Changes to Legislation: as of 13 October 2026, this Act is up to date with all changes known to be in force.

Number 23 *of* 2013

HEALTH SERVICE EXECUTIVE (GOVERNANCE) ACT 2013

REVISED

Updated to 28 June 2019

This Revised Act is an administrative consolidation of the *Health Service Executive (Governance) Act 2013*. 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 *Health Service Executive (Governance) Act 2019* (17/2019), enacted 5 June 2019, and all statutory instruments up to and including the *Health Service Executive (Governance) Act 2019 (Commencement) Order 2019* (S.I. No. 283 of 2019), made 27 June 2019, were considered in the preparation of this Revised Act.

Disclaimer: While every care has been taken in the preparation of this Revised Act, the Law Reform Commission can assume no responsibility for and give no guarantees, undertakings or warranties concerning the accuracy, completeness or up to date nature of the information provided and does not accept any liability whatsoever arising from any errors or omissions. Please notify any errors, omissions and comments by email to revisedacts@lawreform.ie.

Number 23 *of* 2013

HEALTH SERVICE EXECUTIVE (GOVERNANCE) ACT 2013

REVISED

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ARRANGEMENT OF SECTIONS

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Number 23 *of* 2013

HEALTH SERVICE EXECUTIVE (GOVERNANCE) ACT 2013

REVISED

Updated to 28 June 2019

AN ACT TO AMEND THE HEALTH ACT 2004 AND TO PROVIDE FOR RELATED MATTERS.

[3*rd July*, 2013]

BE IT ENACTED BY THE OIREACHTAS AS FOLLOWS:

PART 1

Preliminary Matters

Short title, collective citation, construction and commencement.

1.— (1) This Act may be cited as the Health Service Executive (Governance) Act 2013.

(2) The Health Acts 1947 to 2011 and this Act may be cited together as the Health Acts 1947 to 2013 and shall be construed together as one.

(3) This Act shall come into operation on such day or days as the Minister may appoint by order or orders either generally or with reference to any particular purpose or provision and different days may be so appointed for different purposes or provisions.

Definitions.

2.— In this Act—

"Act of 2004" means the Health Act 2004;

"Minister" means the Minister for Health.

Repeals.

3.— Parts 3 and 4, and sections 68 and 69, of the Act of 2004 are repealed.

PART 2

Amendment of Health Act 2004

Amendment of section 2 of Act of 2004.

4.— Section 2(1) of the Act of 2004 is amended by inserting the following:

" 'appointed director' means a member of the Directorate appointed under section 16A;

'Directorate' means the Directorate established under section 16A;

'Director General' means the person holding the office ofDirector General appointed pursuant to section 16E;".

Amendment of section 10 of Act of 2004.

5.— Section 10 of the Act of 2004 is amended—

(*a*) by substituting the following for subsection (1):

"(1) The Minister may issue general written directions to the Executive—

(*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 that the Executive is not having sufficient regard to such policy or objective in the performance of its functions.",

and

(*b*) by inserting the following subsection after subsection (6):

"(7) The Director General shall inform the Minister of the measures taken by the Executive 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.".

Insertion of sections 10A and 10B in Act of 2004.

6.— The Act of 2004 is amended by inserting, after section 10, but in Part 2, the following new sections:

"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) The Minister shall consult with the Minister for Children and Youth Affairs before specifying priorities or performance targets in respect of functions of the Executive which relate to the functions of the Minister for Children and Youth Affairs.

(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.

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 Director General relating to functions referred to in paragraphs (*a*) to (*c*).".

Insertion of Part 3A in Act of 2004.

7.— The Act of 2004 is amended by inserting the following Part after Part 3:

"PART 3A

DIRECTORATE AND DIRECTOR GENERAL OF HEALTH SERVICE EXECUTIVE

Directorate of Executive.

16A.— (1) The Executive shall have a Directorate consisting of—

(*a*) the person holding the position of the Director General, and

(*b*) subject to subsection (2), such other number of directors (in this Act referred to as 'appointed directors') as the Minister may appoint in accordance with this Act.

(2) Subject to section 16K(10), the number of persons standing appointed to the Directorate as appointed directors at any time shall not be fewer than 2 and shall not be greater than 8.

(3) A person may not be appointed as an appointed director unless he or she is a person who is an employee of the Executive holding the grade of national director or other grade in the Executive which is not less senior than the grade of national director.

