Section 59	(*a*) In the definition of "children's residential centre", substitute "in the care of the Health Service Executive" for "in the care of health boards" and substitute "the Health Service Executive" for "a health board". (*b*) Substitute the following definition for the definition of "register": " 'register' means a register of children's residential centres that is established or deemed to have been established by the Health

		Service Executive under section 61, and cognate words shall be construed accordingly;".
62.	Section 61	(*a*) Substitute the following for subsection (1): "(1) The Health Service Executive shall establish and maintain a register of children's residential services in each functional area of the Executive. (1A) For the purpose of subsection (1), each register of children's residential centres established by a health board before the amendment of this section by the *Health Act 2004* shall be deemed to have been established by the Health Service Executive and shall be maintained by the Executive.". (*b*) In subsection (3)(*a*), substitute "The Health Service Executive" for "A health board" and delete "in its functional area". (*c*) In subsection (3), insert the following paragraph after paragraph (*b*): "(*c*) An application for registration made to a health board before the amendment of this subsection by the *Health Act 2004* shall be deemed to have been made to the Health Service Executive if the health board has not, before the establishment day of the Executive, registered or refused to register the centre in relation to which the application was made.". (*d*) In subsection (4), substitute "The Health Service Executive" for "A health board". (*e*) In subsection (5), substitute "The Health Service Executive" for "A health board" and in paragraph (*b*)(iii) of that subsection substitute "Health Service Executive" for each reference to "board". (*f*) In subsection (6)(*a*), substitute "The Health Service Executive" for "A health board". (*g*) In subsection (6), insert the following paragraph after paragraph (*b*): "(6A) Conditions imposed, amended or revoked by a health board before the amendment of this subsection by the *Health Act 2004* shall be deemed to have been imposed, amended or revoked by the Health Service Executive.". (*h*) In subsection (8)(*a*), substitute "The Health Service Executive" for "A health board". (*i*) In subsection (8)(*b*), substitute "the Health Service Executive" for "a health board" and substitute "to the Executive" for "to the board". (*j*) In subsection (9), substitute "Health Service Executive" for "health board concerned" and substitute "if the Executive" for "if the board". (*k*) In subsection (10)(*a*)(ii), substitute "the Health Service Executive" for "the health board concerned". (*l*) In subsection (11)(*a*), substitute "the Health Service Executive" for "a health board".

		(*m*) In subsection (11)(*b*), substitute "Health Service Executive" for "health board concerned" and substitute "and the Executive" for "and the board". (*n*) In subsection (12), substitute "the Health Service Executive" for each reference to "a health board" or to "the board".
63.	Section 62	(*a*) In subsection (1), substitute "the Health Service Executive" for "a health board" and for "the health board". (*b*) In subsection (4), substitute "Health Service Executive" for "health board concerned" and for "health board". (*c*) In subsection (5), substitute "Health Service Executive" for "health board concerned".
64.	Section 63	(*a*) In subsection (2)(*f*), substitute "employees of the Health Service Executive" for "officers of health boards". (*b*) In subsection (2)(*g*), substitute "the Health Service Executive" for "a health board" and substitute "the Executive and its employees" for "the appropriate health boards and their officers". (*c*) In subsection (4)(*a*), substitute "Health Service Executive" for "health board concerned". (*d*) In subsection (5), substitute "the Health Service Executive or any of its employees" for each reference to "a health board or an officer of a health board".
65.	Section 65	(*a*) In subsection (1), substitute "Health Service Executive" for "health board for the area in which the centre is situated". (*b*) In subsection (2), substitute "The Health Service Executive" for "A health board". (*c*) Insert the following subsection after subsection (2): "(3) A notice given to a health board in accordance with subsection (1) before the amendment of that subsection by the *Health Act 2004* shall be deemed to have been given to the Health Service Executive.".
66.	Section 66	(*a*) Substitute the following subsection for subsection (1): "(1) An employee of a children's residential centre to which this section applies shall, for the purposes of *sections 23*, *60(6)* and *61* of the *Health Act 2004*, be deemed to be employed by the Health Service Executive.". (*b*) In subsection (2), substitute "Health Service Executive" for "health board for the area in which the centre is situated". (*c*) In subsection (3), substitute "the Health Service Executive" for each reference to "a health board".
67.	Section 69	(*a*) In subsection (1), substitute "the Health Service Executive" for "a health board" and substitute "the Executive" for "the health board". (*b*) In subsection (2), substitute "the Health Service Executive" for "a health board". (*c*) In subsection (4), substitute in paragraph (*a*) "the Health Service Executive" for "a health board" and substitute in paragraph (*b*) "employees of the Health Service Executive" for "such members of the staff of the board".

