



## AN BILLE SLAINTE POIBLI, 1945.

## PUBLIC HEALTH BILL, 1945.

## EXPLANATORY MEMORANDUM.

*General.*

1. The general purposes of the Bill are to make further and better provision in relation to the health of the people, to amend and extend the Public Health Acts, 1878-1931, and to provide for the making of regulations by virtue of which certain charges may be imposed. Since the first Public Health Act was passed in 1878, more than two-thirds of a century have elapsed. The Act of 1878 is, however, still the basis of our sanitary laws although it has been extended and modified from time to time. The extensions and modifications have been made either by—

- (a) later Public Health Acts, or
- (b) separate enactments, or
- (c) separate provisions scattered piecemeal through Acts which are not primarily part of the sanitary laws.

*Consolidation.*

2. The consolidation into one Act of all the sanitary laws has been found impossible at present, especially having regard to the changes in the law which are required. The code, however, divided as it is into naturally distinct subjects, lends itself to treatment by stages. In this Bill a commencement of consolidation has been made and it will be found that many of the Parts of the Bill are complete, containing all the provisions relating to the subjects with which they deal, the corresponding existing provisions being repealed. It is hoped to follow this Bill with other consolidating measures and ultimately to produce an up-to-date measure including the whole code.

*Modernisation.*

3. The Bill is intended to make the law conform more closely to modern ideas and practice as to procedure for the prevention and treatment of disease. A serious flaw in the sanitary laws has always been that no effective provision was made for their enforcement. The Bill contains provisions which may enable the assistance of the Garda Síochána to be invoked by officers of sanitary authorities in certain cases, and the responsibility of enforcing specified provisions of the Bill may, with the consent of the Minister for Justice, be transferred to the Garda.

4. The principal features of the Bill are contained in Parts III to XI.

*Institutions.*

5. Part III contains a complete code (other than the Public Assistance code) for the provision and maintenance of institutions by county or sanitary authorities. Every existing Public Health enactment relating to this subject is being repealed. The term "Institution" includes hospitals, sanatoria, maternity homes, convalescent homes, preventoria, clinics, health centres, first aid stations, dispensaries and similar institutions. The powers of sanitary authorities under the present law are confined to providing hospitals or convalescent homes for intern patients, whilst county and county borough authorities are authorised to



establish tuberculosis hospitals and dispensaries. This Part of the Bill extends the power to establish institutions so as to serve out-patients and brings all health institutions under the same code.

#### *Control of Infectious Disease.*

6. Part IV provides a complete code for the prevention of infectious disease. It is largely consolidatory and enables a substantial number of enactments to be repealed. Under its provisions all infectious diseases including tuberculosis and venereal disease can be dealt with under the same code. The Minister for Local Government and Public Health will have power to make any form of immunisation compulsory. It is not proposed to exercise this power in regard to vaccination except at times when, or in areas where, the risk of smallpox is regarded as serious. Under the present law all infectious diseases except tuberculosis and venereal disease are dealt with by sanitary authorities. The law in relation to tuberculosis and venereal disease is administered by county and county borough councils. Such a conflict of jurisdiction is obviously undesirable and the Bill transfers to county and county borough authorities the responsibility for dealing with all infectious diseases. Other new provisions are included in this Part of the Bill. A person who is infective or in charge of an infective person must take reasonable precautions to prevent others from being infected either by himself or by a person under his care. The Minister is empowered to declare what diseases are to be regarded as infectious. Parents of infective or verminous children are required to keep them away from schools, places of public worship, theatres, concert halls and cinemas. This is an extension of the existing law in so far as it applies to verminous children, to places other than schools, and to compulsory notification by a medical attendant to the district medical officer of the condition of the children. A person who provides lodgings for persons other than members of his household must not do so in a room or other place which he knows to have been occupied by a person while a probable source of infection until the district medical officer shall have been notified and any necessary disinfection and disinfection of the premises carried out. The power to arrest and detain a person who is a probable source of infection, which has in recent years been exercised in pursuance of Emergency Powers (No. 46) Order, 1940, on a warrant signed by the Minister, is incorporated in the Bill, subject to the substitution of the chief medical officer of the local authority for the Minister. A health authority may pay the expenses of bringing home for burial the remains of a person suffering from infectious disease sent by them to an institution and dying there.

