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HEALTH ACT 2004

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HEALTH ACT 2004

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. [17th December, 2004]

BE IT ENACTED BY THE OIREACHTAS AS FOLLOWS:

PART 1

PRELIMINARY MATTERS

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

Short title,
collective citation
and construction.

(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.

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

Interpretation.

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

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

“annual report” means a report prepared under *section 37*;

“appointed member” means a member of the Board other than the chief executive officer;

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

“Board” means the Board of the Executive;

“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;

“chief executive officer” means the person holding the position of chief executive officer or interim chief executive officer of the Executive;

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

“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;

“member” in relation to the Board includes the chairperson and the chief executive officer;

“Minister” means Minister for Health and Children;

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“ordinary member” means a member of the Board other than the chairperson or the chief executive officer; Pr.1 S.2

“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;

“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.

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

(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*.

Pt.1 Establishment day. 4.—The Minister shall, by order, appoint a day to be the establishment day for the purposes of this Act.

Expenses. 5.—The expenses incurred by the Minister 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.

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,

and

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- (c) provide advice to the Minister in relation to its functions as the 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,
- (c) the policies 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, and
- (e) the need to secure the most beneficial, effective and efficient use of those resources.

(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.

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.

Agreements between Executive and public authorities concerning performance of functions.

(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.

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(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.

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

- (a) for any purpose relating to this Act or any other enactment, and
- (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.

(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—

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- (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 *subsection (1)*, and
- (b) any information or statistics relating to the performance of the Executive's functions.
- (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) The Executive 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)* or *(4)*, a copy of the direction is laid before both Houses of the Oireachtas.

PART 3

THE BOARD OF THE HEALTH SERVICE EXECUTIVE

- 11.—**(1) The Executive is to have a Board consisting of—
- Membership of Board.
- (a) 11 members (including the chairperson and 10 ordinary members) appointed by the Minister in accordance with this section, and
- (b) the person holding the position of chief executive officer who, by virtue of that position, is a member of the Board.
- (2) Appointments to the Board under *subsection (1)(a)* or *paragraph 3(2)* of *Schedule 2* are to be made from among persons who, in the Minister's opinion, have sufficient experience and expertise relating to matters connected with the Executive's functions to enable them to make a substantial contribution to the performance of those functions.
- (3) A person is not eligible for appointment as a member of the Board or a committee of the Board, if the person is—
- (a) a member of either House of the Oireachtas or of the European Parliament,
- (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, or
- (c) a member of a local authority.
- (4) The Minister shall, to the extent practicable, endeavour to ensure that there is an equitable balance between men and women in the composition of the Board.
- (5) The Minister shall ensure that, as soon as practicable after a person is appointed to the Board under this section or *paragraph*

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3(2) of *Schedule 2*, a notice to that effect that includes the person's name is published in *Iris Oifigiúil*.

(6) *Schedule 2* applies in relation to the Board.

Role of Board.

12.—(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 may delegate to the chief executive officer any of the Executive's functions.

(3) If a function of the Executive is delegated to the chief executive officer under *subsection (2)*, the delegation remains in force until the Board revokes the delegation.

(4) The Board shall inform the Minister of any matter that it considers requires the Minister's attention.

Conditions of office.

13.—(1) The Minister may at any time remove an appointed member from office if—

(a) in the Minister's opinion, the member has become incapable through ill-health of performing the functions of the office,

(b) in the Minister's opinion, the member has committed stated misbehaviour,

(c) the member's removal from office appears to the Minister to be necessary for the Board to perform its functions in an effective manner,

(d) the member has contravened *section 25(1)* or *26* of this Act 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 appointed member.

(2) An appointed member ceases to hold office if the member—

(a) is adjudicated bankrupt,

(b) makes a composition or arrangement with creditors,

(c) is convicted of an indictable offence,

(d) is convicted of an offence involving fraud or dishonesty,

(e) is the subject of an order under *section 160* of the Companies Act 1990,

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

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(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 demonstrates to the Minister's satisfaction that the failure to attend was due to illness. Pr.3 S.13

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

14.—(1) The Minister may remove all the members of the Board from office if— Removal of members from office.

- (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 or any other requirement imposed on it by or under any enactment including this Act, or
- (d) the Minister is satisfied that the Board's functions are not being performed in an effective manner.

(2) The Minister may, if of the opinion that the Board's functions are not being performed in an effective 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 on the results of the review.

(3) The Board shall co-operate with any such review 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 chief executive officer does not cease to hold that position solely because he or she ceases to be a member of the Board when the members are removed from office under this section.

(5) 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 12(2)*.

15.—(1) The Board may establish committees to provide assistance and advice to it in relation to the performance of its functions and may determine the membership and terms of reference of each committee. Committees of Board.

(2) The Board may appoint to a committee persons who are not members of the Board but have special knowledge and experience related to the purposes of the committee.

(3) The appointment of a person to a committee is subject to such terms and conditions as may be determined—

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(a) under *section 16*, to the extent that they relate to remuneration and allowances, and

(b) by the Board, in any other case.

(4) The Board shall specify in writing the purpose and terms of reference of each committee.

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

(6) The Board may regulate the procedure of a committee but, subject to any such regulation, a committee may regulate its own procedure.

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

Remuneration and expenses of members of Board and committees.

16.—(1) The remuneration and allowances for expenses, if any, determined in accordance with *subsection (3)* are payable by the Executive out of funds at its disposal to—

(a) the appointed members of the Board, and

(b) the members of a committee of the Board, other than the chief executive officer.

(2) The remuneration and allowances for expenses, if any, determined in accordance with *subsection (3)* are payable by the Minister out of money provided by the Oireachtas to a person appointed under *section 14(2)* to conduct an independent review.

(3) The Minister may, with the consent of the Minister for Finance, determine the remuneration and expenses payable under this section.

(4) This section is not to be taken to limit—

(a) the power of the appointed members to determine in accordance with *section 17(5)* the remuneration and allowances for expenses payable to the chief executive officer (including allowances relating to his or her functions as a member of the Board or a committee of the Board), or

(b) the chief executive officer's entitlement to be paid the remuneration and allowances so determined.

PART 4

CHIEF EXECUTIVE OFFICER

Appointment of chief executive officer.

17.—(1) Subject to *subsections (3)* and *(4)*, the appointed members of the Board shall 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.

(2) A person is not eligible for appointment as the chief executive officer if the person is—

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(a) a member of either House of the Oireachtas or of the European Parliament, Pr.4 S.17

(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, or

(c) a member of a local authority.

(3) The Minister shall, on the recommendation of the Board, appoint a person to be the first chief executive officer of the Executive.

(4) Pending the appointment of the first chief executive officer, the Minister may, on the recommendation of the Board of the Interim Health Service Executive, appoint a person to be the interim chief executive officer.

(5) A person appointed as chief executive officer holds office on the terms and conditions (including terms and conditions relating to remuneration, allowances and superannuation) that—

(a) in the case of the interim chief executive officer, have been determined by the Interim Health Service Executive with the approval of the Minister given with the consent of the Minister for Finance, and

(b) in any other case, may be determined by the appointed members of the Board of the Executive with the approval of the Minister given with the consent of the Minister for Finance.

(6) The remuneration and allowances determined under *subsection (5)* are payable to the chief executive officer by the Executive out of funds at its disposal.

(7) The chief executive officer is suspended from office as a member of the Board during any period of suspension or secondment from his or her position as chief executive officer.

18.—(1) The chief executive officer shall—

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

(b) perform such other functions as may be assigned to that officer by or under this Act or other enactment or as may be delegated to him or her by the Board, and

(c) supply the Board with such information (including financial information) relating to the performance of his or her functions as the Board may require.

(2) The chief executive officer is responsible to the Board for the performance of his or her functions and the implementation of the Board's policies.

(3) If the chief executive officer is absent or the position of chief executive officer is vacant, the functions of the chief executive officer under this section may be performed by such employee of the Executive as may be appointed by the Board from time to time to act as deputy chief executive officer.

Functions of chief executive officer and their performance by deputy.

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(4) For the purpose of *subsection (3)*, references in a provision of this Act or another enactment that assigns functions to the chief executive officer or that regulates the manner in which a function assigned to the chief executive officer is to be performed are to be read as references to the employee appointed under this section as deputy chief executive officer.

Delegation of functions.

19.—(1) Subject to any directions that may be issued by the Board, the chief executive officer may in writing—

(a) delegate any of his or her functions under *section 18* (including those relating to financial matters) to employees of the Executive specified by name, position or otherwise, and

(b) authorise the subdelegation of any or all delegated functions to or by other such employees.

(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 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 that function.

(3) The delegation or subdelegation of a function does not preclude the person who for the time being holds the position of chief executive officer from performing the function.

(4) The chief executive officer may—

(a) vary any delegation of a function under this section, including by modifying the geographical area to which the delegation 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 chief executive officer 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.

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(7) On varying or revoking the subdelegation of a function, the employee who subdelegated the function shall inform each employee to whom the function was subdelegated of its variation or revocation. Pr.4 S.19

20.—The chief executive officer is 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. Chief executive officer to be accounting officer.

21.—(1) Subject to *subsection (2)*, the chief executive officer shall, at the written request of an Oireachtas Committee, attend before it to give an account of the general administration of the Executive. Attendance of chief executive officer before Oireachtas Committees.

(2) The chief executive officer is not required to give an account before an 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 chief executive officer shall, if of the opinion that *subsection (2)* applies to a matter about which that officer is requested to give an account before an Oireachtas Committee, inform the Committee of that opinion and the reasons for the opinion.

(4) The information required under *subsection (3)* to be given to the Oireachtas Committee must be given in writing unless it is given when the chief executive officer is before the Committee.

(5) If, on being informed of the chief executive officer's opinion about the matter, the Oireachtas Committee decides not to withdraw its request, the High Court may, on application 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 chief executive officer 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 its behalf.

(7) Pending the determination of an application under *subsection (6)*, the chief executive officer 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 chief executive officer shall attend before the Committee to give an account of the matter.

(9) In carrying out 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.

(10) With the permission of the chairperson of the Oireachtas 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 (9)* to the chief executive officer is to 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 Committee on Members’ Interests of Seanad Éireann), or
- (b) a subcommittee of a committee as defined in *paragraph (a)*.

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, with the approval of the Minister 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.

