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AN BILL SLAINTÉ, 1947.**HEALTH BILL, 1947.****EXPLANATORY MEMORANDUM.****INTRODUCTORY.**

1. An Explanatory Memorandum circulated to Deputies in connection with the Ministers and Secretaries (Amendment) Bill, 1946, indicated that the functions of the Minister for Health would include the administration and business in relation to the preparation, effective carrying out and co-ordination of measures conducive to the health of the people, including in particular measures for the prevention and cure of disease, the treatment and care of persons suffering from physical defects and mental illnesses, the regulation and control of the training and registration of persons for health services, the initiation and direction of research, the registration of births, deaths and marriages and the collection, preparation, publication and dissemination of information and statistics relating to public health. It was further explained that the Minister for Local Government would continue to be responsible for central functions in relation to environmental services such as water supply and drainage, bathing facilities, burial grounds and similar services. This division formed the basis of the allocation of functions to the Minister for Health under the Health (Transfer of Departmental Administration and Ministerial Functions) Order, 1947, which came into operation on 18th March, 1947, and copies of which have been laid before both Houses of the Oireachtas.

2. The Public Health Bill, 1945, which was due for resumption of consideration on Report Stage in the Dáil when the new Department of Health was established, contained provisions relating to services which remain the responsibility of the Minister for Local Government as well as the provisions which have now become proper to the Minister for Health. It was necessary, therefore, to withdraw that Bill and to introduce two new measures to replace it.

3. The Health Bill as now circulated includes the portions of the withdrawn Bill proper to the Minister for Health but revised so as to include the appropriate amendments which had been put down for consideration on Report Stage and further revised, extended and modified in various respects by the Minister for Health. Some new provisions have also been embodied. A table is appended to this memorandum showing the sections of the Health Bill and the provisions, if any, of the Public Health Bill which each section replaces.

CONSOLIDATION AND MODERNISATION.

4. The law relating to the matters dealt with in the Bill is at present contained in the Public Health Acts, 1878 to 1931, in various separate enactments and in miscellaneous provisions of other codes. On the repeal of these provisions and their replacement by the provisions of this Bill, the remaining portions of the Public Health code will relate to the establishment of sanitary authorities and the assignment to them of functions in relation to the provision of sanitary facilities. Under the Local Government (Sanitary Services) Bill, 1947, it is proposed to discontinue the use of the expression "Public Health" as the collective title for this body of sanitary law which will remain to be administered under the supervision of the Minister for Local Government and to change the title of that code to the Local Government (Sanitary Services) Acts.

5. It is proposed in the Health Bill to repeal all the provisions of the Public Health code proper to the Minister for Health, with the exception of some sections dealing with food supplies. The separate enactments and provisions in other codes relating to medical services for mothers and children, the prevention of the spread of infectious disease, the provision of institutions by health authorities and the appointment of county medical officers and certain other health officers will also be repealed, and replaced by appropriate provisions in the Bill. The Parts of the Bill dealing with these matters will, therefore, comprise complete codes.

6. The Part of the Bill dealing with food and drink introduces new powers of restriction and control but does not constitute a complete code. The existing Acts on these matters, such as the Sale of Food and Drugs Acts, 1875 to 1936, the Milk and Dairies Act, 1935, and the Slaughter of Animals Act, 1935, will remain in force pending the codification in a later measure of all provisions relating to food. The additional powers in relation to the safeguarding of food supplies sought in this Bill are considered too urgent and important to be deferred pending the enactment of the more comprehensive codification measure contemplated.

7. This Bill, when enacted, together with the Mental Treatment Act, 1945, part of the Public Assistance Act, 1939, and certain self-contained Acts dealing with special matters such as the registration of members of the medical, dental and nursing professions, etc., will, therefore, comprise a consolidated series of statutory enactments on all the matters for which the Minister for Health is responsible, with the exception of the enactments referred to above relating to food and the Acts dealing with the registration of births, deaths and marriages.

LOCAL ADMINISTRATION.

8. At present there are two sets of local authorities responsible for the administration of health services. Some services, such as those dealing with infectious diseases and maternity and child welfare are administered by sanitary authorities (*i.e.*, county borough councils, urban district councils and, for rural areas only, county councils). Others, including the tuberculosis service and the school medical service, are dealt with by county borough councils in the cities and by each county council in both the urban and rural areas of the county. One authority is, therefore, responsible in each county borough for all the health services but, in the counties, the responsibility for the services is divided between the county councils and the urban district councils. This division has hindered the development of the services and has, in particular, prevented any close integration of the maternity and child welfare and school medical services.

9. The position will be rationalised by the Bill, which proposes to make the county borough councils and the county councils, as health authorities, responsible for the local administration of all the services for which provision is being made. This will remove from sanitary authorities practically all responsibility for health administration with the result that urban district councils will not be concerned with the administration of any of the public business which is under the control of the Minister for Health except for some legislation relating to food supplies which, as stated above, is intended to be the subject of further consolidatory legislation in the future.

PART I.

PRELIMINARY AND GENERAL.

10. Part I contains definitions of terms used in the Bill and provides for the repeal of certain enactments, for the fixing by the Minister of a day or days on which different provisions of the Bill

shall come into operation, for the making of regulations, the collection and disposal of moneys payable under the Bill and for other matters related to the general administration of the measure.

PART II.

INSTITUTIONS.

11. This Part deals with the provision of institutions by health authorities and also empowers institutions maintained under the Public Assistance Act, 1939, to be transferred to health authorities. The term "institution" covers hospitals, sanatoria, maternity homes, convalescent homes, preventoria, laboratories, clinics, health centres, first-aid stations and dispensaries. In view of the transfer of functions from sanitary authorities to health authorities referred to in paragraph 9, provision is being made for the transfer of any institutions maintained by sanitary authorities at the commencement of this Part to health authorities.