(4) An appointed director shall hold office as a member of the Directorate on such terms and conditions as the Minister, with the consent of the Minister for Public Expenditure and Reform, may determine.

(5) For the purposes of subsection (3) and section 16B(4), a person shall be considered as holding the grade of national director or other grade in the Executive which is not less senior than the grade of national director, where that person stands appointed to a post at such grade on a temporary or acting basis for so long as that appointment subsists.

Term of office of appointed director.

16B.— (1) Subject to this Act, a person appointed as an appointed director shall hold office as a member of the Directorate for a term of 3 years.

(2) An appointed director may be re-appointed by the Minister for a second or subsequent term of office.

(3) An appointed director may resign from office as a member of the Directorate by letter addressed to the Minister, and the resignation shall have effect on the later of—

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

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

(4) Upon an appointed director ceasing to be employed by the Executive in a grade referred to in section 16A(3), that person shall cease to be an appointed director.

Role of Directorate.

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

(2) Subject to any directions that may be issued by the Minister under subsection (8), the Directorate may delegate to the Director General any of the Executive's functions.

(3) If a function of the Executive is delegated to the Director General under subsection (2), the delegation shall remain in force until the Directorate revokes the delegation.

(4) The Directorate shall notify the Minister in writing of any delegation made under subsection (2) and of any revocation of such delegation.

(5) The Directorate is accountable to the Minister for the performance of its functions and those of the Executive and the Director General shall account to the Minister on behalf of the Directorate for the performance by the Directorate of its functions and those of the Executive.

(6) The Director General shall account to the Minister pursuant to subsection (5) through the Secretary General of the Department of Health.

(7) The Directorate shall inform the Minister of any matter which it considers should be brought to the attention of the Minister.

(8) The Minister may issue a direction to the Directorate in relation to the delegation of the Executive's functions to the Director General.

Appointed directors — eligibility for appointment and removal from office.

16D.— (1) A person shall not be eligible for appointment as an appointed director if the person:

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

(*b*) is a member of a local authority,

(*c*) has been convicted on indictment of an indictable offence, or

(*d*) has been convicted of an offence involving dishonesty.

(2) A person shall cease to be an appointed director if that person—

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

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

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

(*d*) becomes a member of a local authority,

(*e*) is convicted on indictment of an indictable offence, or

(*f*) is convicted of an offence involving dishonesty.

(3) The Minister may at any time remove an appointed director from office as a member of the Directorate if—

(*a*) in the Minister's opinion, the person has become incapable through ill-health of effectively performing his or her duties as an appointed director,

(*b*) in the Minister's opinion, the appointed director has committed stated misbehaviour,

(*c*) the removal of the person as an appointed director appears to the Minister to be necessary for the Directorate to perform its functions in an effective manner,

(*d*) in performing functions as appointed director the appointed director has contravened section 25(1) or 26 or an applicable provision of the Ethics in Public Office Act 1995, or

(*e*) in performing functions as an appointed director the person has failed to comply with a code of conduct drawn up pursuant to section 10(3) of the Standards in Public Office Act 2001 and which relates to the appointed director.

(4) In this section 'applicable provision of the Ethics in Public Office Act 1995', in relation to an appointed director, means a provision of that Act that by virtue of a regulation made under section 3 of that Act applies to the appointed director.

Appointment of Director General.

16E.— (1) The Director General shall be appointed by the Minister.

(2) Subject to subsection (4), a person appointed as Director General shall be recruited in accordance with the Public Service Management (Recruitment and Appointments) Act 2004.

(3) A person appointed as Director General shall hold office on such terms and conditions (including terms and conditions relating to remuneration, allowances and superannuation) as the Minister, with the consent of the Minister for Public Expenditure and Reform, may determine.

(4) Subsection (2) does not apply to the appointment of the first Director General.

Eligibility for appointment as Director General.

16F.— (1) A person shall not be eligible for appointment as Director General if the person—

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

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

(*c*) is a member of a local authority,

(*d*) has been convicted on indictment of an indictable offence, or

(*e*) has been convicted of an offence involving dishonesty.

(2) A person shall cease to hold the office of Director General if that person—

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

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

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

(*d*) becomes a member of a local authority,

(*e*) is convicted on indictment of an indictable offence, or

(*f*) is convicted of an offence involving dishonesty.