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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 chief executive officer) of the Executive as it may think fit. Pr.5
Superannuation.

(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 the Minister 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 chief executive officer) except in accordance with a scheme approved under this section or except as approved by the Minister 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.

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

(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

25.—(1) In performing functions under this or any other enactment as— Standards of
integrity.

- (a) a member of the Board or a committee of the Board,
- (b) the chief executive officer or any other employee of the Executive,
- (c) a person engaged by the Executive as an adviser, or

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

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

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

(3) For the purposes of *subsection (1)*, the Executive shall issue codes of conduct for the guidance of persons who are—

(a) members of a committee of the Board but are not members of the Board,

(b) employees of the Executive other than employees to whom a code of conduct under section 10(3) of the Standards in Public Office Act 2001 applies,

(c) engaged by the Executive as advisers, or

(d) employees of persons referred to in *paragraph (c)*.

(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 *subsection (1)(c)* 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.

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

(a) a member of the Board or a committee of the Board,

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- (b) the chief executive officer or any other employee of the Executive,
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- (c) a person engaged by the Executive as an adviser, or
- (d) an employee of a person referred to in *paragraph (c)*.

(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 Board,
- (c) the disclosure is made to the Minister by or on behalf of the Executive or in compliance with a requirement of this Act, or
- (d) the disclosure is otherwise required by law.

(3) In this section “confidential information” means—

- (a) 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
- (b) proposals of a commercial nature or tenders submitted to the Executive by any person.

27.—(1) An appointed member of the Board or a member of a committee of the Board 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.

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

(2) An employee of the Executive (including the 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.

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(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.

PART 7

ACCOUNTABILITY

Interpretation
(Part 7).

28.—(1) In this Part—

“approved corporate plan” means a corporate plan approved by the Minister under *section 29*;

“approved service plan” means—

- (a) a service plan approved by the Minister under *section 31*, or
- (b) an amended service plan that is approved or deemed to have been approved by the Minister under *section 32*;

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

“financial year” means a period of 12 months ending on 31 December in any year.

(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.

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 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 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

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(c) the uses for which the Executive proposes to apply its resources. Pr.7 S.29

(4) In preparing the corporate plan, the Executive shall have regard to the policies 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.

(5) Within 3 months after receiving a corporate plan, the Minister shall—

(a) approve the plan, or

(b) if the plan is not amended in accordance with any directions that may be issued by the Minister to the Executive, refuse to approve the plan.

(6) An approved corporate plan may be amended by the Minister at any time or may be amended by the Executive, but in the latter case only after—

(a) the Executive submits the proposed amendment to the Minister for approval, and

(b) the amendment is approved by 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.

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

Publication and implementation of approved corporate plan.

(a) within 21 days after the plan is approved by the Minister, and

(b) if the plan is amended under *section 29(6)* after being approved by the Minister, within 21 days after—

(i) in the case of an amendment made by the Minister, the making of the amendment, or

(ii) in the case of an amendment made by the Executive, the amendment is approved by the Minister.

(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 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 may direct.

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(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,
- (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.

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

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

31.—(1) Within the specified period the Executive shall—

- (a) prepare, in accordance with this section, a service plan for the financial year or 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) 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) A service plan must be prepared in the form and manner in accordance with any directions issued by the Minister and must—

- (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 any other information specified by the Minister,
- (e) comply with any directions issued by the Minister under *section 10*, and
- (f) accord with the policies and objectives of the Minister and the Government.

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

- (a) the approved corporate plan in operation at that time, and
- (b) any direction issued by the Minister under *section 10(1)*.

(5) If a service plan is not submitted in accordance with *subsection (1)*, the Minister may, by written direction, require the Executive to submit a service plan to him or her 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.

(6) If the Executive fails to submit a service plan in accordance with *subsection (1)* or with a direction under *subsection (5)*, the Minister may, by written direction, require the chief executive officer to prepare and submit a service plan to the Minister within 10 days after the date on which the Minister issues the direction under this subsection.

(7) A service plan submitted by the chief executive officer under *subsection (6)* is deemed to have been adopted and submitted by the Executive.

(8) Not later than 21 days after receiving a service plan submitted under this section, the Minister shall either approve the plan or issue a direction under *subsection (9)* to amend the plan.

(9) The Minister may direct the Executive or, in the case of a service plan submitted under *subsection (6)*, the chief executive officer, to amend a service plan submitted under this section if, in the Minister's opinion, the plan—

- (a) does not contain any information required under *subsection (3)*,
- (b) does not comply in any other respect with *subsection (3)*,
- (c) has been prepared without regard to a matter specified in *subsection (4)*, or
- (d) does not accord with the policies and objectives of the Minister or of the Government to the extent that those policies and objectives relate to the functions of the Executive.

(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 chief executive officer shall comply with any 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 must 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.

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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) If the Minister directs the Executive to submit an amended service plan in accordance with *subsection (1)*, *subsections (4) to (11) of section 31* apply with the necessary modifications to the amended service plan.

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

(4) The Executive shall submit a service plan amended under *subsection (3)* to the Minister as soon as practicable and 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, in writing, direct the Executive as to how the plan should be amended.

(6) Unless a direction 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.

Implementation of approved service plan.

33.—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.

Minister's permission needed for major capital spending.

34.—The Executive shall not, without the prior written permission of the Minister, enter into an agreement or arrangement or otherwise commit itself in respect of capital spending on an undertaking if the total amount spent on the undertaking would exceed an amount that may be specified from time to time by the Minister with the consent of the Minister for Finance.

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,

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- (b) the structure of the Executive, including the roles and responsibilities of the Board and the chief executive officer, Pr.7 S.35
- (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, and
- (f) the nature and quality of service that persons being provided with or seeking health and personal social services can expect.

(2) The Executive shall review the code of governance periodically and at such times as may be specified by the Minister and shall revise the code as the Executive considers appropriate.

(3) In preparing, or making any revisions to, the code of governance, the Executive shall have regard to any directions issued by the Minister 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.

36.—(1) The Executive shall keep all proper and usual accounts of all money received or expended by it. Accounts of Executive.

(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 may direct.

(3) The annual financial statements shall be prepared by the Executive in accordance with accounting standards specified by the Minister.

(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 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.

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(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 who 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*.

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
- (g) such other information as the Executive considers appropriate or as the Minister may specify.

(3) The Executive shall submit a copy of the annual report to the Minister 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.

Arrangements with service providers.

38.—(1) The Executive may, subject to its available resources and any directions issued by the Minister under *section 10*, 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. Pt.7 S.38

(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, all proper and usual accounts and records of income received and expenditure incurred by it,

(b) submit such accounts annually for audit, 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.

(4) The expenses of an audit of accounts submitted in accordance with *subsection (3)* are payable by the service provider submitting them for audit.

(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, or

(b) such other categories of service providers as may be specified by the Minister.

(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.

(9) At the Minister's request, the Executive shall supply the Minister with any information obtained in response to a request under *subsection (7)*.

39.—(1) The Executive may, subject to any directions given by the Minister under *section 10* 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. Assistance for certain bodies.

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(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.

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.

PART 8

PUBLIC REPRESENTATION AND USER PARTICIPATION

National Health Consultative Forum.

41.—(1) The Minister may convene, at such time as he or she may determine, a National Health Consultative Forum to advise the Minister on matters relating to the provision of health and personal social services.

(2) The Minister may, by order—

- (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.

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: Pr.8 S.42

- (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.

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.

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(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. Pr.8 S.43

(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.

- 44.—**(1) The Minister may direct the Executive in writing to—
- (a) establish an advisory panel for a purpose specified by the Minister, and
 - (b) appoint one or more than one person specified by the Minister as a member of the panel.

Other advisory panels to be established on Minister's direction.

(2) The Minister 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.

PART 9

COMPLAINTS

- 45.—**In this Part—

Definitions (*Part 9*).

“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—

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Pt.9 S.45

(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 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

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(e) any other person who is appointed as prescribed in the regulations. Pr.9 S.46

(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 or carer of that person.

47.—(1) A complaint must be made within the specified period or any extension of that period allowed under *subsection (3)*. Time limit for 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.

48.—(1) A person is not entitled to make a complaint about any of the following matters: Matters excluded from right to complain.

(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

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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.

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(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.

51.—(1) A complaints officer may not, following the investigation of a complaint, make a recommendation the implementation of which would require or cause—

Restriction on type of recommendations complaints officers may make and power to suspend implementation of recommendations.

(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 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.

52.—(1) It is a condition of any arrangement under *section 38* with a service provider that the service provider will—

Adherence to complaint and review procedures to be condition of arrangements with service providers.

(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.

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(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 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.

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.

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(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—

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- (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.

PART 10

DISSOLUTION OF CERTAIN HEALTH BODIES AND THE TRANSFER OF THEIR FUNCTIONS AND EMPLOYEES, ETC., TO THE EXECUTIVE

56.—In this Part “specified body” means—

Definitions
(Part 10).

- (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.

57.—(1) Comhairle na nOspidéal is, by this Act, dissolved on the establishment day.

Dissolution of
Comhairle na
nOspidéal and
transfer of its
functions.

(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.

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(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;

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- (c) the Protection of Employees (Fixed-Term Work) Act 2003; Pr.10 S.60
- (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.

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.

Transfer of pension liabilities relating to former employees of specified bodies.

(2) *Subsection (1)* is not to be taken to limit the generality of *section 62(3)* or *(4)*.

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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

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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. Pr.10 S.65

(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.

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. References to specified bodies.

67.—(1) An area that before the establishment day was a functional area of— Functional areas of dissolved health boards.

(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.

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References to chief executives of dissolved health boards.

68.—Subject to *section 59*, references (however expressed) in any Act passed before the establishment day or in any instrument made before that day under such Act to—

- (a) the chief executive officer of a health board,
- (b) the Regional Chief Executive of the Eastern Regional Health Authority, or
- (c) the area chief executive of an Area Health Board,

are to be read as references to the chief executive officer of the Executive.

References to deputy chief executives of dissolved health boards.

69.—Subject to *section 59*, references (however expressed) in any Act passed before the establishment day or in any instrument made before that day under such Act to the deputy chief executive officer of—

- (a) a health board,
- (b) the Eastern Regional Health Authority, or
- (c) an Area Health Board,

are to be read as references to the employee of the Executive appointed under *section 18(3)* as deputy chief executive officer.