		(*d*) In subsection (5), substitute "the Health Service Executive" for each reference to "a health board".
68.	Section 70	(*a*) In subsection (1), substitute "Health Service Executive" for "health board". (*b*) In subsections (2) and (3), substitute "the Health Service Executive" for "a health board". (*c*) In subsection (4), substitute "the Health Service Executive" for "a health board" and substitute "the Executive" for "the board". (*d*) In subsection (5), substitute "the Health Service Executive" for "a health board".
69.	Section 71	In subsection (1), substitute "Health Service Executive" for "health board for the area in which the offence is alleged to have been committed".

PART 7

AMENDMENT OF FREEDOM OF INFORMATION ACT 1997

Item	Provision affected	Amendment
1.	Section 2	(*a*) In subsection (1) in the definition of "director", substitute "the Health Service Executive" for "health board". (*b*) In subsection (1) in the definition of "personal information" in subparagraph (ix), substitute "the Health Service Executive" for "a health board".
2.	Section 15	In subsection (2), substitute the following paragraph for paragraph (*c*): "(*c*) in the case of the Health Service Executive, 6 months after establishment day, and".
3.	Section 16	In subsection (2), substitute the following paragraph for paragraph (*c*): "(*c*) in the case of the Health Service Executive, 6 months after establishment day, and".
4.	Section 22	In subsection 1(*c*)(i), delete "a health board,".
5.	First Schedule	In paragraph 1(4), substitute "the Health Service Executive." for "a health board.".
6.	Third Schedule	(*a*) In Part 1, Column (2), insert " *Health Act 2004*. ". (*b*) In Part 1, Column (3), insert " *section 26*. " opposite the mention in Column (2) of the *Health Act 2004*.

PART 8

AMENDMENT OF EDUCATION ACT 1998

Item	Provision affected	Amendment
1.	Section 2	In subsection (1) in the definition of "school" substitute "the Health Service Executive" for "a health board".
2.	Section 6	In paragraph (*g*), substitute "the Health Service Executive" for "health boards".
3.	Section 7	(*a*) In subsection (5), substitute "the Health Service Executive." for "a relevant health board.". (*b*) In subsection (6), substitute "The Health Service Executive" for "A health board".
4.	Section 33	In paragraph (*j*)(iii), substitute the following subparagraph for subparagraph (iii): "(iii) the Health Service Executive, and".

PART 9

AMENDMENT OF PROTECTION FOR PERSONS REPORTING CHILD ABUSE ACT 1998

Item	Provision affected	Amendment
1.	Section 1	(*a*) In subsection (1), substitute the following definition for the definition of "designated officer": " 'designated officer' means an employee of the Health Service Executive appointed under section 2 of this Act to be a designated officer for the purposes of this Act;". (*b*) In subsection (1), delete the definition of "health board".
2.	Section 2	Substitute the following section for section 2: "(1) The Health Service Executive shall from time to time as occasion may require (including a case in which a direction is given under this section), appoint one or more employees of the Health Service Executive to be a designated officer or designated officers for the purposes of this Act; in making any such appointment the Health Service Executive shall comply with any direction under this section for the time being in force. (2) The Minister may give a direction in writing to the Health Service Executive requiring it to appoint to be designated officers each person falling within a category or categories of employee of the Health Service Executive specified in the direction. (3) The Minister may give a direction in writing to the Health Service Executive amending or revoking a direction given to it under this section (including a direction under this subsection).".