(3) The Minister may at any time remove the Director General from office if—

(*a*) in the Minister's opinion, that person has become incapable through ill-health of effectively performing his or her duties as Director General,

(*b*) in the Minister's opinion, the Director General has committed stated misbehaviour,

(*c*) the removal of the Director General appears to the Minister to be necessary for the Executive to perform its functions in an effective manner,

(*d*) in the Minister's opinion, the Director General has consistently failed to have regard to requirements in relation to his or her functions under this Act,

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

(*f*) in performing his or her functions as Director General the person has failed to comply with a code of conduct drawn up pursuant to section 10(3) of the Standards in Public Office Act 2001 and which relates to the Director General.

(4) In this section 'applicable provision of the Ethics in Public Office Act 1995' in relation to the Director General, means a provision of that Act that by virtue of a regulation made under section 3 of that Act applies to the Director General.

General functions of Director General.

16G.— (1) In addition to his or her functions as a member of the Directorate and as the chairperson of the Directorate, the Director General shall—

(*a*) carry on, manage and control generally the administration and business of the Executive,

(*b*) perform such other functions as may be delegated to him or her by the Directorate under section 16C,

(*c*) perform such other functions as may be assigned to him or her under this Act or any other enactment.

(2) Subject to subsection (3), the Director General shall be responsible to the Directorate for the performance of his or her functions under paragraphs (*a*) to (*c*) of subsection (1) and for the implementation of the Directorate's policies.

(3) Subsection (2) does not apply to the Director General's functions as a member of the Directorate or as chairperson of the Directorate.

(4) Where the Director General is absent the functions of the Director General referred to in subsection (1) may be performed by such appointed director as may be designated by the Director General from time to time, with the consent of the Minister, and where no such designation has been made, and the Director General is unable by reason of his or her ill health to make such a designation, by the Minister.

(5) If the office of Director General is vacant, the functions of the Director General referred to in subsection (1) may be performed by such appointed director as may be designated by the Minister for the purposes of this subsection.

(6) For the purposes of subsections (4) and (5), where in this Act or in any other enactment functions are assigned to the Director General or provision is made in this Act or in such enactment as to the manner in which a function so assigned is to be performed by the Director General any such reference to the Director General shall be construed as including a reference to the appointed director designated by the Director General or the Minister under subsection (4) or, as the case may be, the Minister under subsection (5) for so long as that appointed director stands so designated and entitled to perform the functions of the Director General.

(7) Where the Director General resumes duty the person designated under subsection (4) shall cease to perform the functions of the Director General.

Delegation of functions by Director General.

16H.— (1) Subject to any directions that may be issued by the Directorate, the Director General may—

(*a*) delegate in writing any of his or her functions under section 16G to employees of the Executive specified by name, grade, position or otherwise, and

(*b*) where and to the extent specified in a delegation made under paragraph (*a*), authorise the subdelegation of any or all of the functions delegated under paragraph (*a*) to or by other employees of the Executive.

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

(*a*) in the case of a delegated function, the Director General, or

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

(3) The delegation or subdelegation of a function does not preclude the Director General from performing the function.

(4) The Director General may—

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

(*b*) revoke such 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 Director General shall 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 vary the subdelegation, including by modifying the geographical area to which it relates,

(*b*) may revoke the subdelegation, and

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

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

Attendance by Director General before Oireachtas Committees.

16I.— (1) Subject to subsection (2), the Director General shall, at the written request of an Oireachtas Committee, attend before it to give an account of the general administration of the Executive.

(2) The Director General is not required to give an account before any Oireachtas Committee of any matter relating to the general administration of the Executive that is, or is likely to be, the subject of proceedings before a court or tribunal in the State.

(3) The Director General shall, if of the opinion that subsection (2) applies to a matter about which the Director General is requested to give an account before an Oireachtas Committee, inform the Committee of that opinion and the reasons for that opinion.

(4) The reasons for the Director General forming the opinion referred to in subsection (3) shall be given to the Oireachtas Committee in writing unless the matter arises when the Director General is appearing before the Committee.

(5) If, on being informed of the Director General's opinion about the matter, the Oireachtas Committee decides not to withdraw its request, the High Court may, on application being made to it under subsection (6), determine whether subsection (2) applies to the matter.