Dissolution of bodies established under Health (Corporate Bodies) Act 1961.

70.—(1) The Minister may, by order, provide for the dissolution, on such day or days as he or she may appoint, of bodies established under the Health (Corporate Bodies) Act 1961 and for the transfer of their functions to the Executive.

(2) An order under this section may include provision for the following matters:

- (a) the transfer to the Executive of any of the property, rights and liabilities of a body dissolved in accordance with the order;
- (b) the preservation of continuing contracts and commitments made by the dissolved body;
- (c) the continuance of pending legal proceedings;
- (d) the application of *section 60*, with the necessary modifications, to the transfer of employees of the dissolved body to the Executive;
- (e) the application of *section 61*, with the necessary modifications, in respect of former employees of the dissolved body;
- (f) the transfer of all records of the dissolved body to the Executive.

(3) References (however expressed) to a body dissolved in accordance with an order under this section in any Act passed, or instrument made, before the dissolution of that body are to be read as references to the Executive.

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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*.

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Final accounts of specified bodies and other dissolved bodies.

(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.

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—

Executive to prepare final annual report for specified bodies and other dissolved bodies.

(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

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.

Repeals and revocations.

(2) Each order specified in the second column of *Part 2* of *Schedule 4* is revoked to the extent specified in the third column.

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(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.

PART 12

MISCELLANEOUS PROVISIONS

Effect of delegation and subdelegation of functions.

76.—(1) If a function of the Executive is delegated by the Board to the chief executive officer under *section 12(2)*, references in a provision of this Act or any other enactment that assigns that function to the Executive or that regulates the manner in which the function is to be performed are to be read as references to the chief executive officer.

(2) If a function of the chief executive officer under *section 18* is delegated by him or her to an employee of the Executive under *section 19(1)* or is subdelegated by an employee authorised to do so under *section 19(1)*, 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 read as references to the employee to whom the function is delegated or subdelegated.

(3) If a function is delegated under *section 12(2)* or *19(1)* or subdelegated under *section 19(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 chief executive officer pursuant to a delegation by the Board under *section 12(2)* 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 19* 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 19(1)*, unless the Board or the 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.

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77.—(1) In any legal proceedings, a certificate that—

- (a) is signed by the chairperson,
- (b) states that a specified function of the Executive was on a specified date delegated to the chief executive officer, and
- (c) states that the delegation of the function remained in force on a specified date,

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Certificate evidence concerning delegation of functions.

is, in the absence of evidence to the contrary, proof of the matters stated in the certificate.

(2) In any legal proceedings, a certificate that—

- (a) is signed by the chief executive officer or by an employee who has subdelegated a function delegated to him or her under this section,
- (b) states that a specified function of the chief executive officer was on a specified date delegated or subdelegated, as the case may be, in accordance with *section 19*, to a specified employee of the Executive,
- (c) states that the delegation or subdelegation of the function remained in force on a specified date, and
- (d) specifies the limitations, if any, imposed on the delegation or subdelegation,

is, in the absence of evidence to the contrary, proof of the matters stated in the certificate.

(3) A certificate referred to in *subsection (1)* or *(2)* that appears to be signed by the chairperson, the chief executive officer or the employee concerned (as the case may be) is admissible in any proceedings as evidence of the matters stated in the certificate without proof of his or her signature.

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.

General power to make regulations and orders.

(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*).

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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 *section 26(3)*;

“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.

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.

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

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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*.

SCHEDULE 2

Sections 6(3) and
11(6).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.
- (2) The seal of the Executive must be authenticated by the signature of—
 - (a) the chief executive officer and another member of the Board, or
 - (b) any 2 employees of the Executive from a panel of employees who are designated by the chief executive officer for the purpose of this section and are authorised annually by the Board to act in that behalf.
- (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. (1) The chairperson holds office for such period, not exceeding 5 years from the date of appointment to the office, as the Minister shall determine.
- (2) Subject to *subparagraph (3)*, an ordinary member holds office for such period, not exceeding 5 years from the date of appointment to the office, as the Minister may determine.
- (3) Of the ordinary members of the Board first constituted under this section—
 - (a) 5 of them (selected in accordance with *subparagraph (4)*) hold office for a period of 3 years from the date of appointment to the office, and
 - (b) the others hold office for a period of 5 years from the date of such appointment.
- (4) The ordinary members who are to hold office for a period of 3 years are, at a meeting of the Board held for the purpose, to be selected by—
 - (a) unanimous agreement of the ordinary members present at the meeting, or
 - (b) if for any reason unanimous agreement cannot be reached, the drawing of lots by those members.

- (5) An appointed member who completes a term of office is eligible for reappointment to the Board, but may not serve for more than 2 consecutive terms.
- (6) A period of service as a member pursuant to an appointment under *paragraph 3(2)* is considered for the purposes of *subparagraph (5)* to be a term of office.

Resignations and casual vacancies

3. (1) An appointed member may resign office by letter addressed to the Minister and the resignation takes effect on the later of—
- (a) the date specified in the letter, or
- (b) the receipt of the letter by the Minister.
- (2) If an appointed member resigns, dies, ceases to hold office (other than on completing a term of office), ceases to be qualified for office or is removed from office, the Minister shall as soon as practicable appoint a person to fill the casual vacancy so occasioned.
- (3) A person appointed under *subparagraph (2)* holds office for the unexpired portion of his or her predecessor's term of office and at the end of that term is, subject to *paragraph 2(5)*, eligible for reappointment as a member.

Meetings of Board

4. (1) The Minister, in consultation with the chairperson, shall fix the date of the first meeting of the Board and shall specify the time and place of the meeting.
- (2) The Board shall hold as many meetings as are necessary for performing 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 3 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 3 members, or
- (b) without refusing to call a meeting, does not call one within 7 days after being presented with such requisition.

Quorum and procedures

5. (1) The quorum for a meeting of the Board is 5.
- (2) The chairperson is to preside at all meetings of the Board at which he or she is present.
- (3) If the chairperson is absent from a meeting, or if that office is vacant, the members present at the meeting shall choose

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one of themselves, other than the chief executive officer, SCH.2
to preside.

- (4) Each question at a meeting shall be determined by a majority of the votes of the members present and voting on the question.
- (5) In the case of an equal division of votes, the chairperson or other member presiding at the meeting has a second or casting vote.
- (6) As long as there is a quorum, the Board may act despite one or more than one vacancy among its members.
- (7) Subject to this Act, the Board shall regulate, by standing orders or otherwise, the procedures and business of the Board.
- (8) Non-compliance with a standing order of the Board does not invalidate a decision of the Board.

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 SCH.3
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

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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.

SCHEDULE 4

Section 73.

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.

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,

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- (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 co-ordinator 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, co-ordinator 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

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that such service plan or a combination of such service plans constitutes the service plan of the Executive for the remainder of that period. SCH.5

(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

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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.

SCHEDULE 6

Section 75.

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	<p>Insert the following section after section 3:</p> <p>“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.</p> <p>(2) An establishment order shall include provision for—</p> <p>(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,</p> <p>(b) the preservation of continuing contracts and commitments made by the specified body, and</p> <p>(c) the continuance of pending legal proceedings.</p> <p>(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.</p> <p>(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.</p> <p>(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.</p> <p>(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:</p> <p>(a) the Redundancy Payments Acts 1967 to 2003;</p> <p>(b) Adoptive Leave Act 1995;</p> <p>(c) Maternity Protection Act 1994;</p> <p>(d) Protection of Employees (Fixed-Term Work) Act 2003;</p>

Item	Provision inserted	Amendments
		<p>(e) the Protection of Employees (Part-Time Work) Act 2001;</p> <p>(f) the Organisation of Working Time Act 1997;</p> <p>(g) the Minimum Notice and Terms of Employment Acts 1973 to 2001;</p> <p>(h) the Unfair Dismissals Acts 1977 to 2001;</p> <p>(i) the Carer's Leave Act 2001;</p> <p>(j) the Parental Leave Act 1998.</p> <p>(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.</p> <p>(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.</p> <p>(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.</p> <p>(10) In this section—</p> <p>'previous service' means service with the specified body before the establishment day of the body established under this section;</p> <p>'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;</p> <p>'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;</p> <p>'terms and conditions of employment' includes terms and conditions in respect of remuneration and tenure of office and related matters."</p>

PART 4

AMENDMENT OF POISONS ACT 1961

Item	Provision affected	Amendment
1.	Section 14	<p>(a) In subsection (3)(j), substitute the following subparagraph for subparagraph (iv):</p> <p style="padding-left: 40px;">“(iv) by the Health Service Executive and its employees,”.</p> <p>(b) In subsection (3)(k), substitute “and in the case of an employee of the Health Service Executive, a written authorisation of the Executive” for “and in the case of an officer of a health board, a written authorisation of the board”.</p> <p>(c) In subsection (3)(o), substitute “the Health Service Executive” for “health boards”.</p>

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	<p>In subsection (1) (as amended by the Unfair Dismissals (Amendment) Act 1993), substitute the following paragraphs for paragraph (j):</p> <p style="padding-left: 40px;">“(j) officers of a vocational committee established by the Vocational Education Act 1930,</p> <p style="padding-left: 40px;">(k) the chief executive officer of the Health Service Executive for the purposes of <i>section 17</i> of the <i>Health Act 2004</i>.”.</p>

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)	<p>(a) In subsection (1)(a), substitute “the Health Service Executive” for “a health board”.</p> <p>(b) In subsection (1)(b), substitute “the Health Service Executive” for “a health board”.</p> <p>(c) In subsection (2), substitute “the Health Service Executive” for “a health board”.</p> <p>(d) In subsection (11), delete the definition of “health board”.</p>

PART 8

SCH.6

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 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	<p>(a) Substitute the following subsection for subsection (2):</p> <p>“(2) Where a child is detained under this section a member of the Garda Síochána shall as soon as possible—</p> <p>(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</p> <p>(b) where the child has been in the care of the Health Service Executive, return the child to it, or</p> <p>(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.”.</p> <p>(b) In subsections (3) to (5), substitute “the Health Service Executive” for “a health board”, wherever occurring.</p> <p>(c) In subsections (3) to (5), substitute “the Health Service Executive” for “the health board”, wherever occurring.</p>

PART 13

AMENDMENT OF FAMILY LAW ACT 1995

Item	Provision affected	Amendment
1.	Section 47	<p>(a) In subsection (1), substitute the following paragraph for paragraph (b):</p> <p>“(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”.</p> <p>(b) Delete subsection (7).</p>

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	<p>(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”.</p> <p>(b) In subsection (5), substitute the following paragraph for paragraph (b):</p> <p>“(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.”</p> <p>(c) In subsection (5)(c), substitute “Health Service Executive” for “health board concerned.”</p> <p>(d) In subsection (5), delete paragraph (d).</p>
2.	Section 9	<p>In subsection (12), substitute the following paragraph for paragraph (c):</p> <p>“(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 <i>in loco parentis</i> 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.”</p>
3.	Section 9A (as amended by section 7 of the Immigration Act 2003)	<p>In subsection (2), substitute the following paragraph for paragraph (b):</p> <p>“(b) an employee of the Health Service Executive or other person appointed by the Health Service Executive under section 8(5)(b).”</p>

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)	<p>In subsection (2), substitute the following paragraph for paragraph (a):</p> <p>“(a) having consulted the tenant or the relevant purchaser and the Health Service Executive, believe that the tenant or relevant purchaser—</p> <p>(i) may be deterred or prevented by violence, threat, or fear from pursuing an application for an exclusion order, or</p> <p>(ii) does not intend, for whatever other reason, to make such an application, and”.</p>

Item	Provision affected	Amendment
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— (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): “(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 <i>Health Act 2004</i> .”.
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 <i>Health Act 2004</i> 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.”.