7. The enforcement or adoption of precautions against the spread of infection often involves the loss by a person of remunerative employment or prevents him from pursuing his ordinary occupation. A county or county borough authority is to be required to make reasonable and proper provision for the maintenance of—

- (a) persons suffering from infectious disease and undergoing treatment;
- (b) persons who being sources of infection take precautions under the Act and are thereby prevented from carrying on their ordinary occupations;
- (c) dependants of the persons mentioned at (a) and (b) above;

if such persons are unable themselves to make provision. If any dispute arises as to the nature or amount of the provision (if any) to be made for the maintenance of any person or his dependants, the matter shall be decided by the Minister for Local Government and Public Health. A section is included to deal with the case of a person who considers that he has contracted an infectious disease by reason of the failure of another person to comply with a provision of the Acts. Difficulty may, however, arise as to



proving that the disease was contracted on account of the defendant's failure. The Bill provides that the Court is to presume that the infection was the direct result of the failure to take the necessary precautions, unless the defendant can show that in the circumstances it was impossible for such failure to have caused the infection. Provision is included also for the prosecution of offences under this Part of the Bill by the county or county borough authority of the place where the offence was committed.

#### *Drainage.*

8. Part V introduces a new procedure in accordance with modern requirements under which owners of premises can be required to provide drainage systems which are satisfactory having regard to the area in which they are situated. The distinction between "drain" and "sewer" is obscure in the existing Acts and gives rise to anomalies. In the Public Health (Ireland) Act, 1878, a "drain" only meant a drain for one building or for premises within the same curtilage. Every other drain was a "sewer" within the meaning of the Act. Sewers were all vested in the sanitary authority, who were liable for their repair. Thus where several houses were drained through one common drain in private property and connected with the public sewer, the common drain was a sewer and the sanitary authority were liable for its repair although they had no responsibility for its original construction or design. Section 19 of the Public Health Acts Amendment Act, 1890, was passed for the purpose of remedying that position but it was only partially successful. Under that section, where two or more houses belonging to different owners are connected with a public sewer by a "single private drain", the sanitary authority can recover from the owners any expenses incurred in remedying nuisances in the drain. In practice, the section has been found to have the following defects:—

- (a) it adds to the difficulty of distinguishing between "sewers" and "drains";
- (b) it does not deal with the case where houses drained by the single drain all have the same owner;
- (c) it only covers the remedying of a nuisance and no provision is made for dealing with inherent defects in the drainage system.

This Part of the Bill will operate to remedy the above-mentioned position and to remove obscurities and anomalies arising from the present definitions of "sewer" and "drain".

#### *Water Supply.*

9. Part VI establishes an improved procedure for requiring a building to be provided with a proper domestic water supply. The present machinery for that purpose is set out in section 72 of the Public Health (Ireland) Act, 1878. That section is defective in the following respects:—

- (1) it fails to take account of the improved standard of supply which should be required when the building is in an area where a proper public water supply is available;
- (2) before the sanitary authority can serve notice under section 72 there must be a determination by the Minister for Local Government and Public Health that the cost is reasonable. No provision is made under which the Minister can consider representations from the owner of the building before he makes that decision;
- (3) section 72 only applies to a house. Other buildings should be provided with water supplies in the interests of public health.



### *Temporary Dwellings and Camping.*

10. Part VII is intended to deal with problems which are expected to arise in the near future from holiday camping and to provide for the making of bye-laws for the prevention of nuisances in tents, vans and barges used for human habitation. Section 20 of the Local Government Act, 1925, at present gives power to make such bye-laws but apparently that section was drawn up mainly with a view to dealing with itinerant tinkers and similar classes, but it is now necessary to provide for the position likely to arise in view of a large increase in motor caravans, pleasure camps and semi-permanent holiday camps. There may also be a number of vessels of the house-boat type stationed on coastal and inland waters to cater for tourists. No objection can be made to this development which will increase the opportunities for town dwellers to indulge in healthy recreation in the open air. However, there is serious danger to the health and amenities of families resident in the countryside unless steps are taken to regulate these practices and to prevent abuses. Experience has shown that uncontrolled camping by bands of itinerants, especially in the vicinity of towns or pleasure resorts, is not only frequently detrimental to the local amenities but may be attended with grave risk to the public health by reason of the spread of infection. The aim of Part VII is to enable the sanitary authority to deal with the question of camping in a reasonable way without preventing the enjoyment of healthy pleasure. It replaces existing law.

