



**AN BILLE SLÁINTE (FORÁLACHA ILGHNÉITHEACHA)
2009
HEALTH (MISCELLANEOUS PROVISIONS) BILL 2009**

EXPLANATORY MEMORANDUM

Purpose of the Bill

The purpose of the Bill is to consolidate arrangements for the establishment of the Office for Older People within the Department of Health and Children and to progress the integration of health service agencies in line with the objectives of the Health Service Reform Programme and Government policy on the rationalisation of public sector agencies by providing for:

- the dissolution of the National Council on Ageing and Older People and the Women's Health Council and the transfer of their employees, assets and liabilities to the Department of Health and Children and
- the dissolution of the National Cancer Screening Service Board, the Drug Treatment Centre Board and the Crisis Pregnancy Agency and the transfer of their employees, assets and liabilities to the Health Service Executive.

The Bill also provides for Ministerial responsibility for Local Government Superannuation Scheme (Health Sector) to transfer from the Minister for Environment, Heritage and Local Government to the Minister for Health and Children and to give legal effect to amendments made to the scheme by the Minister for Health and Children.

In addition, the Bill provides for the amendment of the Hepatitis C Compensation Tribunal Act 1997 (as amended) to remove age limits for travel insurance benefit provided in accordance with that Act.

The Bill further provides for technical amendments to the Health Act 2007 and for an amendment to the National Cancer Registry Board (Establishment) Order 1991 in relation to the composition of that Board.

Provisions of Bill

Part 1: Preliminary and General

Section 1 provides for the short title, that the Bill, when enacted, will come into operation by Ministerial order and that different provisions of the Bill may be brought into operation at different times.

Section 2 defines certain words and terms used in the Bill.

Section 3 provides for the payment of expenses incurred by the Minister in the administration of the Bill out of moneys provided by the Oireachtas.

Part 2: Dissolution of National Council on Ageing and Older People

Section 4 provides that in Part 2, “Council” means the National Council on Ageing and Older People.

Section 5 dissolves the Council.

Section 6 transfers rights and liabilities of the Council to the Minister for Health and Children on the commencement of Part 2.

Section 7 transfers land, other property and any moneys, stocks and shares and securities of the Council to the Minister for Health and Children on the commencement of Part 2.

Section 8 requires the Minister for Health and Children to cause final accounts of the Council to be prepared and to submit them to the Comptroller and Auditor General for audit. The Minister must lay copies of the audited accounts and the Comptroller and Auditor General’s report on the accounts before each House of the Oireachtas.

Section 9 requires the Minister for Health and Children to cause a final report of the Council’s activities to be prepared and to lay copies of the report before each House of the Oireachtas.

Section 10 substitutes the name of the Minister for Health and Children for the name of the Council in any pending legal proceedings to which the Council is a party immediately before the commencement of Part 2. The proceedings shall not abate by reason of such substitution.

Section 11 provides that every contract or agreement made between the Council or any trustee or agent thereof acting on its behalf, and any other person, which is in force immediately before the commencement of Part 2 shall continue in force and shall be construed and have effect as if the Minister for Health and Children were substituted therein for the Council and shall be enforceable against the Minister.

Section 12 provides that every person who, immediately before the commencement of Part 2, is an employee of the Council shall, on the commencement of Part 2, hold an unestablished position in the Civil Service. Save in accordance with a collective agreement negotiated with any recognised trade union or staff association concerned, a person transferred shall not, on the commencement of Part 2, be brought to less beneficial conditions of remuneration than the conditions of remuneration to which he or she was subject immediately before the commencement of Part 2. The previous service of a

person transferred shall be reckonable for the purposes of the employment legislation set out in subsection (3) of section 12, subject to any exceptions or exclusions in that legislation. Any superannuation benefits awarded to or in respect of a person transferred 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 commencement of Part 2. The pension payments and other superannuation liabilities of the Council in respect of its former employees become on the commencement of Part 2 the liabilities of the Minister for Finance. A person transferred under section 12 shall undertake such duties as the Minister may from time to time direct and shall be subject to and employed in accordance with the Civil Service Regulation Acts 1956 to 2005.

Section 13 transfers each record held by the Council immediately before the commencement of Part 2 to the Minister.

Section 14 revokes the National Council on Ageing and Older People (Establishment) Order 1997 (S.I. No. 120 of 1997).

Part 3: Dissolution of Women's Health Council

Section 15 provides that in Part 3, "Council" means the Women's Health Council.