PART 10

AMENDMENT OF EDUCATION (WELFARE) ACT 2000

Item	Provision affected	Amendment
1.	Section 2	In subsection (1), delete the definition of "health board".

Item	Provision affected	Amendment
2.	Section 12	(*a*) In subsection (2), substitute "the Health Service Executive" for "a health board". (*b*) In subsection (6)(*g*), substitute "the Health Service Executive;" for "a health board;".
3.	Section 25	In subsection (8), substitute "the Health Service Executive." for "the health board of the area in which that parent resides.".

PART 11

AMENDMENT OF CHILDREN ACT 2001

Item	Provision affected	Amendment
1.	Section 3(1)	(*a*) Delete the definition of "area". (*b*) In the definition of "family welfare conference" substitute "the Health Service Executive" for "a health board". (*c*) In the definition of "guardian" substitute "the Health Service Executive" for "a health board".
2.	Section 7	(*a*) In subsection (1), substitute— (i) in paragraph (*a*), "the Health Service Executive" for "a health board", (ii) in paragraph (*b*), "to the Health Service Executive that a child may require" for "to a health board that a child who resides or is found in its area may require", and (iii) "the Health Service Executive shall" for "the health board shall". (*b*) In subsection (3), substitute "The Health Service Executive" for "A health board" and substitute "the Health Service Executive" for "the health board".
3.	Section 8	(*a*) In subsection (1)(*b*) and (*c*), substitute "Health Service Executive" for each reference to "health board concerned" and "health board". (*b*) In subsection (3), substitute "Health Service Executive" for "health board".
4.	Section 9	In subsection (1), substitute the following paragraph for paragraph (*e*): "(*e*) an employee or employees of the Health Service Executive;".
5.	Section 11	Substitute "The Health Service Executive" for "A health board".
6.	Section 12	(*a*) Substitute the following paragraph for paragraph (*e*): "(*e*) the Health Service Executive;". (*b*) In paragraph (*f*), substitute "Health Service Executive" for "health board".
7.	Section 13	(*a*) In subsection (1), substitute "Health Service Executive" for "health board concerned". (*b*) In subsection (2), substitute "Health Service Executive" for "health board".
8.	Section 15A	(*a*) Insert the following section in Part 2, after section 15:

Item	Provision affected	Amendment
		"Transitional provisions relating to *Health Act 2004*. 15A.—(1) In this section, a provisions reference to a provision of this Act is to that provision as it was before it was amended by the *Health Act 2004*. (2) Where a family welfare conference convened under section 7 on behalf of a health board has not discharged its functions before the establishment day of the Health Service Executive, the conference shall be deemed to have been convened on behalf of the Executive. (3) Where a direction given by a health board under section 7(3) to a family welfare conference is not complied with before the establishment day of the Health Service Executive, the direction shall be deemed to have been given to the Executive. (4) Where a recommendation has been made or a matter has been referred to a health board by a family welfare conference under section 8 and all matters relating to or arising from the conference proceedings relating to the child concerned have not been concluded under this Act or the Child Care Act 1991 before the establishment day of the Health Service Executive, the recommendation shall be deemed for the purposes of this Act and the Child Care Act 1991 to have been made or the matter referred to the Executive.".
9.	Section 32	In subsection (3), substitute the following for paragraph (*a*): "(*a*) the Health Service Executive;".
10.	Section 53	(*a*) In subsections (2) and (3), substitute "the Health Service Executive" for "the health board for the area in which the child normally resides". (*b*) In subsection (4), substitute "the Health Service Executive" for each reference to "a health board" or "the health board". (*c*) In subsection (5)(*b*), substitute "the Health Service Executive" for "a health board".
11.	Section 59	(*a*) In subsection (1), substitute "the Health Service Executive accordingly, and it shall" for "the health board for the area in which the station is located accordingly, and the health board shall". (*b*) In subsections (2), (3) and (4), substitute "Health Service Executive" for "health board", wherever occurring.
12.	Section 70	In subsection (1)(*b*), substitute "the Health Service Executive" for "a health board".
13.	Section 77	(*a*) In subsection (1)(*a*), substitute "the Health Service Executive" for "the health board for the area in which the child is for the time being residing". (*b*) In subsections (2) and (3), substitute "the Health Service Executive" for each reference to "a health board" or "the health board".
14.	Section 113	In subsection (8), substitute "the Health Service Executive" for "a health board".
15.	Section 114	In subsection (11), substitute "the Health Service Executive" for "a health board".