Item	Provision affected	Amendment
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 <i>Health Act 2004</i> ,” 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 <i>Health Acts 1947 to 2004</i> , 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	<p>(a) In subsection (1), delete the definition of “health board”.</p> <p>(b) In subsection (1), substitute the following definition for the definition of “voluntary hospital”:</p> <p>“ ‘voluntary hospital’ means a hospital which is substantially funded by means of an arrangement with the Health Service Executive under <i>section 38</i> of the <i>Health Act 2004</i> and the governing body of which is not the Health Service Executive or a committee of it.”.</p>
2.	Section 9	<p>(a) In subsection (1)(a), insert “or” after “the Act of 1988,”.</p> <p>(b) In subsection (1), substitute the following paragraph for paragraphs (b) and (c):</p> <p>“(b) a voluntary hospital in connection with the provision by it of health and personal social services within the meaning of the <i>Health Act 2004</i> in accordance with an arrangement made by it under <i>section 38</i> of that Act with the Health Service Executive,”.</p> <p>(c) Delete subsection (4).</p>
3.	Section 13	<p>In subsection (2)(b), substitute the following subparagraph for subparagraph (iii):</p> <p>“(iii) where the investigation relates to an action taken by or on behalf of a voluntary hospital, to the Health Service Executive,”.</p>
4.	Schedule 1	<p>(a) In Part 1(4), substitute “The Health Service Executive.” for “a health board.”.</p> <p>(b) In Part 2, substitute “the Health Service Executive” for “a health board” and “the health board” wherever occurring.</p>

AMENDMENT OF LICENSING OF INDOOR EVENTS ACT 2003

Item	Provision affected	Amendment
1.	Section 1	Delete the definition of “health board”.
2.	Section 13	<p>Substitute the following subsection for subsection (1):</p> <p>“13.—(1) No action or other proceeding shall lie or be maintainable against—</p> <p>(a) the Minister or a fire authority or any officer of or person employed by the fire authority,</p> <p>(b) the Health Service Executive or any person employed by the Health Service Executive,</p> <p>(c) any person engaged by a fire authority or the Health Service Executive,</p> <p>(d) a member of the Garda Síochána, or</p> <p>(e) an authorised officer,</p> <p>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.”.</p>
3.	Section 21	<p>Substitute the following subsection for subsection (1):</p> <p>“(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.”.</p>

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,”.

AMENDMENT OF CIVIL REGISTRATION ACT 2004

Item	Provision affected	Amendment
1.	Section 2	<p>(a) Delete the definition of “authority”.</p> <p>(b) Insert the following definition: “‘Executive’ means the Health Service Executive;”.</p> <p>(c) Delete the definition of “health board”.</p> <p>(d) Insert the following definition: “‘registration area’ shall be construed in accordance with section 15(1) and (2A);”.</p> <p>(e) Substitute the following for the definition of “scheme”: “‘scheme’ means a scheme approved under section 14;”.</p>
2.	Section 14	<p>(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.”.</p> <p>(b) In subsection (3)(a), substitute “of the registration area concerned” for “of the authority concerned”.</p> <p>(c) In subsections (3)(b) and (4), substitute “the Executive” for “the authority concerned”.</p> <p>(d) In subsection (5), substitute “the Executive” for “the authority”.</p> <p>(e) In subsection (6), substitute “the Executive” for “the relevant authority”.</p> <p>(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,</p>

Item	Provision affected	Amendment
		<p>(e) particulars of the proposed conditions of employment of the registrars and employees assigned pursuant to the scheme, and</p> <p>(f) particulars or provisions in relation to any other matter standing specified for the time being by the Minister.”.</p> <p>(g) In subsection (8), substitute “the Executive in relation to the registration area concerned” for “the authority concerned”.</p>
3.	Section 15	<p>(a) Substitute the following subsections for subsections (1) and (2):</p> <p>“(1) Each functional area of the Health Service Executive shall, subject to subsection (2A), be a registration area for the purposes of this Act.</p> <p>(2) After consulting with an tArd Chláraitheoir, the Executive shall assign a name to each registration area.</p> <p>(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.”.</p> <p>(b) Substitute the following for subsection (3):</p> <p>“(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.”.</p> <p>(c) In subsection (4)—</p> <p>(i) substitute “the Executive” for “an authority” wherever occurring,</p> <p>(ii) delete “its expenditure on and”, and</p> <p>(iii) substitute “a registration area” for “its functional area”.</p> <p>(d) Substitute the following for subsection (5):</p> <p>“(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.”.</p>
4.	Section 16	<p>(a) Delete subsection (1).</p> <p>(b) In subsection (2), substitute “Accounts of the Executive relating to each scheme” for “Accounts of an authority”.</p> <p>(c) Delete subsection (3).</p>

Item	Provision affected	Amendment
5.	Section 17	<p>(a) Substitute the following subsections for subsections (1) to (3):</p> <p>“(1) Subject to the provisions of this section, the Executive, after consulting with an tArd Chláraitheoir, shall—</p> <p>(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,</p> <p>(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</p> <p>(c) assign such number of other employees to each registration area,</p> <p>as it considers necessary for the performance of its functions.</p> <p>(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.</p> <p>(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.”</p> <p>(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”.</p> <p>(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”.</p> <p>(d) Substitute the following subsection for subsection (6):</p> <p>“(6) A Superintendent Registrar of a registration area may give a direction to a registrar or authorised officer assigned to that area.”</p> <p>(e) In subsection (8), substitute “the Executive” for “the authority concerned”.</p> <p>(f) Substitute the following subsection for subsection (9):</p> <p>“(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.”</p>

Item	Provision affected	Amendment
		<p>(g) In subsection (10), substitute the following paragraph for paragraph (a):</p> <p>“(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.”</p>
6.	Section 19	<p>(a) In subsection (3)—</p> <p>(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</p> <p>(ii) substitute the following paragraph for paragraph (a):</p> <p>“(a) to attend before a registrar in that registration area, at the office of the registrar or such other (if any) convenient place 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).”</p> <p>(b) In subsection (5), substitute “in whose registration area” for “of the authority in whose functional area”.</p>
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	<p>(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”.</p> <p>(b) In subsection (7), substitute “registration area” for “functional area of the authority”.</p>
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	<p>(a) In subsection (2), substitute “Superintendent Registrar in whose registration area” for “authority in whose functional area”.</p> <p>(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”.</p>

Item	Provision affected	Amendment
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	<p>(a) In subsection (1), substitute “the Executive” for “the authority by which the registrar is employed” and for “that authority”.</p> <p>(b) In subsection (2)(a), substitute “the Executive” for “the authority by whom the registrar is employed”.</p> <p>(c) In subsection (2)(b), substitute “the Executive” for “the authority by which he or she is employed”.</p>
19.	Section 53	In subsection (4)(a), substitute “the Executive” for “an authority”.
20.	Section 54	<p>In subsection (2), substitute the following paragraph for paragraph (a):</p> <p>“(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.”.</p>
21.	Section 56	<p>(a) In subsection (5)(a), substitute “the Executive” for “an authority”.</p> <p>(b) In subsection (5)(c)(i), substitute “the Executive” for “an authority” and for “the authority”.</p> <p>(c) In subsection (5)(c)(ii), substitute “the Executive” for “an authority”.</p> <p>(d) In subsection (5)(c)(iii), substitute “the Executive” for “an authority” wherever occurring and for “the authority”.</p>
22.	Section 58	<p>In subsection (2), substitute the following for everything before paragraph (c):</p> <p>“(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—</p> <p>(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,</p> <p>(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,”.</p>

Item	Provision affected	Amendment
23.	Section 60	<p>In subsection (2), substitute—</p> <p>(a) “the Executive” for “the authority concerned”,</p> <p>(b) “by the Executive to such employee of the Executive” for “by the authority to such officer of the authority”, and</p> <p>(c) “as the Executive” for “as the authority”.</p>
24.	Section 61	<p>(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:</p> <p>“(iii) a certified extract.”.</p> <p>(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:</p> <p>“(iii) a certified extract.”.</p> <p>(c) Insert the following subsection:</p> <p>“(5) The Minister may make regulations specifying particulars to be included in a certified extract referred to in subsection (1) or (2).”.</p>
25.	Section 64	<p>(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”.</p> <p>(b) In subsection (2), substitute “any registration area” for “any authority” and substitute “in that registration area” for “of that authority”.</p>
26.	Section 66	<p>(a) In subsection (1)(g), substitute “the Executive” for “a health board”.</p> <p>(b) In subsection (1)(i), substitute “the Executive” for “a health board”.</p>
27.	Section 68	<p>In subsection (3), substitute “the Executive” for “the relevant authority”.</p>
28.	Section 71	<p>(a) In subsection (1), substitute “the Executive” for “the authority in whose functional area the offence was committed”.</p> <p>(b) In subsections (2) and (3), substitute “the Executive” for “the authority concerned”.</p>
29.	Section 73	<p>In subsection (5), substitute “medical practitioners employed by the Executive” for “medical officers of health boards”.</p>
30.	First Schedule	<p>In Part 2, delete “Personal public service number of child”.</p>