(6) An application for a determination under subsection (5) may be made in a summary manner to the High Court by—

(*a*) the Director General not later than 21 days after being informed by the Oireachtas Committee of its decision not to withdraw its request, or

(*b*) the chairperson of the Oireachtas Committee acting on behalf of the Committee.

(7) Pending the determination of an application under subsection (6), the Director General shall not attend before the Oireachtas Committee to give an account of the matter to which the application relates.

(8) If the High Court determines that subsection (2) applies to the matter, the Oireachtas Committee shall withdraw its request relating to the matter, but if the High Court determines that subsection (2) does not apply, the Director General shall attend before the Committee to give an account of the matter.

(9) In carrying out his or her duties under this section, the Director General 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.

(10) With the permission of the chairperson of the Oireachtas Committee making the request under subsection (1), an appointed director or any other employee of the Executive nominated by the Director General may attend before the Committee in place of the Director General to give an account of the general administration of the Executive, and in such event a reference in subsections (2) to (9) to the Director General shall be read as a reference to the person attending in his or her place.

(11) In this section 'Oireachtas Committee' means—

(*a*) a committee appointed by either House of the Oireachtas or jointly by both Houses of the Oireachtas (other than the Committee of Public Accounts, the Committee on Members' Interests of Dáil Éireann, or the Committeeon Members' Interests of Seanad Éireann), or

(*b*) a subcommittee of a committee falling under paragraph (*a*).

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

16J.— (1) Notwithstanding his or her functions as an appointed director, an appointed director shall be accountable to the Director General for the performance of his or her functions as an employee of the Executive.

(2) Nothing in subsection (1) shall be construed as affecting the functions of an appointed director as a member of the Directorate.

16K.— (1) Subject to subsection (2), the Directorate shall hold such number of meetings as it considers necessary to perform its functions.

(2) The Directorate shall meet at least once in each of 11 months of a year.

Meetings and procedure of Directorate.

(3) The Director General may at any reasonable time call a meeting of the Directorate.

(4) Any 2 appointed directors may call a meeting of the Directorate where a request in writing for a meeting of the Directorate to be called, signed by not less than 2 appointed directors, has been made to the Director General and the Director General—

(*a*) refuses to call such a meeting, or

(*b*) has not called a meeting within 7 days of having been requested to do so pursuant to this subsection.

(5) At a meeting of the Directorate—

(*a*) the Director General, if present, shall chair the meeting,

(*b*) if and for so long as the Director General is not present, or if that office is vacant, the appointed director designated by the Director General or the Minister under section 16G(4) or, as the case may be, the appointed director designated by the Minister for the purposes of section 16G(5) shall, if present, chair the meeting, or

(*c*) in any other case, the appointed directors who are present at the meeting shall choose one of their number to chair the meeting.

(6) Subject to subsection (8), the Director General and each appointed director shall each have one vote at a meeting of the Directorate.

(7) Subject to subsection (8), each question at a meeting of the Directorate shall be determined by a majority of the votes of the members of the Directorate present and voting on the question.

(8) In the case of an equal division of votes, the Director General or other appointed director chairing the meeting shall have a second or casting vote.

(9) A meeting of the Directorate shall not be quorate unless at least half of the persons who for the time being are members of the Directorate are in attendance at the meeting.

(10) The Directorate may perform its functions notwithstanding that there is a vacancy in the office of Director General or a vacancy or vacancies in the offices of appointed directors.

(11) Subject to this Act, the Directorate shall regulate its own procedures and business.

Vacancies in membership of Directorate.

16L.— (1) Where a vacancy occurs in the office of Director General, the Minister shall, as soon as may be, take steps to fill the vacancy.

(2) Notwithstanding section 16A(3), where by reason of an extended absence by an appointed director there are not, in the opinion of the Minister, a sufficient number of appointed directors of the Directorate available to enable the Directorate to perform its functions effectively, the Minister may appoint a person who is an employee of the Executive (whether or not holding a grade referred to in section 16A(3)) to act as a temporary appointed director of the Directorate.

(3) A person appointed under subsection (2) shall not be appointed for a term of more than 6 months and may not be reappointed more than 3 times.

(4) Where the appointed director in whose place the appointment was made under subsection (2) resumes duty as an appointed director, the person appointed under subsection (2) shall cease to be a member of the Directorate.

Committees of Directorate.

16M.— (1) The Directorate may from time to time establish such committees as it considers necessary for the purposes of providing assistance and advice to it in relation to the performance of its functions and may determine the membership and terms of reference of each such committee.