Item	Provision affected	Amendment
16.	Section 167	In subsection (4)(*b*), substitute "an employee of the Health Service Executive" for "an officer of a health board".
17.	Section 227	In subsection (1)(*e*), substitute "the Health Service Executive" for "a health board".
18.	Section 230	(*a*) In subsection (3)(*b*), substitute "Health Service Executive" for "chief executive officers of health boards". (*b*) Insert the following subsection after subsection (6): "(7) Representatives of a health board appointed as members of the Board before the establishment of the Health Service Executive, continue, subject to subsection (4), to hold that office but from the commencement of this subsection shall be deemed to be representatives of the Executive.".
19.	Section 254	In subsection (4)(*b*), substitute "the Health Service Executive" for "a health board".
20.	Section 268	Substitute "the Health Service Executive" for "a health board" and for "the health board".

PART 12

AMENDMENT OF MENTAL HEALTH ACT 2001

Item	Provision affected	Amendment
1.	Section 2	(*a*) In subsection (1), delete the definition of "functional area". (*b*) In subsection (1), delete the definition of "health board". (*c*) In subsection (1), in the definition of "consultant psychiatrist", substitute "the Health Service Executive" for "a health board".
2.	Section 9	(*a*) In subsection (7), substitute "a member of the Board of the Health Service Executive." for "a member of a health board.". (*b*) In subsection (8) in the definition of "authorised officer", substitute "the Health Service Executive" for "a health board".
3.	Section 23	(*a*) In subsection (2), substitute "the Health Service Executive." for "the health board for the area in which he or she is for the time being.". (*b*) In subsection (3), substitute "the Health Service Executive" for "the health board", wherever occurring.
4.	Section 25	(*a*) Substitute the following subsection for subsection (1): "(1) Where it appears to the Health Service Executive that— (*a*) a child is suffering from a mental disorder, and (*b*) the child requires treatment which he or she is unlikely to receive unless an order is made under this section, then, the Health Service Executive may make an application to the District Court ('the court') in the district court district where the child concerned resides or is found for an order authorising the detention of the child in an approved centre.".

Item	Provision affected	Amendment
		(*b*) In subsections (2) to (4), substitute "the Health Service Executive" for "a health board", wherever occurring. (*c*) In subsections (2) to (4), substitute "the Health Service Executive" for "the health board", wherever occurring. (*d*) In subsection (9), substitute "the Health Service Executive" for "the health board concerned". (*e*) In subsection (10), substitute "the Health Service Executive" for "a health board". (*f*) In subsection (11), substitute the following paragraph for paragraph (*a*): "(*a*) the child has been examined by a consultant psychiatrist who is not a relative of the child and a report of the results of the examination is furnished to the court by the Health Service Executive on the application by it to the court under subsection (9) or (10), as the case may be, and".
5.	Section 28	In subsection (4), substitute "the Health Service Executive" for "the relevant health board".
6.	Section 35	In subsection (2), substitute the following paragraph for paragraph (*h*): "(*h*) one shall be an employee of the Health Service Executive nominated by the Executive,".
7.	Section 48	In subsection (12), substitute "the Health Service Executive" for "a health board".

PART 13

AMENDMENT OF YOUTH WORK ACT 2001

Item	Provision affected	Amendment
1.	Section 20	Substitute the following subparagraph for sub paragraph (2)(*b*)(iv): "(iv) the Health Service Executive,".