Section 16 dissolves the Council.

Section 17 transfers rights and liabilities of the Council to the Minister for Health and Children and on commencement of Part 3.

Section 18 transfers land, other property and any moneys, stocks and shares and securities of the Council to the Minister for Health and Children on the commencement of Part 3.

Section 19 requires the Minister for Health and Children to cause final accounts of the Council to be prepared and to submit them to the Comptroller and Auditor General for audit. The Minister must also lay copies of the audited accounts and the Comptroller and Auditor General's report on the accounts before each House of the Oireachtas.

Section 20 requires the Minister for Health and Children to cause a final report of the Council's activities to be prepared and to lay copies of the report before each House of the Oireachtas.

Section 21 substitutes the name of the Minister for Health and Children for the name of the Council in any pending legal proceedings to which the Council is a party immediately before the commencement of Part 3. The proceedings shall not abate by reason of such substitution.

Section 22 provides that every contract or agreement made between the Council or any trustee or agent thereof acting on its behalf, and any other person, which is in force immediately before the commencement of Part 3 shall continue in force and shall be construed and have effect as if the Minister for Health and Children were substituted therein for the Council and shall be enforceable against the Minister.

Section 23 provides that every person who, immediately before the commencement of Part 3, is an employee of the Council shall, on the commencement of Part 3, hold an unestablished position in the Civil Service. Every person who, immediately before the commencement of Part 3, is a fixed-term employee of the Council shall, on the commencement of Part 3, hold an unestablished position in the Civil Service for the duration of his or her contract of employment. Save in accordance with a collective agreement negotiated with any recognised trade union or staff association concerned, a person transferred shall not, on the commencement of Part 3, be brought to less beneficial conditions of remuneration than the conditions of remuneration to which he or she was subject immediately before the commencement of Part 3. The previous service of a person transferred shall be reckonable for the purposes of the employment legislation set out in subsection (3) of section 23, subject to any exceptions or exclusions in that legislation. Any superannuation benefits awarded to or in respect of a person transferred 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 commencement of Part 3. The pension payments and other superannuation liabilities of the Council in respect of its former employees become on the commencement of Part 3 the liabilities of the Minister for Finance. A person transferred under section 23 shall undertake such duties as the Minister may from time to time direct and shall be subject to and employed in accordance with the Civil Service Regulation Acts 1956 to 2005.

Section 24 transfers each record held by the Council immediately before the commencement of Part 3 to the Minister.

Section 25 revokes the Women's Health Council (Establishment) Order 1997 (S.I. No. 278 of 1997).

Part 4: Dissolution of National Cancer Screening Service Board

Section 26 provides that in Part 4, "Board" means the National Cancer Screening Service Board.

Section 27 dissolves the Board.

Section 28 transfers rights and liabilities of the Board to the Health Service Executive on the commencement of Part 4.

Section 29 transfers land, other property and any moneys, stocks and shares and securities of the Board to the Health Service Executive on the commencement of Part 4.

Section 30 requires the Health Service Executive to cause final accounts of the Board to be prepared and to submit them to the Comptroller and Auditor General for audit. A copy of the audited accounts and the Comptroller and Auditor General's report on the accounts shall be submitted to the Minister who shall lay copies of the audited accounts and the Comptroller and Auditor General's report on the accounts before each House of the Oireachtas.

Section 31 requires the Health Service Executive to cause a final report to the Minister of the Board's activities to be prepared. The Minister shall lay copies of the final report before each House of the Oireachtas.

Section 32 substitutes the name of the Health Service Executive for the name of the Board in any pending legal proceedings to which the Board is a party immediately before the commencement of Part 4. The proceedings shall not abate by reason of such substitution.

Section 33 provides that every contract or agreement made between the Board or any trustee or agent thereof acting on its behalf, and any other person, which is in force immediately before the commencement of Part 4 shall continue in force and shall be construed and have effect as if the Health Service Executive were substituted therein for the Board and shall be enforceable against the Minister.