(2) The Directorate may appoint persons to a committee established under subsection (1) who are not members of the Directorate.

(3) The persons who may be appointed to a committee established under this section are persons who, in the opinion of the Directorate, have knowledge and experience of the matters falling within the terms of reference of the committee.

(4) The appointment of a person to a committee established under this section shall be subject to such terms and conditions as may be determined—

(*a*) by the Minister, with the consent of the Minister for Public Expenditure and Reform, insofar as those terms and conditions relate to allowances for expenses, and

(*b*) by the Executive, insofar as those terms and conditions do not relate to allowances for expenses.

(5) The acts of a committee are subject to confirmation by the Directorate, unless the Directorate dispenses with the necessity for confirmation.

(6) The Directorate may determine procedures for the conduct of the business and meetings of any committee established under this section, but subject to any such procedures which apply to the committee concerned, the committee shall regulate its own procedures.

(7) The Directorate may at any time dissolve a committee established under this section.

(8) This section does not apply to an audit committee established under section 40H.".

Amendment of section 23 of Act of 2004.

8.— Section 23 of the Act of 2004 is amended by substituting "the Director General" for "the chief executive officer" wherever it occurs.

Amendment of section 25 of Act of 2004.

9.— Section 25 of the Act of 2004 is amended—

(*a*) by substituting the following for subsection (1):

"(1) In performing functions under this Act or any other enactment as—

(*a*) an appointed director or a member of a committee of the Directorate (including the audit committee),

(*b*) Director General,

(*c*) an employee of the Executive,

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

(*e*) a person employed by a person referred to in paragraph (*d*),

a person shall maintain proper standards of integrity, conduct and concern for the public interest.",

(*b*) in subsection (2), by substituting "paragraph (*d*)" for "paragraph (*c*)",

(*c*) by substituting the following for subsection (3):

"(3) For the purposes of subsection (1), the Directorate 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.",

and

(*d*) in subsection (6), by substituting "subsection (1)(*d*)" for "subsection (1)(*c*)".

Amendment of section 26 of Act of 2004.

10.— Section 26 of the Act of 2004 is amended by substituting the following for subsections (1) and (2):

"(1) Except in the circumstances specified in subsection (2), a person shall not disclose confidential information obtained while performing functions as—

(*a*) an appointed director or a member of a committee of the Directorate,

(*b*) Director General,

(*c*) an employee of the Executive,

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

(*e*) a person employed by a person referred to in paragraph (*d*).

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

(*a*) the Executive authorises its disclosure,

(*b*) the disclosure is made to the Directorate,

(*c*) the disclosure is made to the Minister by or on behalf of the Executive or in compliance with a requirement of this Act,

(*d*) the disclosure is otherwise required by law, or

(*e*) the disclosure is a protected disclosure under Part 9A.".

Amendment of section 27 of Act of 2004.

11.— Section 27 of the Act of 2004 is amended—

(*a*) in subsection (1), by substituting "A member of a committee of the Directorate" for "An appointed member of the Board or a member of a committee of the Board", and

(*b*) in subsection (2), by substituting "Director General" for "chief executive officer".

Amendment of section 31 of Act of 2004.

12.— The Act of 2004 is amended by substituting the following for section 31:

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

31.— (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, and

(*b*) adopt the plan so prepared and submit it to the Minister for approval.

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

(*a*) the period ending 21 days after the publication by the Government of the Estimates for Supply Services for that financial year, or

(*b*) such other period as the Minister may allow.

(3) The Minister 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,

(*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,

(*f*) be consistent with any directions issued by the Minister under section 10, and

(*g*) accord with the policies and objectives of the Minister 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, and

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

(6) If the Executive fails to submit a service plan to the Minister before the expiry of the period referred to in subsection (2), the Minister may in writing issue a direction to the Director General directing the Director General to prepare and submit a service plan to him or her within 10 days of the issue of the direction under this subsection.

(7) A service plan submitted to the Minister by the Director General in compliance with subsection (6) shall be deemed to have been prepared, adopted and submitted by the Executive.