PART 14

AMENDMENT OF EDUCATION FOR PERSONS WITH SPECIAL EDUCATIONAL NEEDS ACT 2004

Item	Provision affected	Amendment
1.	Section 1	In subsection (1), delete the definition of "health board".
2.	Section 4	(*a*) In subsections (1) and (3)(*a*), substitute "Health Service Executive" for "relevant health board". (*b*) In subsection (4), substitute "Health Service Executive" for "health board".

Item	Provision affected	Amendment
		(*c*) In subsection (5), substitute "The Health Service Executive" for "A health board". (*d*) In subsection (7), substitute "the Health Service Executive" for "a health board". (*e*) In subsection (8)(*a*), substitute "Health Service Executive" for "health board".
3.	Section 5	(*a*) In subsection (1), substitute "the Health Service Executive" for "the health board" and for "the board". (*b*) In subsection (2), substitute "The Health Service Executive" for "A health board". (*c*) In subsections (3), (4) and (6), substitute "Health Service Executive" for "health board" wherever occurring. (*d*) In subsection (8), substitute "the Health Service Executive" for "the health board" and for "the board".
4.	Section 6	(*a*) In subsection (2)(*a*), substitute "Health Service Executive" for "health board". (*b*) In subsection (3), substitute "the Health Service Executive" for "a health board".
5.	Section 7	(*a*) In subsection (1), substitute "Health Service Executive" for "relevant health board". (*b*) In subsection (2), substitute "the Health Service Executive" for "a health board". (*c*) In subsection (4), substitute "Health Service Executive" for "relevant health board" and for "health board" wherever occurring. (*d*) In subsection (5), substitute "the Health Service Executive" for "a health board" and for "the health board". (*e*) In subsection (6), substitute "Health Service Executive" for "relevant health board". (*f*) In subsections (7) and (8), substitute "the Health Service Executive" for "a health board".
6.	Section 8	In subsection (1), substitute "the Health Service Executive" for "a health board".
7.	Section 12	(*a*) In subsection (1)(*b*), substitute "the Health Service Executive" for "a health board". (*b*) In subsection (2)(*a*), substitute "Health Service Executive" for "relevant health board". (*c*) In subsection (3), substitute "the Health Service Executive" for "a health board".
8.	Section 16	Substitute "The Health Service Executive" for "A health board".
9.	Section 17	Substitute the following section: "Liaison officers. 17.—(1) The Council and the Health Service Executive shall designate one or more of its employees or officers, not below such rank as the Council after consulting with the Health Service Executive shall determine, to perform the following

Item	Provision affected	Amendment
		functions, namely to ensure, so far as practicable that— (*a*) the activities of the Council and those of the Health Service Executive, in so far as they relate to their respective functions under this Act, are coordinated, and (*b*) the policies of the Council and those of the Health Service Executive, in so far as they relate to their respective functions under this Act, are consistent. (2) Each employee or officer designated under subsection (1) shall be known as a liaison officer.".
10.	Section 20	In subsection (1)(*b*), substitute "the Health Service Executive" for "health boards".
11.	Section 39	(*a*) In subsection (1), substitute "the Health Service Executive" for "a health board". (*b*) In subsection (2), substitute "the Health Service Executive." for "the board concerned.". (*c*) In subsection (3), substitute "The Health Service Executive" for "A board of which a request under subsection (1) is made". (*d*) In subsection (4), substitute "the Health Service Executive" for "a board". (*e*) In subsection (5), substitute "the Health Service Executive" for "the board". (*f*) In subsection (6)(*a*), substitute "the Health Service Executive" for "the board concerned". (*g*) In subsection (7), substitute "The Health Service Executive" for "A health board".
12.	Section 41	In subsection (2), substitute "the Health Service Executive" for "health boards".