### *Public Baths and Bathing.*

11. Part VIII is an amendment and complete consolidation of the law relating to public baths, washhouses, bathing places, etc., at present contained in the Baths and Washhouses (Ireland) Act, 1846, section 77 of the Towns Improvement (Ireland) Act, 1854, and sections 92 and 93 of the Public Health Acts Amendment Act, 1907. Under the present law Town Commissioners have power to provide baths and washhouses. It is considered, however, that their financial resources are too small for undertakings of this kind and, accordingly, it is intended to withdraw their powers. Provision is made in the Bill for the continuance of any baths or washhouses they have already provided. The power to provide these facilities is transferred to sanitary authorities and is extended so as to enable the provision of life-guards at bathing places and to arrange for the provision of instruction in swimming and in saving persons from drowning.

### *Food and Drink.*

12. The objects of Part IX might be summarised as follows:—

- (a) the protection of the public from food which is actually dangerous or injurious;
- (b) the prevention of the exploitation of the public by manufacturers of inferior articles of food for which nutritive qualities are falsely claimed, and also of malnutrition caused by the use of such foods;
- (c) a general improvement in the nutritive qualities of the food available.

The existing law provides for (a), but ignores (b) and (c) which are at least as important. The advertisement of worthless products as "substitutes" and the many cases where inferior goods are sold largely because they bear a name associated in the public mind with substances of a high nutritive value so that the presence of superior products on the market enables vendors of inferior articles to delude the public, are examples of practices which may result in under-nourishment and susceptibility to disease. Dangers of this kind can only be dealt with by prescribing standards of nutritive value as has already been done in the case of milk by the Sale of Food and Drugs (Milk) Act, 1935. In order to encourage improvement in the general quality



of food, it is proposed either in addition to or in substitution for the fixed prescribed minimum standard, to allow a producer of some foods to fix his own standard of quality and to announce it publicly on the wrapper of his product. He will fix his standard by submitting a sample to the Minister for Local Government and Public Health, who will have it examined and certify the result. The producer must not then sell any of that product which is inferior in quality to the sample certified and the certificate must be printed on the containers in which such product is sold.

#### *Medical Officers of Health.*

13. Part X brings together the provisions establishing all the statutory offices of the Medical Officers of Health. It alters the present cumbersome nomenclature and makes other changes which are considered to be desirable. In addition to the statutory offices of County Medical Officer of Health, Medical Superintendent Officer of Health, and Medical Officer of Health of a dispensary district, it has been found necessary in recent times to create two more offices, viz., Assistant County Medical Officer of Health and Assistant Medical Officer of Health of a County Borough. It is now proposed to alter the names of these offices and to set out generally the duties to be carried out by the different officers.

#### *Miscellaneous Sections.*

14. Part XI deals with miscellaneous matters in regard to which the existing law requires amendment or extension. The principal provisions are mentioned hereunder:—

(a) Section 85 of the Bill replaces the provision contained in the Notification of Births (Extension) Act, 1915, empowering maternity and child welfare schemes to be made by sanitary authorities with the consent of the Minister for Local Government and Public Health for the purpose of attending to the health of expectant and nursing mothers and of children under five years of age. That section makes the following changes:—

- (1) It removes the present age limit of five years in respect of children eligible for attention under the above-mentioned schemes. The object of this is to provide for continuity and uniformity of medical supervision for children after the age of 5 years. In the existing system there is a substantial period during which children are without medical care either under the child welfare or the school medical service schemes with serious results to their health.
- (2) It transfers the administration of the maternity and child welfare schemes from the sanitary authorities to the county and county borough authorities who are already in charge of the medical inspection of school children. This simplifies and co-ordinates administration and reduces the possible number of local authority schemes for the above-mentioned purpose from 91 to 33.
- (3) It gives power to arrange for medical inspection of children as part of the maternity and child welfare schemes and to educate mothers and children in matters relating to health.

(b) Section 86 authorises the Minister for Local Government and Public Health to extend the application of the Public Health (Medical Treatment of Children) (Ireland) Act, 1919, to any school. At present that Act in practice only applies to national schools and it is important that children in all schools should be subject to medical inspection. An order may be made by the Minister requiring payment by school authorities of a fee in respect of school medical inspection. In the case of industrial and reformatory schools, this fee is to be deemed to be part of the maintenance of the children for the purposes of section 21 of the Children Act, 1941.