Section 34 provides that every person who, immediately before the commencement of Part 4, is an employee of the Board shall, on the commencement of Part 4, be transferred to and become an employee of the Health Service Executive. Save in accordance with a collective agreement negotiated with any recognised trade union or staff association concerned, a person transferred shall not, on the commencement of Part 4, be brought to less beneficial conditions of service (including conditions in relation to tenure) or of remuneration to which he or she was subject immediately before the commencement of Part 4. The previous service of a person transferred shall be reckonable for the purposes of the employment legislation set out in subsection (3) of section 34, subject to any exceptions or exclusions in that legislation. Any superannuation benefits awarded to or in respect of a person transferred 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 commencement of Part 4. The pension payments and other superannuation liabilities of the Board in respect of its former employees become on the commencement of Part 4 the liabilities of the Health Service Executive. A person transferred under section 34 shall be subject to and employed in accordance with the Health Acts 1947 to 2008.

Section 35 transfers each record held by the Board immediately before the commencement of Part 4 to the Health Service Executive.

Section 36 revokes the National Cancer Screening Service Board (Establishment) Order 2006 (S.I. No. 632 of 2006).

Part 5: Dissolution of the Drug Treatment Centre Board

Section 37 provides that in Part 5, “Board” means the Drug Treatment Centre Board.

Section 38 dissolves the Board.

Section 39 transfers rights and liabilities of the Board to the Health Service Executive on the commencement of Part 5.

Section 40 transfers land, other property and any moneys, stocks and shares and securities of the Board to the Health Service Executive on the commencement of Part 5.

Section 41 requires the Health Service Executive to cause final accounts of the Board to be prepared and to submit them to the Comptroller and Auditor General for audit. A copy of the audited accounts and the Comptroller and Auditor General’s report on the accounts shall be submitted to the Minister who shall lay copies of

the audited accounts and the Comptroller and Auditor General's report on the accounts before each House of the Oireachtas.

Section 42 requires the Health Service Executive to cause a final report to the Minister of the Board's activities to be prepared. The Minister shall lay copies of the final report before each House of the Oireachtas.

Section 43 substitutes the name of the Health Service Executive for the name of the Board in any pending legal proceedings to which the Board is a party immediately before the commencement of Part 5. The proceedings shall not abate by reason of such substitution.

Section 44 provides that every contract or agreement made between the Board or any trustee or agent thereof acting on its behalf, and any other person, which is in force immediately before the commencement of Part 5 shall continue in force and shall be construed and have effect as if the Health Service Executive were substituted therein for the Board and shall be enforceable against the Minister.

Section 45 provides that every person who, immediately before the commencement of Part 5, is an employee of the Board shall, on the commencement of Part 5, be transferred to and become an employee of the Health Service Executive. Save in accordance with a collective agreement negotiated with any recognised trade union or staff association concerned, a person transferred shall not, on the commencement of Part 5, be brought to less beneficial conditions of service (including conditions in relation to tenure) or of remuneration to which he or she was subject immediately before the commencement of Part 5. The previous service of a person transferred shall be reckonable for the purposes of the employment legislation set out in subsection (3) of section 45, subject to any exceptions or exclusions in that legislation. Any superannuation benefits awarded to or in respect of a person transferred 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 commencement of Part 5. The pension payments and other superannuation liabilities of the Board in respect of its former employees become on the commencement of Part 5 the liabilities of the Health Service Executive. A person transferred under section 45 shall be subject to and employed in accordance with the Health Acts 1947 to 2008.

Section 46 transfers each record held by the Board immediately before the commencement of Part 5 to the Health Service Executive.

Section 47 revokes the Drug Treatment Centre Board (Establishment) Order 1988 (S.I. No. 76 of 1988).

Part 6: Dissolution of Crisis Pregnancy Agency

Section 48 provides that in Part 6, "Agency" means the Crisis Pregnancy Agency and "Order" means the Crisis Pregnancy Agency (Establishment) Order (S.I. No. 446 of 2001).

Section 49 dissolves the Agency.

Section 50 transfers certain functions of the Agency to the Health Service Executive. These are:

- the preparation of a strategy to address the issue of crisis pregnancy in consultation with specified Departments of State and other appropriate persons;
- to work with appropriate agencies to promote and coordinate the attainment of the objectives contained in the strategy;
- to produce periodic reports on progress and to propose remedial action where required;
- to further the attainment of the objectives of the strategy by promoting public awareness, developing, promoting and disseminating information and informational material and by fostering the provision of education and training;
- to draw up codes of best practice for consideration by agencies and individuals involved in providing services to women with crisis pregnancies;
- to furnish advice to the Minister to other Ministers of the Government on issues relating to crisis pregnancy and
- to perform any other function in relation to crisis pregnancy that the Minister may assign.

Section 51 transfers rights and liabilities of the Agency to the Health Service Executive on the commencement of Part 6.