PART 15

AMENDMENT OF RESIDENTIAL TENANCIES ACT 2004

Item	Provision affected	Amendment
1.	Section 4	(*a*) In subsection (1), in the definition of "public authority", substitute the following paragraph for paragraphs (*d*) and (*e*): "(*d*) the Health Service Executive established under *section 6* of the *Health Act 2004*,". (*b*) In subsection (1) in paragraph (*f*) of the definition of "public authority", substitute "the Health Service Executive" for "a health board or an authority or board mentioned in paragraph (*e*) of this definition".

BAILE ÁTHA CLIATH

ARNA FHOILSIÚ AG OIFIG AN tSOLÁTHAIR

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HEALTH ACT 2004

REVISED

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About this Revised Act

This Revised Act presents the text of the Act as it has been amended since enactment, and preserves the format in which it was passed.

Related legislation

Child Care Acts 1991 to 2022: this Act, s. 75 is one of a group of Acts included in this collective citation to be construed together as one (*Child Care (Amendment) Act 2022* (21/2022), s. 13(2)). The Acts in this group are:

- *Child Care Act 1991* (17/1991)
- *Children Act 2001* (24/2001), Part 2 and s. 267
- *Health Act 2004* (42/2004), s. 75, in so far as it amends the *Child Care Acts 1991 and 2001*
- *Child Care (Amendment) Act 2007* (26/2007), s. 1(3) and Part 2 s. 21, in so far as it amends the *Child Care Acts 1991 and 2001*
- *Child Care (Amendment) Act 2011* (19/2011), other than ss. 27, 32, 33, 35, 36, 37 to 45, 47 and 49
- *Child Care (Amendment) Act 2013* (5/2013)
- *Children and Family Relationships Act 2015* (9/2015), s. 175
- *Child Care (Amendment) Act 2015* (45/2015), other than ss. 14 and 15
- *Child Care (Amendment) Act 2022* (21/2022), other than ss. 9 to 12

Children Acts 2001 to 2021: this Act, s. 75, is one of a group of Acts included in this collective citation to be construed together as one (*Children (Amendment) Act 2021* (6/2021), s. 2(2)). The Acts in this group are:

- *Children Act 2001* (24/2001)
- *Health Act 2004* (42/2004), s. 75, in so far as it amends the *Children Act 2001*
- *Criminal Justice Act 2006* (26/2006), Part 12
- *Child Care (Amendment) Act 2007* (26/2007), Part 3 (except s. 21)
- *Child Care (Amendment) Act 2011* (19/2011), ss. 27, 32, 33, 37 to 45 and 47
- *Children (Amendment) Act 2015* (30/2015), Parts 1 and 2
- *Children (Amendment) Act 2021* (6/2021)

Health Acts 1947 to 2022: this Act is one of a group of Acts included in this collective citation, to be construed together as one (*Health (Miscellaneous Provisions) (No. 2) Act 2022* (20/2022), s. 1(2)). The Acts in this group are:

- *Health Act 1947* (28/1947)
- *Health Act 1953* (26/1953) (citation only)