(c) Section 87 requires a parent to submit his child to any medical inspection provided as part of the school medical or maternity and child welfare service. At present no parent can be compelled to submit his child to medical inspection. Frequently children who are suffering from a contagious ailment or are verminous are kept at home on the occasion of school medical inspection, or the parents refuse consent to their inspection.

(d) Section 88 requires school authorities, on receiving notice from a local authority, to give reasonable facilities for the holding of medical inspection of children in the school.

(e) Section 89 enables the Minister for Local Government and Public Health by order to prevent the import, manufacture, sale or other disposal except under permit of:—

- (a) instruments, appliances or apparatus whose use by the general public involves the risk of serious injury to health or body;
- (b) substances likely to be used for purposes involving risk of serious injury to health or body if accessible to the general public; and
- (c) preparations whose sale is promoted by fraudulent claims of curative, restorative, protective or tonic properties.

Such permits can be granted only to registered medical practitioners.

(f) Section 90 is intended to provide a degree of control over the advertisement and sale of medical preparations for which curative or restorative properties are claimed as regards the prevention or treatment of human ailments or infirmities. At present preparations which are actually harmful are sold with specious claims. Regulations under this section may authorise the grant of licences by the Minister for the sale of medical preparations and the imposition of charges for such licences.

(g) Sections 92 to 95 deal, respectively, with burials of deceased persons in places other than recognised burial grounds; power to burial boards to undertake maintenance of particular graves for a specified period or in perpetuity; prohibition of the exhumation of human remains without licence from the Minister; and regulations to be made by the Minister regarding the disposal of bodies of deceased persons otherwise than by burial.

(h) Section 97 enables a sanitary authority to provide grounds and other facilities for games or other recreation. The encouragement of outdoor games and pastimes is important to the public health.

(i) Section 98 authorises a sanitary authority to take steps for preventing injury to public health or local amenities arising from obstruction in any river or watercourse causing nuisances or floods detrimental to the public health.

(j) Section 99 provides that expenses incurred by a rural sanitary authority of a county health district are to be charged on the whole of that district provided that the sanitary authority do not apply to the Minister for Local Government and Public Health for an order fixing a special area of charge.

(k) Section 101 enables the Minister for Local Government and Public Health by order to confine the treatment of cases of a particular disease or infirmity in an area to a specified institution specially fitted for the purpose.

(l) Section 102 empowers an authorised officer of a health authority to demand from a person whom he believes to have committed an offence against the Public Health Acts, bye-laws or regulations, his name and address and if necessary the production of corroborative evidence thereof and provides that in the event



of refusal, or of the name and address supplied being reasonably believed to be false, the officer may detain the person and bring him to the nearest Gárda Station.

(m) Section 103 provides for entry on premises by an authorised person in order to ascertain whether there has been therein any contravention of the sanitary laws or any circumstances which require a health authority to take action. The power given by this section exists in present law only in regard to special matters.

(n) Section 104 empowers an authorised person to obtain the assistance of the Gárda Síochána to assist him in the exercise of any power given to him by the Public Health Acts in which the use of force may legally be required.

(o) Section 105 authorises the Minister for Local Government and Public Health to make an order, with the consent of the Minister for Justice, transferring to the Gárda Síochána responsibility for the enforcement of any specified provisions of the Public Health Acts or the regulations or bye-laws made thereunder.

(p) Sections 106 and 107 deal respectively with power for acquisition of land and borrowing powers of a county authority, i.e., in the case of a county council as respects a joint district.

(q) Section 112 permits a prosecution by the Minister for Local Government and Public Health, or in certain cases by a health authority, in respect of an offence under any section of the Public Health Acts.

#### *Contents of Schedules.*

15. The First Schedule to the Bill contains particulars of enactments repealed either in whole or in part. The Second Schedule gives in detail matters for which provision may be made in regulations under section 20 for the prevention of the spread of infectious diseases. The Third Schedule sets out particular matters to be dealt with by bye-laws under section 56 in relation to temporary dwellings. The Fourth Schedule mentions particular matters to be included in bye-laws with regard to public bathing. The Fifth Schedule sets out similar matters with which bye-laws for the regulation of swimming baths and bathing places not owned by a local authority may deal.

*Roinn Rialtais Aitiúil agus Sláinte Poiblí.*

*Samhain, 1945.*