(8) Not later than 21 days after receiving a service plan under this section, the Minister shall, having consulted with the Minister for Children and Youth Affairs—

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

(*b*) approve the service plan with such amendments as the Minister, having consulted with the Executive, may determine, or

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

(9) The Minister may, after consulting with the Minister for Children and Youth Affairs, direct the Executive to amend a service plan submitted under this section if, in the opinion of 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

(*d*) does not accord with the policies and objectives of the Minister, the Minister for Children and Youth Affairs or the Government to the extent that 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 may refuse to approve a service plan unless it is amended in accordance with a direction issued under subsection (9).

(11) The Director General shall comply with a direction issued to him or her under this section.

(12) The Executive shall submit to the Minister with the service plan a statement of its estimate of the income and expenditure relating to the plan and that estimate shall be consistent with the Vote for the Executive as published by the Government in the Estimates for Supply Services.

(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.

(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.".

Amendment of section 32 of Act of 2004.

13.— The Act of 2004 is amended by substituting the following for section 32:

"Amendment of approved service plan.

32.— (1) After approving a service plan, 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.

(2) The Executive may amend an approved service plan.

(3) If the Minister directs the Executive to submit an amended service plan in accordance with subsection (1), 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), the Minister may, having consulted with the Minister for Children and Youth Affairs—

(*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.

(6) Unless the direction or notification relating to an amended service plan is issued by the Minister within the period specified in subsection (5), the amended service plan is deemed to have been approved by the Minister immediately before the end of that period.

(7) If a direction relating to an amended service plan is issued by the Minister 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.

(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.

(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.".

Amendment of section 33 of Act of 2004.

14.— The Act of 2004 is amended by substituting the following for section 33:

"Implementation of approved service plan.

33.— (1) The Executive shall manage health and personal social services indicated in an approved service plan so as to ensure that the services are delivered in accordance with the plan.

(2) 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.".

Amendment of section 35 of Act of 2004.

15.— Section 35 of the Act of 2004 is amended in subsection (1) by substituting the following for paragraph (*b*):

"(*b*) the structure of the Executive, including the roles and responsibilities of the Directorate and the Director General,".

Amendment of section 37 of Act of 2004.

16.— Section 37 of the Act of 2004 is amended in subsection (2) by substituting the following for paragraph (*g*):

"(*g*) such other information as the Executive considers appropriate or as the Minister, having consulted with the Minister for Children and Youth Affairs, may specify.".

Insertion of Part 7B in Act of 2004.

17.— The Act of 2004 is amended by inserting the following Part after Part 7A:

"PART 7B

ACCOUNTING OFFICER AND AUDIT COMMITTEE

Director General to be accounting officer of Executive.

40G.— The Director General shall be the accounting officer in relation to the appropriation accounts of the Executive for the purposes of the Comptroller and Auditor General Acts 1866 to 1998.

Audit committee.

40H.— (1) As soon as practicable after the commencement of this section, the Director General shall establish an audit committee to perform the functions specified in section 40I.

(2) The audit committee shall be appointed by the Directorate and shall consist of—

(*a*) one of the appointed directors,

(*b*) not fewer than 4 other persons who, in the opinion of the Directorate, 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.

(4) The Directorate shall designate one of the persons appointed pursuant to subsection (2)(*b*) to be the chairperson of the audit committee.

(5) The term of a person's membership of the audit committee shall be determined by the Directorate when appointing that person.

(6) A member of the audit committee may resign from the committee by letter addressed to the Directorate.

(7) The Directorate may at any time remove a member of the audit committee for stated reasons.

(8) The terms and conditions of membership of the audit committee shall be determined by the Directorate with the consent of the Minister and the Minister for Public Expenditure and Reform.

(9) The Director General shall ensure that the audit committee is provided with the necessary secretarial and other resources to enable it to perform its functions.

Functions of audit committee.

40I.— (1) The audit committee shall—

(*a*) advise the Director General on financial matters relating to his or her functions,

(*b*) report in writing at least once in every year to the Director General on those matters and on the activities of the committee in the previous year, and

(*c*) provide a copy of that report to the Directorate and the Minister.

(2) The audit committee shall—

(*a*) advise the Directorate on financial matters relating to its functions,

(*b*) report in writing at least once in every year to the Directorate on those matters, and

(*c*) provide a copy of that report to the Minister.

(3) The audit committee's duties 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 Director General with section 22 of the Exchequer and Audit Departments Act 1866, section 19 of the Comptroller and Auditor General (Amendment) Act 1993 and any other obligations imposed by law relating to financial matters;

(*c*) the appropriateness, efficiency and effectiveness 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) 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 Director General 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 money for which he or she is the accounting officer, or any fraudulent conversion or misapplication of the Executive's property, may have taken place, report the matter to the audit committee as soon as practicable.