- *Health (Fluoridation of Water Supplies) Act 1960* (46/1960) (citation only)
- *Health Act 1970* (1/1970)
- *Misuse of Drugs Act 1977* (12/1977), s. 36 and s. 42 in so far as it amends the *Health Acts 1947 to 1970* (citation only)
- *Health (Family Planning) Act 1979* (20/1979)
- *Health (Amendment) Act 1986* (10/1986)
- *Health (Amendment) Act 1987* (3/1987)
- *Health (Nursing Homes) Act 1990* (23/1990)
- *Health (Amendment) Act 1991* (15/1991), other than s. 8
- *Health (Amendment) Act 1994* (11/1994)
- *Health (Amendment) Act 1996* (15/1996)
- *Health (Amendment) (No. 2) Act 1996* (23/1996)
- *Health (Amendment) (No. 3) Act 1996* (32/1996), other than ss. 21 and 22
- *Health (Provision of Information) Act 1997* (9/1997)
- *Health (Eastern Regional Health Authority) Act 1999* (13/1999)
- *Health (Miscellaneous Provisions) Act 2001* (14/2001), except in so far as it relates to the *Tobacco (Health Promotion and Protection) Act 1988* (citation only)
- *Health Act 2004* (42/2004)
- *Health (Amendment) Act 2005* (3/2005), in so far as it amends the *Health Acts 1947 to 2004*
- *Irish Medicines Board (Miscellaneous Provisions) Act 2006* (3/2006), Part 5
- *Health (Repayment Scheme) Act 2006* (17/2006)
- *Hepatitis C Compensation Tribunal (Amendment) Act 2006* (22/2006), except s. 6
- *Health (Nursing Homes) (Amendment) Act 2007* (1/2007)
- *Health Act 2007* (23/2007)
- *Medical Practitioners Act 2007* (25/2007), s. 57(9) (citation only)
- *Health Act 2008* (21/2008)
- *Health (Miscellaneous Provisions) Act 2009* (25/2009), s. 64
- *Health (Amendment) Act 2010* (15/2010) (citation only)
- *Health (Amendment) (No. 2) Act 2010* (20/2010)
- *Child Care (Amendment) Act 2011* (19/2011), ss. 35 and 36 (citation only)
- *Health (Alteration of Criteria for Eligibility) Act 2013* (10/2013)
- *Health (Pricing and Supply of Medical Goods) Act 2013* (14/2013), s. 30 (citation only)
- *Health Service Executive (Governance) Act 2013* (23/2013)
- *Health (Alteration of Criteria for Eligibility) (No. 2) Act 2013* (42/2013) (citation only)
- *Local Government Reform Act* (1/2014), the amendment to the *Health (Fluoridation of Water Supplies) Act 1960* provided for in section 5 (6) and sch. 2, part 6.
- *Health Service Executive (Financial Matters) Act 2014* (17/2014)
- *Health (General Practitioner Service) Act 2014* (28/2014)
- *Health (General Practitioner Service) Act 2015* (19/2015)
- *Health (General Practitioner Service) Act 2018* (13/2018)
- *Health Service Executive (Governance) Act 2019* (17/2019), other than Part 3
- *Health (General Practitioner Service and Alteration of Criteria for Eligibility) Act 2020* (11/2020)
- *Withdrawal of the United Kingdom from the European Union (Consequential Provisions) Act 2020* (23/2020), Part 2 (s. 5)
- *Health (Miscellaneous Provisions) (No. 2) Act 2022* (20/2022), other than s. 7

Acts previously included in the group but now repealed are:

- *Health Act 1954* (23/1954)
- *Health and Mental Treatment Act 1957* (16/1957), s. 1
- *Health and Mental Treatment (Amendment) Act 1958* (37/1958), s.1
- *Health (Homes For Incapacitated Persons) Act 1964* (8/1964)
- *Health and Mental Treatment (Amendment) Act 1966* (2/1966), s. 1
- *Health (Mental Services) Act 1981* (17/1981)
- *Health (Family Planning) (Amendment) Act 1985* (4/1985)
- *Health (Amendment) Act 2004* (19/2004)
- *Withdrawal of the United Kingdom from the European Union (Consequential Provisions) Act 2019* (8/2019), Part 2 (s. 4)

Annotations

This Revised Act is annotated and includes textual and non-textual amendments, statutory instruments made pursuant to the Act and previous affecting provisions.

An explanation of how to read annotations is available at www.lawreform.ie/annotations.

Material not updated in this revision

Where other legislation is amended by this Act, those amendments may have been superseded by other amendments in other legislation, or the amended legislation may have been repealed or revoked. This information is not represented in this revision but will be reflected in a revision of the amended legislation if one is available.

Where legislation or a fragment of legislation is referred to in annotations, changes to this legislation or fragment may not be reflected in this revision but will be reflected in a revision of the legislation referred to if one is available.

A list of legislative changes to any Act, and to statutory instruments from 1972, may be found linked from the page of the Act or statutory instrument at www.irishstatutebook.ie.