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 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—

Item	Provision affected	Amendment
		<p>(a) assistance has been provided for the child at any time by a health authority under section 55 of the Health Act 1953,</p> <p>(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 <i>Health Act 2004</i>, or</p> <p>(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 <i>Health Act 2004</i>,</p> <p>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.</p> <p>(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.”.</p>
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.”.
2.	Section 3	<p>(a) In subsection (1), substitute “the Health Service Executive” for “the health board in whose functional area they ordinarily reside.”.</p> <p>(b) In subsection (1)(a), substitute “the Health Service Executive” for each reference to “the health board”.</p> <p>(c) In subsection (1)(b), substitute “the Health Service Executive” for “the health board”.</p> <p>(d) In subsection (4), substitute “The Health Service Executive” for “The health board concerned”.</p> <p>(e) Delete subsection (6).</p> <p>(f) In subsection (7), substitute “the Health Service Executive,” for “a health board” and substitute “the Executive” for each reference to “the board”.</p>

PART 4

AMENDMENT OF HEALTH (NURSING HOMES) ACT 1990

Item	Provision affected	Amendment
1.	Section 1	<p>(a) In subsection (1), substitute the following definition for the definition of “register”:</p> <p>“ ‘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;”.</p> <p>(b) Substitute the following definition for the definition of “registered proprietor”:</p> <p>“ ‘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;”.</p>

Item	Provision affected	Amendment
2.	Section 2	<p>(a) In subsection (1)(a), (e) and (f), substitute “the Health Service Executive” for “a health board”.</p> <p>(b) In subsection (1)(g)(ii) and (iii), substitute “the Health Service Executive” for “a health board”.</p>
3.	Section 4	<p>(a) Substitute the following subsection for subsection (1):</p> <p>“(1) The Health Service Executive shall establish and maintain a register of nursing homes in each functional area of the Executive.</p> <p>(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 <i>Health Act 2004</i> shall be deemed to have been established by the Health Service Executive and shall be maintained by the Executive.”.</p> <p>(b) In subsection (3)(a), substitute “The Health Service Executive” for “A health board” and delete “in its functional area”.</p> <p>(c) In subsection (3)(c), substitute “the Health Service Executive” for “a health board”.</p> <p>(d) In subsection (3) insert the following paragraph after paragraph (c):</p> <p>“(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 <i>Health Act 2004</i> 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.”.</p> <p>(e) In subsection (4)(a), substitute “the Health Service Executive” for “the health board in whose functional area the home will be situated”.</p> <p>(f) In subsection (4)(a), (b) and (c) substitute “the Executive” for “the board”, wherever occurring.</p> <p>(g) In subsection (4)(b), substitute “the Health Service Executive” for “a health board”.</p>

Item	Provision affected	Amendment
		<p>(h) In subsections (4)(c), (5) and (6), substitute “The Health Service Executive” for “A health board”.</p> <p>(i) In subsection (6)(b)(iii), substitute “the Executive” for “the board”, wherever occurring.</p> <p>(j) In subsection (7)(a) and (b), substitute “The Health Service Executive” for “A health board” and substitute “the Executive” for “the board”.</p> <p>(k) In subsections (8)(a) and (10)(a), substitute “The Health Service Executive” for “A health board”.</p> <p>(l) In subsection (10)(b), substitute “the Health Service Executive” for “a health board” and substitute “the Executive” for “the board”.</p> <p>(m) In subsection (11), substitute “the Health Service Executive” for “the health board concerned” and substitute “the Executive” for “the board”.</p> <p>(n) In subsection (12)(a)(ii), substitute “the Health Service Executive” for “the health board concerned”.</p> <p>(o) In subsection (13)(a), substitute “the Health Service Executive” for “a health board”.</p> <p>(p) In subsection (13)(b), substitute “the Health Service Executive” for “the health board concerned” and substitute “the Executive” for “the board”.</p> <p>(q) In subsection (14), substitute “the Health Service Executive” for “a health board”, wherever occurring and substitute “the Executive” for “the board”.</p>
4.	Section 5	<p>(a) In subsection (1), substitute “the Health Service Executive” for “a health board” and “the health board”.</p> <p>(b) In subsection (4)(a), substitute “the Health Service Executive” for “the health board concerned”.</p> <p>(c) In subsection (4)(b)(II), substitute “the Health Service Executive” for “the health board”.</p> <p>(d) In subsection (5), substitute “The Health Service Executive” for “The health board concerned”.</p>

Item	Provision affected	Amendment
5.	Section 6	<p>(a) In subsection (2)(g), substitute “employees of the Health Service Executive,” for “officers of health boards,”.</p> <p>(b) In subsection (2)(i), substitute “the Health Service Executive” for “the health board concerned”.</p> <p>(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,”.</p> <p>(d) In subsection (2)(k), substitute “Health Service Executive” for “appropriate health boards” and “health boards”.</p> <p>(e) In subsection (2)(l), substitute “Health Service Executive” for “health boards concerned”.</p> <p>(f) In subsection 2(m)(i), substitute “Health Service Executive” for “health board concerned”.</p> <p>(g) In subsection (2)(m)(ii), substitute “the Health Service Executive” for “a health board” and substitute “the Executive” for “the board”, wherever occurring.</p> <p>(h) Substitute the following subsection for subsection (2)(n):</p> <p>“(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”.</p> <p>(i) In subsection (4)(a), substitute “Health Service Executive” for “health board concerned”.</p> <p>(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.</p>
6.	Section 7 (as amended by the Health (Miscellaneous Provisions) Act 2001)	<p>(a) In subsection (1), substitute “the Health Service Executive” for “a health board” and “the health board” and substitute “the Executive” for “the board”.</p> <p>(b) In subsection (2), substitute “the Health Service Executive” for “health boards”, wherever occurring.</p>

Item	Provision affected	Amendment
		<p>(c) In subsection (2)(b)(iii), substitute “employees of the Health Service Executive” for “officers of health boards”.</p> <p>(d) In subsection (2)(b)(v), substitute “the Health Service Executive” for “each health board”.</p> <p>(e) In subsection (2)(b)(x), substitute “an employee of the Health Service Executive” for “an officer of a health board” and substitute “the Health Service Executive” for “the health board”.</p> <p>(f) Delete subsection (2)(c).</p>
7.	Section 8	<p>(a) In subsection (1)(a), substitute “the Health Service Executive” for “a health board” and substitute “the Executive” for “the board”.</p> <p>(b) In subsection (1)(b), substitute “the Health Service Executive” for “a health board”.</p>
8.	Section 9	<p>(a) In subsection (1)(a), substitute “the Health Service Executive” for “a health board” and “the health board” and delete “in its functional area”.</p> <p>(b) In subsection (1)(c), substitute “the Health Service Executive” for “a health board”.</p> <p>(c) In subsection (1)(d), substitute “the Health Service Executive” for “a health board” and substitute “the Executive” for “the board”, wherever occurring.</p> <p>(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”.</p>
9.	Section 10	<p>(a) Substitute the following subsection for subsection (1):</p> <p>“(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.”.</p> <p>(b) In subsection (2)(a)(i) and (ii), substitute “the Health Service Executive and its employees” for “the health boards concerned and their officers”.</p> <p>(c) In subsection (2)(a)(iii), substitute “the Health Service Executive” for “health boards”.</p>

Item	Provision affected	Amendment
		<p>(d) In subsection (2)(a)(v), substitute “the Health Service Executive” for “the health board concerned”.</p> <p>(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.</p> <p>(f) In subsection (4), substitute “the Health Service Executive” for “a health board”.</p> <p>(g) Substitute the following subsection for subsection (5):</p> <p>“(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.”.</p>
10.	Section 12	<p>(a) Substitute the following subsection for subsection (1):</p> <p>“(1) Proceedings for a summary offence under this Act may be brought and prosecuted by the Health Service Executive.”.</p> <p>(b) Delete subsection (4).</p>

PART 5

AMENDMENT OF ADOPTION ACT 1991

Item	Provision affected	Amendment
1.	Section 1	Delete the definition of “health board”.
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	<p>(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”.</p> <p>(b) In subsection (2), substitute “the Health Service Executive” for “the health board concerned”.</p> <p>(c) Delete subsection (4).</p>

PART 6

AMENDMENT OF CHILD CARE ACT 1991

Item	Provision affected	Amendment
1.	Section 2	<p>(a) In the definition of “area” substitute “the Health Service Executive” for “health board”.</p> <p>(b) Delete the definition of “health board”.</p>
2.	Section 3	<p>(a) In subsection (1), substitute “the Health Service Executive” for “every health board” and delete “in its area”.</p> <p>(b) In subsection (2), substitute “the Health Service Executive” for “a health board” and in paragraph (a) delete “in its area”.</p> <p>(c) In subsection (3), substitute “The Health Service Executive” for “A health board”.</p> <p>(d) Substitute the following subsection for subsection (4):</p> <p>“(4) The provisions of the <i>Health Acts 1947 to 2004</i> 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.”.</p>
3.	Section 4	<p>(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”.</p> <p>(b) In subsection (2), substitute “the Health Service Executive” for “a health board”.</p> <p>(c) In subsection (3), substitute “the Health Service Executive” for “a health board” and substitute “the Executive” for each reference to “the board”.</p> <p>(d) In subsection (4), substitute “the Health Service Executive” for “a health board” and substitute “the Executive” for each reference to “the board”.</p> <p>(e) Insert the following subsection after subsection (4):</p> <p>“(5) A child who was taken into care under this section by a health board before the amendment of this section by the <i>Health Act 2004</i> and who is in the care of the health board immediately before the 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.”.</p>