(6) The Director General 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 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 a potential financial liability.".

Amendment of section 51 of Act of 2004.

18.— Section 51 of the Act of 2004 is amended in subsection (4) by substituting "Director General" for "chief executive officer".

Amendment of section 76 of Act of 2004.

19.— The Act of 2004 is amended by substituting the following for section 76:

"Effect of delegation and subdelegation of functions.

76.— (1) If a function of the Executive is delegated by the Directorate to the Director General under section 16C, 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 references to the Director General.

(2) If a function of the Director General under section 16G is delegated or subdelegated by him or her to an employee of the Executive under section 16H(1)(*a*) or is subdelegated by an employee authorised to do so under section 16H(1)(*b*), 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 references to the employee to whom the function is delegated or subdelegated.

(3) If a function is delegated under section 16C or subdelegated under section 16H(1) 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 Director General pursuant to a delegation by the Directorate under section 16C(2) has the same force and effect as if done by the Directorate.

(5) An act or thing done by an employee of the Executive pursuant to a delegation or subdelegation under section 16H has the same force and effect as if done by the Director General.

(6) The revocation of a delegation by the Directorate or the Director General does not affect a subdelegation authorised under section 16H, unless the Directorate or Director General, 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.".

Amendment of section 77 of Act of 2004.

20.— The Act of 2004 is amended by substituting the following for section 77:

"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 Director General,

(*b*) states that the delegation of the function concerned remained in force on a specified day, and

(*c*) is signed by 2 appointed directors,

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

(*d*) is signed by the Director General or an employee of the Executive who has subdelegated a specified function of the Executive delegated or subdelegated to him or her under section 16H,

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 an appointed director, the Director General 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.".

Amendment of Schedule 2 to Act of 2004.

21.— Schedule 2 to the Act of 2004 is amended—

(*a*) in paragraph 1, by substituting the following subparagraph for subparagraph (2):

"(2) The seal of the Executive shall be authenticated by the signature of—

(*a*) the Director General or an appointed director, and

(*b*) an employee of the Executive authorised by the Directorate to act in that behalf.",

and

(*b*) by the deletion of paragraphs 2 to 5.

References to Board and chief executive officer.

22.— F1**[**...**]**

PART 3

Transitional Measures

Savers.

23.— (1) Notwithstanding the repeals effected by *section 3*, and the amendments of the Act of 2004 effected by this Act—

(*a*) the performance of a function of the Executive or the taking of any action or doing of any thing under the Act of 2004 which was commenced by the Board before the coming into operation of this Act may be completed by the Directorate to the extent that the performance of that function or the taking of that action or doing of that thing may as a consequence of this Act be carried out by the Directorate, and

(*b*) the performance of a function of the chief executive officer or the taking of any action or doing of any thing under the Act of 2004 which was commenced by the chief executive officer before the coming into operation of this Act may be completed by the Director General to the extent that the performance of that function or the taking of that action or doing of that thing may as a consequence of this Act be carried out by the Director General.

(2) A delegation or subdelegation made in accordance with the Act of 2004 before the coming into operation of this Act shall, subject to the terms of the delegation or subdelegation, continue to have effect notwithstanding the repeals and amendments effected by this Act.

(3) A delegation or subdelegation of functions made by the chief executive officer before the coming into operation of this Act may be varied or revoked by the Director General.

Number 23 *of* 2013

HEALTH SERVICE EXECUTIVE (GOVERNANCE) ACT 2013

REVISED

Updated to 28 June 2019

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

Health Acts 1947 to 2019: this Act is one of a group of Acts included in this collective citation, to be construed together as one (*Health Service Executive (Governance) Act 2019* (17/2019), s. 1(3)). 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)
- *Withdrawal of the United Kingdom from the European Union (Consequential Provisions) Act 2019* (8/2019), Part 2
- *Health Service Executive (Governance) Act 2019* (17/2019), other than Part 3

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)

Annotations

This Revised Act is not annotated and only shows textual amendments. An annotated version of this revision is also available which shows textual and non-textual amendments and their sources. It also shows editorial notes including statutory instruments made pursuant to the Act and previous affecting provisions.

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. 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.