Acts which affect or previously affected this revision

- *Health (Miscellaneous Provisions) Act 2022* (6/2022)
- *Health Service Executive (Governance) Act 2019* (17/2019)
- *Data Protection Act 2018* (7/2018)
- *Workplace Relations Act 2015* (16/2015)
- *Freedom of Information Act 2014* (30/2014)
- *Health Service Executive (Financial Matters) Act 2014* (17/2014)
- *Protected Disclosures Act 2014* (14/2014)
- *Local Government Reform Act 2014* (1/2014)
- *Child and Family Agency Act 2013* (40/2013)
- *Health Service Executive (Governance) Act 2013* (23/2013)
- *Nurses and Midwives Act 2011* (41/2011)
- *Child Care (Amendment) Act 2011* (19/2011)
- *Civil Partnership and Certain Rights and Obligations of Cohabitants Act 2010* (24/2010)
- *Health (Amendment) Act 2010* (15/2010)
- *Nursing Homes Support Scheme Act 2009* (15/2009)
- *Health (Miscellaneous Provisions) Act 2007* (42/2007)
- *Medical Practitioners Act 2007* (25/2007)
- *Health Act 2007* (23/2007)
- *Health (Nursing Homes) (Amendment) Act 2007* (1/2007)

All Acts up to and including *Criminal Justice (Mutual Recognition of Custodial Sentences) Act 2023* (3/2023), enacted 1 March 2023, were considered in the preparation of this revision.

Statutory instruments which affect or previously affected this revision

- *Specialist Community-Based Disability Services (Transfer of Departmental Administration and Ministerial Functions) Order 2022* (S.I. No. 688 of 2022)
- *Health Act 2004 (Section 40H) (Relevant Day) Order 2019* (S.I. No. 412 of 2019)
- *Health Act 2004 (Complaints) (Amendment) Regulations 2018* (S.I. No. 519 of 2018)
- *Commission of Investigation (Certain matters relative to a disability service in the South East and related matters) Order 2017* (S.I. No. 96 of 2017)
- *Local Government (Performance of Reserved Functions in Respect of Municipal District Members) Regulations 2014* (S.I. No. 231 of 2014)
- *Finance (Transfer of Departmental Administration and Ministerial Functions) (No. 2) Order 2011* (S.I. No. 480 of 2011)
- *Finance (Transfer of Departmental Administration and Ministerial Functions) Order 2011* (S.I. No. 418 of 2011)
- *Health Service Executive Employee Superannuation Scheme 2010* (S.I. No. 362 of 2010)

- *Health Act 2004 (National Health Consultative Forum) Order 2006* (S.I. No. 333 of 2006)
- *Health Act 2004 (Complaints) Regulations 2006* (S.I. No. 652 of 2006)
- *Health Act 2004 (Commencement) Order 2006* (S.I. No. 651 of 2006)
- *Mental Health Act 2001 (Approved Centres) Regulations 2006* (S.I. No. 551 of 2006)
- *Health Act 2004 (National Health Consultative Forum Appointment of Members) Order 2006* (S.I. No. 479 of 2006)
- *Health Act 2004 (Dealings with members of either House of the Oireachtas) Regulations 2005* (S.I. No. 798 of 2005)
- *Health Act 2004 (Regional Health Forums) Regulations 2005* (S.I. No. 797 of 2005)
- *Health Act 2004 (Commencement) Order 2005* (S.I. No. 796 of 2005)
- *Health Act 2004 (Commencement) (No. 2) Order 2004* (S.I. No. 887 of 2004)
- *Health Act 2004 (Commencement) Order 2004* (S.I. No. 886 of 2004)
- *Health Act 2004 (Establishment Day) Order 2004* (S.I. No. 885 of 2004)
- *National Breast Screening Board (Establishment) Order 2004* (S.I. No. 891 of 2004)

All statutory instruments up to and including *Appointment of Special Advisers (Minister for Children, Equality, Disability, Integration and Youth) Order 2023* (S.I. No. 115 of 2023), made 28 February 2023, were considered in the preparation of this revision.