Item	Provision affected	Amendment
4.	Section 5	<p>Substitute—</p> <p>(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”,</p> <p>(b) “if it” for “if the board”,</p> <p>(c) “care of the Executive” for “care of the board”, and</p> <p>(d) “the Executive shall take” for “the board shall take”.</p>
5.	Section 6	<p>(a) Substitute the following subsection for subsection (1):</p> <p>“(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.”.</p> <p>(b) In subsection (2), substitute “the Health Service Executive” for “a health board”.</p> <p>(c) In subsection (3), substitute “The Health Service Executive” for “A health board”.</p> <p>(d) In subsection (4), substitute “the Health Service Executive” for “a health board”.</p>
6.	Section 7	<p>(a) Substitute the following subsections for subsection (1):</p> <p>“(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.</p> <p>(1A) A child care advisory committee that, before the amendment of this section by the <i>Health Act 2004</i>, 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 <i>section 67(3) of the Health Act 2004</i>.”.</p> <p>(b) In subsection (3), substitute “the Health Service Executive” for “a health board”.</p>

Item	Provision affected	Amendment
		<p>(c) In subsection (5), substitute “the Health Service Executive and each child care advisory committee” for “each health board and child care advisory committee”.</p> <p>(d) Insert the following subsection after subsection (5):</p> <p>“(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.</p> <p>(5B) The Minister may amend or revoke directions given in relation to child care advisory committees.”.</p> <p>(e) In subsection (6), substitute “The Health Service Executive” for “A health board” and substitute “a functional area of the Executive” for “its area”.</p> <p>(f) In subsection (7)—</p> <p>(i) in paragraph (c), substitute “Health Service Executive” for “health board”, and</p> <p>(ii) substitute “a functional area of the Health Service Executive” for “a health board area”.</p>
7.	Section 8	<p>(a) Substitute the following for subsection (1):</p> <p>“(1) The Health Service Executive shall—</p> <p>(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 <i>Health Act 2004</i>, the health board would have been required to have prepared under this section, and</p> <p>(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.”.</p>

Item	Provision affected	Amendment
		<p>(b) In subsection (2)—</p> <p>(i) substitute “the Health Service Executive” for “a health board”, and</p> <p>(ii) in paragraph (c), substitute “the Executive” for “the board”.</p> <p>(c) Substitute the following for subsection (3):</p> <p>“(3) The Health Service Executive shall give notice of the preparation of a report under subsection (1) to—</p> <p>(a) each child care advisory committee, and</p> <p>(b) such bodies as the Executive sees fit whose purposes include the provision of child care and family support services,</p> <p>and shall have regard to any views or information furnished by such committees or bodies in the preparation of the report.”.</p> <p>(d) In subsection (4), substitute “The Health Service Executive” for “A health board”.</p>
8.	Section 9	<p>(a) Delete subsection (1).</p> <p>(b) In subsection (2), substitute “Nothing in the <i>Health Act 2004</i> shall empower the Health Service Executive” for “Nothing in this section shall empower a health board”.</p>
9.	Section 10	<p>(a) Substitute “The Health Service Executive” for “A health board” and “the Executive” for “the health board”.</p> <p>(b) Renumber section 10 as section 10(1) and insert the following subsection:</p> <p>“(2) Assistance given under this section to a voluntary body or other person that is a service provider as defined in <i>section 2</i> of the <i>Health Act 2004</i> shall be deemed for the purpose of <i>Part 9</i> of that Act to have been given to the voluntary body or other person under <i>section 39</i> of that Act.”.</p>
10.	Section 11	<p>In subsection (2), substitute “The Health Service Executive” for “A health board” and substitute “the Executive” for “the board”.</p>
11.	Section 12	<p>(a) In subsection (1)(b), substitute “the Health Service Executive” for “a health board”.</p> <p>(b) In subsection (3), substitute “Health Service Executive” for “health board for the area in which the child is for the time being”.</p>

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		<p>(c) In subsection (4), substitute “the Health Service Executive” for “a health board” and substitute “the Executive” for each reference to “the health board”.</p> <p>(d) Insert the following subsection after subsection (4):</p> <p>“(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 <i>Health Act 2004</i> and the child is not delivered up to the custody of the health board concerned before the establishment day of the Health Service Executive—</p> <p>(a) the child shall as soon as possible be delivered up to the custody of the Executive, and</p> <p>(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.”.</p>
12.	Section 13	<p>(a) In subsection (1), substitute “the Health Service Executive” for each reference to “a health board”.</p> <p>(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”.</p> <p>(c) In subsection (3), substitute “Health Service Executive” for “health board”.</p>
13.	Section 14	<p>(a) In subsection (1), substitute “the Health Service Executive under this Part, the Executive” for “a health board under this Part, the board”.</p> <p>(b) In subsection (2), substitute “the Health Service Executive” for “a health board”.</p>
14.	Section 15	Substitute “The Health Service Executive” for “A health board”.
15.	Section 16	<p>(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”.</p> <p>(b) Substitute “Executive” for “health board”.</p>
16.	Section 17	<p>(a) In subsection (1), substitute “the Health Service Executive” for “a health board” and substitute “the Executive” for “the health board”.</p> <p>(b) In subsection (2), substitute “Health Service Executive” for each reference to “health board”.</p>

Item	Provision affected	Amendment
17.	Section 18	<p>(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”.</p> <p>(b) In subsections (2) and (3), substitute “Health Service Executive” for “health board”.</p> <p>(c) In subsections (4) and (5)(b), substitute “the Health Service Executive” for “a health board” and “the health board”.</p> <p>(d) In subsections (7) and (8), substitute “Health Service Executive” for “health board”.</p>
18.	Section 19	<p>(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”.</p> <p>(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”.</p>
19.	Section 20	<p>(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”.</p> <p>(b) In subsection (2), substitute “Health Service Executive” for “health board”.</p> <p>(c) In subsection (3), substitute “Health Service Executive” for “health board concerned”.</p> <p>(d) In subsection (4), substitute “the Health Service Executive” for “a health board”.</p> <p>(e) Insert the following subsection after subsection (4):</p> <p>“(5) Where, before the amendment of this section by the <i>Health Act 2004</i>, 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—</p> <p>(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,</p>

Item	Provision affected	Amendment
		<p>(b) the investigation may be completed by the Executive, and</p> <p>(c) subsections (3) and (4) apply as though all of the investigation had been undertaken and completed by the Executive.”.</p>
20.	Section 23	<p>(a) In paragraph (a), substitute “the Health Service Executive” for “a health board”.</p> <p>(b) In paragraph (b), substitute “the Health Service Executive” for “the health board”.</p>
21.	Section 23A	<p>(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”.</p> <p>(b) In subsection (2), substitute “the Health Service Executive” for “the health board”.</p> <p>(c) In subsection (3), substitute “the Health Service Executive” for “a health board” and substitute “the Executive” for “the board”.</p> <p>(d) Insert the following subsections after subsection (3):</p> <p>“(4) Where, before the amendment of this section by the <i>Health Act 2004</i>, 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).</p> <p>(5) Where, before the amendment of this section by the <i>Health Act 2004</i>, 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).”.</p>

Item	Provision affected	Amendment
22.	Section 23B	<p>(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”.</p> <p>(b) In subsection (2), substitute “Health Service Executive” for “health board concerned” and for “health board”.</p> <p>(c) In subsection (3), substitute “Health Service Executive” for “health board”.</p> <p>(d) In subsection (4)(b), substitute “Health Service Executive” for “health board concerned”.</p> <p>(e) In subsection (5), substitute “Health Service Executive” for “health board concerned” and substitute “it shall” for “the board shall”.</p> <p>(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”.</p>
23.	Section 23C	<p>(a) In subsection (1), substitute “the Health Service Executive” for “a health board” and substitute the following paragraph for paragraph (a):</p> <p>“(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.”.</p> <p>(b) In subsection (2)(b), substitute “Health Service Executive” for “health board”.</p> <p>(c) In subsection (3), substitute “Health Service Executive” for “health board concerned”.</p>
24.	Section 23D	<p>(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”.</p> <p>(b) In subsection (2), substitute “the Health Service Executive” for each reference to “a health board” and to “the health board”.</p>
25.	Section 23E	<p>In subsection (1), substitute “Health Service Executive” for “health board concerned”.</p>
26.	Section 23F	<p>In subsection (2), substitute “the Health Service Executive” for each reference to “a health board” or to “the health board”.</p>

Item	Provision affected	Amendment
27.	Section 23J	Substitute “the Health Service Executive” for “a health board”.
28.	Section 23K	<p>(a) Substitute the following subsections for subsection (1):</p> <p>“(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.</p> <p>(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.</p> <p>(1B) <i>Section 38(2) to (9) of the Health Act 2004</i> 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 <i>Part 9</i> of that Act a service provider as defined in <i>section 2</i> of that Act.”.</p> <p>(b) In subsection (2), substitute “the Health Service Executive” for “the health board”.</p> <p>(c) In subsection (4), substitute “Health Service Executive” for “health board concerned”.</p> <p>(d) Insert the following subsection after subsection (4):</p> <p>“(4A) A certificate issued by the Minister to a health board before the amendment of this section by the <i>Health Act 2004</i> shall be deemed to have been issued to the Health Service Executive.”.</p> <p>(e) In subsection (6), substitute “the Health Service Executive” for “health boards”.</p> <p>(f) In subsection (7)(f), substitute the following for subparagraph (i):</p> <p>“(i) in case the units were provided in accordance with an arrangement referred to in subsection (1A), the Health Service Executive, and”.</p>

Item	Provision affected	Amendment
		<p>(g) Substitute the following subsection for subsection (8):</p> <p>“(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).”.</p> <p>(h) In subsection (9), substitute “the Health Service Executive” for “a health board”.</p> <p>(i) In subsection (10), substitute “subsection (1A)” for “subsection (1)(b)”.</p>
29.	Section 23O	<p>(a) Substitute the following definition for the definition of “authorised officer”:</p> <p>“‘authorised officer’ means a person appointed by the Health Service Executive under section 23S;”.</p> <p>(b) Delete the definition of “health board”.</p> <p>(c) In the definition of “private foster care arrangement” in paragraphs (b) and (h), substitute “the Health Service Executive” for “a health board”.</p>
30.	Section 23P	<p>(a) In subsections (1) and (2), substitute “Health Service Executive” for “health board”.</p> <p>(b) Substitute the following subsection for subsection (3):</p> <p>“(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).”.</p>
31.	Section 23Q	<p>(a) In subsection (1), substitute “Health Service Executive” for each reference to “health board”.</p> <p>(b) In subsection (2), substitute “Health Service Executive” for “relevant health board” and substitute “the Executive” for “the health board”.</p>
32.	Section 23S	<p>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”.</p>

Item	Provision affected	Amendment
33.	Section 23T	<p>(a) In subsection (1), substitute “Health Service Executive” for “relevant health board”.</p> <p>(b) In subsection (2), substitute “Health Service Executive” for “health board”.</p>
34.	Section 23U	Substitute “the Health Service Executive” for “a health board” and for “the health board”.
35.	Section 23V	<p>(a) In subsection (2)(b), substitute “Health Service Executive” for “relevant health board”.</p> <p>(b) In subsection (3), substitute “Health Service Executive” for “health board”.</p>
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	<p>(a) In subsection (4), substitute “Health Service Executive” for “health board concerned” and substitute “The Executive” for “The health board”.</p> <p>(b) In subsection (5), substitute “the Health Service Executive” for “a health board” and substitute “the Executive” for “the board” and for “that board”.</p>
39.	Section 26	<p>(a) In subsection (2), substitute “Health Service Executive” for “health board concerned” and for “health board”.</p> <p>(b) In subsection (3), substitute “the Health Service Executive” for “a health board” and substitute “the Executive” for “the board” and for “that board”.</p>
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”.
41.	Section 35	Substitute “the Health Service Executive” for “a health board” and for “the health board”.