Section 52 transfers land, other property and any moneys, stocks and shares and securities of the Agency to the Health Service Executive on the commencement of Part 6.

Section 53 requires the Health Service Executive to cause final accounts of the Agency to be prepared and to submit them to the Comptroller and Auditor General for audit. A copy of the audited accounts and the Comptroller and Auditor General's report on the accounts shall be submitted to the Minister who shall lay copies of the audited accounts and the Comptroller and Auditor General's report on the accounts before each House of the Oireachtas.

Section 54 requires the Health Service Executive to cause a final report to the Minister of the Agency's activities to be prepared. The Minister shall lay copies of the final report before each House of the Oireachtas.

Section 55 substitutes the name of the Health Service Executive for the name of the Agency in any pending legal proceedings to which the Agency is a party immediately before the commencement of Part 6. The proceedings shall not abate by reason of such substitution.

Section 56 provides that every contract or agreement made between the Agency or any trustee or agent thereof acting on its behalf, and any other person, which is in force immediately before the commencement of Part 6 shall continue in force and shall be construed and have effect as if the Health Service Executive were substituted therein for the Agency and shall be enforceable against the Minister.

Section 57 provides that every person who, immediately before the commencement of Part 6, is an employee of the Agency shall, on the commencement of Part 6, be transferred to and become an employee of the Health Service Executive. Save in accordance with a collective agreement negotiated with any recognised trade union or staff association concerned, a person transferred shall not, on the commencement of Part 6, be brought to less beneficial conditions of service (including conditions in relation to tenure) or of remuneration to which he or she was subject immediately before the commencement of Part 6. The previous service of a person transferred shall be reckonable for the purposes of the employment legislation set out in subsection (3) of section 57, subject to any exceptions or exclusions in that legislation. Any superannuation benefits awarded to or in respect of a person transferred 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 commencement of Part 6. The pension payments and other superannuation liabilities of the Agency in respect of its former employees become on the commencement of Part 6 the liabilities of the Health Service Executive. A person transferred under section 57 shall be subject to and employed in accordance with the Health Acts 1947 to 2008.

Section 58 transfers each record held by the Agency immediately before the commencement of Part 6 to the Health Service Executive.

Section 59 revokes the Crisis Pregnancy Agency (Establishment) Order 2001 (S.I. No. 446 of 2001).

Part 7: Exercise of Certain Functions Relating to Superannuation by the Minister

Section 60 confers the same powers on the Minister for Health and Children (from 1 February, 2001) as were conferred on the Minister for the Environment, Heritage and Local Government under sections 2 and 4 of the Local Government (Superannuation) Act 1980 in respect of the following organisations:—

- (a) a health board;
- (b) an Area Health Board;
- (c) An Bord Altranais;
- (d) the Beaumont Hospital Board;
- (e) the Dental Council;
- (f) the Drug Treatment Centre Board;
- (g) the Dublin Dental Hospital Board;
- (h) the Eastern Regional Health Authority;
- (i) the General Medical Services (Payments) Board;
- (j) the Irish Medicines Board;
- (k) the Medical Council;
- (l) the Postgraduate Medical and Dental Board;
- (m) the Health Board Executive;

- (n) the Health Research Board;
- (o) the Health Services Employers Agency;
- (p) the Hospital Bodies Administrative Bureau;
- (q) the Leopardstown Park Hospital Board;
- (r) the National Council for the Professional Development of Nursing and Midwifery;
- (s) the National Breast Screening Board;
- (t) the Pre-Hospital Emergency Care Council;
- (u) the St. James' Hospital Board; and
- (v) the Women's Health Council.

All powers exercised by the Minister for Health and Children under sections 2 and 4 of the Local Government (Superannuation) Act 1980 since 1 February, 2001 are confirmed and apply to all of the organisations listed above.

Part 8: Miscellaneous Amendments

Section 61 provides for the amendment of the Hepatitis C Compensation Tribunal Act 1997 to remove the age limits in respect of the travel element of the Insurance Scheme established for persons infected with Hepatitis C or HIV through the administration within the State of infected blood or blood products.

Section 62 makes technical drafting amendments to the Health Act 2007.

Section 63 amends the National Cancer Registry Board (Establishment) Order 1991 (S.I. No. 19 of 1991) to provide for the Minister to appoint a seven person Board.

There are no requirements for additional financial resources associated with the Bill.

*Department of Health and Children,
March, 2009.*