Item	Provision affected	Amendment
42.	Section 36	<p>(a) In subsection (1), substitute—</p> <p>(i) “care of the Health Service Executive” for “care of a health board”,</p> <p>(ii) “the Executive shall” for “the health board shall”,</p> <p>(iii) “by the Executive” for “by a health board”, and</p> <p>(iv) “as the Executive” for “as the health board”.</p> <p>(b) In subsections (2) and (3), substitute “the Health Service Executive” for “a health board”.</p>
43.	Section 37	<p>(a) In subsection (1), substitute “the Health Service Executive” for “a health board” and substitute “the Executive” for each reference to “the board”.</p> <p>(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 <i>Health Act 2004</i>” for “by a health board under subsection (1)”.</p> <p>(c) In subsection (3), substitute “the Health Service Executive” for “a health board” and substitute “the Executive” for “the board”.</p>
44.	Section 38	<p>(a) In subsections (1) and (2), substitute “The Health Service Executive” for “A health board”.</p> <p>(b) In subsection (3), substitute “the Health Service Executive” for “health boards”.</p>
45.	Section 39	<p>(a) In subsection (1), substitute “the Health Service Executive” for “health boards”.</p> <p>(b) In subsection (2)(b) and (c), substitute “the Health Service Executive” for “a health board”.</p>
46.	Section 40	<p>(a) In subsection (1), substitute “the Health Service Executive” for “health boards”.</p> <p>(b) In subsection (2)(b) and (c), substitute “the Health Service Executive” for “a health board”.</p>
47.	Section 41	<p>(a) In subsections (1) and (2)(a), substitute “the Health Service Executive” for “health boards”.</p> <p>(b) In subsection (2)(b) and (c), substitute “the Health Service Executive” for “a health board”.</p>

Item	Provision affected	Amendment
48.	Section 42	<p>(a) In subsection (1), substitute “the Health Service Executive” for “a health board”.</p> <p>(b) In subsection (2)(c), substitute “Health Service Executive” for “board”.</p>
49.	Section 43	<p>(a) Substitute the following subsection for subsection (1):</p> <p>“(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 <i>Health Act 2004</i>.”.</p> <p>(b) In subsection (2), substitute “the Health Service Executive” for “a health board” and substitute “the Executive” for each reference to “the board”.</p> <p>(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”.</p> <p>(d) In subsection (5), substitute “the Health Service Executive” for “the board”.</p> <p>(e) In subsection (6), substitute “the Health Service Executive” for “a health board”.</p>
50.	Section 44	<p>(a) Substitute the following subsection for subsection (1):</p> <p>“(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.”.</p> <p>(b) In subsection (2), substitute “the Adoption Acts 1952 to 1998” for “the Adoption Acts, 1952 to 1988”.</p>

Item	Provision affected	Amendment
51.	Section 45	<p>(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”.</p> <p>(b) In subsection (2), substitute “The Health Service Executive” for “A health board”.</p> <p>(c) In subsection (3), substitute “the Health Service Executive” for “a health board”.</p> <p>(d) In subsection (4), substitute “the Health Service Executive” for “a health board”.</p>
52.	Section 46	<p>(a) In subsection (1), substitute “the Health Service Executive” for “a health board” and substitute “the Executive” for each reference to “the board”.</p> <p>(b) In subsection (2), substitute “Health Service Executive” for “health board” and substitute “Executive” for “board”.</p> <p>(c) Insert the following subsection after subsection (2):</p> <p>“(2A) A request made by a health board to the Garda Síochána under subsection (2) before the amendment of that subsection by the <i>Health Act 2004</i> 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.”</p> <p>(d) In subsection (3), substitute “Health Service Executive” for “board”.</p> <p>(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”.</p> <p>(f) In subsection (6), substitute “the Health Service Executive” for “the board”.</p>
53.	Section 47	Substitute “the Health Service Executive” for “a health board”.
54.	Section 49	<p>(a) In the definition of “pre-school service” substitute “the Health Service Executive” for “health boards”.</p> <p>(b) Delete the definition of “relevant health board”.</p>
55.	Section 50	In subsection (2)(b) and (c), substitute “the Health Service Executive” for “health boards”.

Item	Provision affected	Amendment
56.	Section 51	<p>Substitute the following for section 51:</p> <p>“Notice to Health Service Executive. 51.—(1) A person who proposes to carry on a pre-school service shall give notice to the Health Service Executive in the prescribed manner.</p> <p>(2) A person who, before the amendment of this section by the <i>Health Act 2004</i>, 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.”.</p>
57.	Section 53	<p>Substitute “The Health Service Executive” for “A health board” and delete “in its area”.</p>
58.	Section 54	<p>(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”.</p> <p>(b) In subsection (2), substitute “The Health Service Executive” for “A health board”.</p>
59.	Section 55	<p>(a) In subsection (1), substitute “Health Service Executive” for “relevant health board”.</p> <p>(b) In subsection (2), substitute “Health Service Executive” for “relevant health board” and substitute “Executive” for “health board”.</p>
60.	Section 56	<p>(a) In subsection (1), substitute “The Health Service Executive” for “A health board” and delete “in its area”.</p> <p>(b) In subsection (2), substitute “the Health Service Executive” for “health boards”.</p> <p>(c) Substitute the following subsection for subsection (3):</p> <p>“(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.”.</p>
61.	Section 59	<p>(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”.</p> <p>(b) Substitute the following definition for the definition of “register”:</p> <p>“‘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;”.</p>

Item	Provision affected	Amendment
62.	Section 61	<p>(a) Substitute the following for subsection (1):</p> <p>“(1) The Health Service Executive shall establish and maintain a register of children’s residential services in each functional area of the Executive.</p> <p>(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 <i>Health Act 2004</i> shall be deemed to have been established by the Health Service Executive and shall be maintained by the Executive.”.</p> <p>(b) In subsection (3)(a), substitute “The Health Service Executive” for “A health board” and delete “in its functional area”.</p> <p>(c) In subsection (3), insert the following paragraph after paragraph (b):</p> <p>“(c) An application for registration made to a health board before the amendment of this subsection by the <i>Health Act 2004</i> 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.”.</p> <p>(d) In subsection (4), substitute “The Health Service Executive” for “A health board”.</p> <p>(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”.</p> <p>(f) In subsection (6)(a), substitute “The Health Service Executive” for “A health board”.</p> <p>(g) In subsection (6), insert the following paragraph after paragraph (b):</p> <p>“(6A) Conditions imposed, amended or revoked by a health board before the amendment of this subsection by the <i>Health Act 2004</i> shall be deemed to have been imposed, amended or revoked by the Health Service Executive.”.</p> <p>(h) In subsection (8)(a), substitute “The Health Service Executive” for “A health board”.</p>

Item	Provision affected	Amendment
		<p>(i) In subsection (8)(b), substitute “the Health Service Executive” for “a health board” and substitute “to the Executive” for “to the board”.</p> <p>(j) In subsection (9), substitute “Health Service Executive” for “health board concerned” and substitute “if the Executive” for “if the board”.</p> <p>(k) In subsection (10)(a)(ii), substitute “the Health Service Executive” for “the health board concerned”.</p> <p>(l) In subsection (11)(a), substitute “the Health Service Executive” for “a health board”.</p> <p>(m) In subsection (11)(b), substitute “Health Service Executive” for “health board concerned” and substitute “and the Executive” for “and the board”.</p> <p>(n) In subsection (12), substitute “the Health Service Executive” for each reference to “a health board” or to “the board”.</p>
63.	Section 62	<p>(a) In subsection (1), substitute “the Health Service Executive” for “a health board” and for “the health board”.</p> <p>(b) In subsection (4), substitute “Health Service Executive” for “health board concerned” and for “health board”.</p> <p>(c) In subsection (5), substitute “Health Service Executive” for “health board concerned”.</p>
64.	Section 63	<p>(a) In subsection (2)(f), substitute “employees of the Health Service Executive” for “officers of health boards”.</p> <p>(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”.</p> <p>(c) In subsection (4)(a), substitute “Health Service Executive” for “health board concerned”.</p> <p>(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”.</p>

Item	Provision affected	Amendment
65.	Section 65	<p>(a) In subsection (1), substitute “Health Service Executive” for “health board for the area in which the centre is situated”.</p> <p>(b) In subsection (2), substitute “The Health Service Executive” for “A health board”.</p> <p>(c) Insert the following subsection after subsection (2):</p> <p>“(3) A notice given to a health board in accordance with subsection (1) before the amendment of that subsection by the <i>Health Act 2004</i> shall be deemed to have been given to the Health Service Executive.”.</p>
66.	Section 66	<p>(a) Substitute the following subsection for subsection (1):</p> <p>“(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 <i>Health Act 2004</i>, be deemed to be employed by the Health Service Executive.”.</p> <p>(b) In subsection (2), substitute “Health Service Executive” for “health board for the area in which the centre is situated”.</p> <p>(c) In subsection (3), substitute “the Health Service Executive” for each reference to “a health board”.</p>
67.	Section 69	<p>(a) In subsection (1), substitute “the Health Service Executive” for “a health board” and substitute “the Executive” for “the health board”.</p> <p>(b) In subsection (2), substitute “the Health Service Executive” for “a health board”.</p> <p>(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”.</p> <p>(d) In subsection (5), substitute “the Health Service Executive” for each reference to “a health board”.</p>
68.	Section 70	<p>(a) In subsection (1), substitute “Health Service Executive” for “health board”.</p> <p>(b) In subsections (2) and (3), substitute “the Health Service Executive” for “a health board”.</p>

Item	Provision affected	Amendment
		<p>(c) In subsection (4), substitute “the Health Service Executive” for “a health board” and substitute “the Executive” for “the board”.</p> <p>(d) In subsection (5), substitute “the Health Service Executive” for “a health board”.</p>
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	<p>(a) In subsection (1) in the definition of “director”, substitute “the Health Service Executive” for “health board”.</p> <p>(b) In subsection (1) in the definition of “personal information” in subparagraph (ix), substitute “the Health Service Executive” for “a health board”.</p>
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	<p>(a) In Part 1, Column (2), insert “<i>Health Act 2004.</i>”.</p> <p>(b) In Part 1, Column (3), insert “<i>section 26.</i>” opposite the mention in Column (2) of the <i>Health Act 2004.</i></p>

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”.

Item	Provision affected	Amendment
3.	Section 7	<p>(a) In subsection (5), substitute “the Health Service Executive.” for “a relevant health board.”.</p> <p>(b) In subsection (6), substitute “The Health Service Executive” for “A health board”.</p>
4.	Section 33	<p>In paragraph (j)(iii), substitute the following subparagraph for subparagraph (iii):</p> <p>“(iii) the Health Service Executive, and”.</p>

PART 9

AMENDMENT OF PROTECTION FOR PERSONS
REPORTING CHILD ABUSE ACT 1998

Item	Provision affected	Amendment
1.	Section 1	<p>(a) In subsection (1), substitute the following definition for the definition of “designated officer”:</p> <p>“‘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;”.</p> <p>(b) In subsection (1), delete the definition of “health board”.</p>
2.	Section 2	<p>Substitute the following section for section 2:</p> <p>“(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.</p> <p>(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.</p> <p>(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).”.</p>

PART 10

AMENDMENT OF EDUCATION (WELFARE) ACT 2000

Item	Provision affected	Amendment
1.	Section 2	In subsection (1), delete the definition of “health board”.
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”.

Item	Provision affected	Amendment
6.	Section 12	<p>(a) Substitute the following paragraph for paragraph (e):</p> <p>“(e) the Health Service Executive;”.</p> <p>(b) In paragraph (f), substitute “Health Service Executive” for “health board”.</p>
7.	Section 13	<p>(a) In subsection (1), substitute “Health Service Executive” for “health board concerned”.</p> <p>(b) In subsection (2), substitute “Health Service Executive” for “health board”.</p>
8.	Section 15A	<p>(a) Insert the following section in Part 2, after section 15:</p> <p>“Transitional provisions relating to Health Act 2004. 15A.—(1) In this section, a reference to a provision of this Act is to that provision as it was before it was amended by the Health Act 2004.</p> <p>(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.</p> <p>(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.</p> <p>(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.”.</p>
9.	Section 32	<p>In subsection (3), substitute the following for paragraph (a):</p> <p>“(a) the Health Service Executive;”.</p>

Item	Provision affected	Amendment
10.	Section 53	<p>(a) In subsections (2) and (3), substitute “the Health Service Executive” for “the health board for the area in which the child normally resides”.</p> <p>(b) In subsection (4), substitute “the Health Service Executive” for each reference to “a health board” or “the health board”.</p> <p>(c) In subsection (5)(b), substitute “the Health Service Executive” for “a health board”.</p>
11.	Section 59	<p>(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”.</p> <p>(b) In subsections (2), (3) and (4), substitute “Health Service Executive” for “health board”, wherever occurring.</p>
12.	Section 70	In subsection (1)(b), substitute “the Health Service Executive” for “a health board”.
13.	Section 77	<p>(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”.</p> <p>(b) In subsections (2) and (3), substitute “the Health Service Executive” for each reference to “a health board” or “the health board”.</p>
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”.
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	<p>(a) In subsection (3)(b), substitute “Health Service Executive” for “chief executive officers of health boards”.</p> <p>(b) Insert the following subsection after subsection (6):</p> <p>“(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.”.</p>
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”.

AMENDMENT OF MENTAL HEALTH ACT 2001

Item	Provision affected	Amendment
1.	Section 2	<p>(a) In subsection (1), delete the definition of “functional area”.</p> <p>(b) In subsection (1), delete the definition of “health board”.</p> <p>(c) In subsection (1), in the definition of “consultant psychiatrist”, substitute “the Health Service Executive” for “a health board”.</p>
2.	Section 9	<p>(a) In subsection (7), substitute “a member of the Board of the Health Service Executive.” for “a member of a health board.”.</p> <p>(b) In subsection (8) in the definition of “authorised officer”, substitute “the Health Service Executive” for “a health board”.</p>
3.	Section 23	<p>(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.”.</p> <p>(b) In subsection (3), substitute “the Health Service Executive” for “the health board”, wherever occurring.</p>
4.	Section 25	<p>(a) Substitute the following subsection for subsection (1):</p> <p>“(1) Where it appears to the Health Service Executive that—</p> <p style="padding-left: 40px;">(a) a child is suffering from a mental disorder, and</p> <p style="padding-left: 40px;">(b) the child requires treatment which he or she is unlikely to receive unless an order is made under this section,</p> <p>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.”.</p> <p>(b) In subsections (2) to (4), substitute “the Health Service Executive” for “a health board”, wherever occurring.</p> <p>(c) In subsections (2) to (4), substitute “the Health Service Executive” for “the health board”, wherever occurring.</p> <p>(d) In subsection (9), substitute “the Health Service Executive” for “the health board concerned”.</p> <p>(e) In subsection (10), substitute “the Health Service Executive” for “a health board”.</p>

Item	Provision affected	Amendment
		<p>(f) In subsection (11), substitute the following paragraph for paragraph (a):</p> <p>“(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”.</p>
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	<p>Substitute the following subparagraph for subparagraph (2)(b)(iv):</p> <p>“(iv) the Health Service Executive,”.</p>

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	<p>(a) In subsections (1) and (3)(a), substitute “Health Service Executive” for “relevant health board”.</p> <p>(b) In subsection (4), substitute “Health Service Executive” for “health board”.</p> <p>(c) In subsection (5), substitute “The Health Service Executive” for “A health board”.</p> <p>(d) In subsection (7), substitute “the Health Service Executive” for “a health board”.</p>

Item	Provision affected	Amendment
		(e) In subsection (8)(a), substitute “Health Service Executive” for “health board”.
3.	Section 5	<p>(a) In subsection (1), substitute “the Health Service Executive” for “the health board” and for “the board”.</p> <p>(b) In subsection (2), substitute “The Health Service Executive” for “A health board”.</p> <p>(c) In subsections (3), (4) and (6), substitute “Health Service Executive” for “health board” wherever occurring.</p> <p>(d) In subsection (8), substitute “the Health Service Executive” for “the health board” and for “the board”.</p>
4.	Section 6	<p>(a) In subsection (2)(a), substitute “Health Service Executive” for “health board”.</p> <p>(b) In subsection (3), substitute “the Health Service Executive” for “a health board”.</p>
5.	Section 7	<p>(a) In subsection (1), substitute “Health Service Executive” for “relevant health board”.</p> <p>(b) In subsection (2), substitute “the Health Service Executive” for “a health board”.</p> <p>(c) In subsection (4), substitute “Health Service Executive” for “relevant health board” and for “health board” wherever occurring.</p> <p>(d) In subsection (5), substitute “the Health Service Executive” for “a health board” and for “the health board”.</p> <p>(e) In subsection (6), substitute “Health Service Executive” for “relevant health board”.</p> <p>(f) In subsections (7) and (8), substitute “the Health Service Executive” for “a health board”.</p>
6.	Section 8	In subsection (1), substitute “the Health Service Executive” for “a health board”.
7.	Section 12	<p>(a) In subsection (1)(b), substitute “the Health Service Executive” for “a health board”.</p> <p>(b) In subsection (2)(a), substitute “Health Service Executive” for “relevant health board”.</p> <p>(c) In subsection (3), substitute “the Health Service Executive” for “a health board”.</p>
8.	Section 16	Substitute “The Health Service Executive” for “A health board”.

Item	Provision affected	Amendment
9.	Section 17	<p>Substitute the following section:</p> <p>“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 functions, namely to ensure, so far as practicable that—</p> <p style="padding-left: 40px;">(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 co-ordinated, and</p> <p style="padding-left: 40px;">(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.</p> <p style="padding-left: 40px;">(2) Each employee or officer designated under subsection (1) shall be known as a liaison officer.”.</p>
10.	Section 20	In subsection (1)(b), substitute “the Health Service Executive” for “health boards”.
11.	Section 39	<p>(a) In subsection (1), substitute “the Health Service Executive” for “a health board”.</p> <p>(b) In subsection (2), substitute “the Health Service Executive.” for “the board concerned.”.</p> <p>(c) In subsection (3), substitute “The Health Service Executive” for “A board of which a request under subsection (1) is made”.</p> <p>(d) In subsection (4), substitute “the Health Service Executive” for “a board”.</p> <p>(e) In subsection (5), substitute “the Health Service Executive” for “the board”.</p> <p>(f) In subsection (6)(a), substitute “the Health Service Executive” for “the board concerned”.</p> <p>(g) In subsection (7), substitute “The Health Service Executive” for “A health board”.</p>
12.	Section 41	In subsection (2), substitute “the Health Service Executive” for “health boards”.

AMENDMENT OF RESIDENTIAL TENANCIES ACT 2004

Item	Provision affected	Amendment
1.	Section 4	<p>(a) In subsection (1), in the definition of “public authority”, substitute the following paragraph for paragraphs (d) and (e):</p> <p style="padding-left: 40px;">“(d) the Health Service Executive established under <i>section 6</i> of the <i>Health Act 2004</i>,”.</p> <p>(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”.</p>

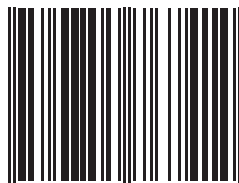
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