PART III.

MOTHER AND CHILD SERVICE.

12. Part III provides a legislative basis for a comprehensive health service for mothers and children. Provision, in accordance with regulations to be made under the Act, will be made for medical attention for expectant and nursing mothers and for the medical examination and treatment of children, whether attending school or not. Medical inspection of children will be compulsory, but exemption may be granted where it is shown that the child is receiving adequate private medical attention. Treatment will not be compulsory, but the regulations will, of course, provide that follow-up treatment shall be made available.

PART IV.

INFECTIOUS DISEASE AND INFESTATION.

CHAPTER I.

Infectious Disease.

13. This Chapter comprises a complete code of the law relating to the prevention of the spread of infectious disease. It is provided that the Minister may make regulations defining infectious diseases and for preventing the spread of such diseases, particularly in relation to the matters set out in the Second Schedule. As regards the making of regulations relating to compulsory measures of immunisation or protection, a provision has been included to allow persons who object to such measures to be exempted on registering an objection in the appropriate manner, unless in exceptional circumstances (as in the case of a serious outbreak of smallpox) when the Minister may declare that all persons of an appropriate class must be immunised so as to ensure that the infection will be localised and eradicated.

14. Particular statutory precautions are specified for persons selling, letting or ceasing to occupy dwellings and there is a provision requiring reasonable precautions to be taken by all persons who are probable sources of infection to prevent the spread of such infection.

15. Section 34 provides that a chief medical officer, may, if satisfied that a person is a probable source of infection and cannot be effectively isolated in his home, order his compulsory detention and isolation in a hospital or other place. For the protection of the patients' rights, there is provision for appeal to the Minister against detention and a very detailed procedure to be followed in connection with the detention and isolation, the making of an appeal, etc. This section will replace

Emergency Powers (No. 46) Order, 1940, which gave similar power of compulsory detention and isolation in pursuance of an order made by the Minister.

16. This Chapter also provides that a health authority may pay the expenses of burying a person who has died from an infectious disease and may provide accommodation for persons compelled to leave their homes during an outbreak of infectious disease.

17. Section 39 provides that a health authority shall make provision for the maintenance of persons who are suffering from, or who are probable sources of infection with, an infectious disease and for the maintenance of their dependents. New provisions are included to empower rates of maintenance allowances to be regulated by the Minister and for the recoupment from State funds of half the cost of allowances paid under the section.

18. Section 40 gives the Minister power by order to limit the treatment of persons suffering from specified infectious diseases to specified institutions, in order to prevent the spread of infection or cross-infection amongst patients in hospitals. This is the only portion of the wider powers of control of institutions, sought in section 110 of the Public Health Bill, which is being retained in the present Bill.

CHAPTER II.

Verminous Persons and Articles.

19. This Chapter contains a series of provisions dealing with the general duty of persons to take precautions against infesting others with vermin, special precautions to be taken by certain classes of persons and the obligation of health authorities to arrange for disinfection.

CHAPTER III.

Ancillary Provisions.

20. General provisions applicable to the matters dealt with in both of the preceding Chapters are contained in Chapter III.

PART V.

FOOD AND DRINK.

21. This Part provides for the protection of the public from food which is dangerous or injurious to health and for the fixing of standards for foods which are of particular nutritive importance. As regards the fixing of standards, it will be possible, under section 51, for the Minister to fix a single standard for all manufacturers or, under section 52, for an individual manufacturer to fix his own standard, which may be certified by the Minister. Provisions are included in relation to the method of enforcing regulations made under the Part.

PART VI.

MEDICAL AND TOILET PREPARATIONS AND CERTAIN OTHER ARTICLES.

22. Section 60 gives the Minister power to make regulations for the control of the advertisement or sale of medical and toilet preparations. Provision is made for attaching conditions to the advertisement or sale of such preparations and for the licensing of persons engaged in such advertisement or sale.

23. Section 61 will enable the Minister by order to prevent the import, manufacture, sale or other disposal except under permit of:—

- (a) instruments, appliances or apparatus the use of which 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.

Permits can be granted only to registered medical practitioners.

24. Section 62 will replace the Rag Flock Act, 1911 (which will be repealed in the Bill) and widen the scope of the provisions of that Act to cover other types of filling material such as hair or feathers, in addition to rag flock.

PART VII.

OFFICERS OF HEALTH AUTHORITIES.

25. Part VII brings together the statutory provisions dealing with the appointment of county and city medical officers and their assistants, district medical officers, bacteriologists and sanitary (now health) inspectors. The present cumbersome nomenclature will be altered and the law relating to these officers will also be otherwise simplified.

PART VIII.

ACQUISITION OF LAND.

26. Part VIII deals with the acquisition of land by health authorities. Power is given to acquire land by agreement or compulsorily. The usual provisions of the Land Clauses Acts and the procedure laid down in connection with the acquisition of land compulsorily are incorporated. A health authority is empowered, subject to special conditions, to sell, exchange, let, or otherwise dispose of land acquired by them, and to appropriate for the purpose of their powers and duties any land vested in them for any purpose and not required for that purpose. The inclusion of this Part is necessitated by the retention of the existing powers in the codes relating to the Department of Local Government. The new provisions are based substantially on Part VII of the Mental Treatment Act, 1945, and will conduce to uniformity of procedure in the acquisition of land under the Health, Mental Treatment and Public Assistance codes.

PART IX.

ENFORCEMENT OF THE ACT.

27. Part IX contains provisions dealing with the enforcement of the Act by "authorised officers", viz., officers of the Minister or the Minister for Agriculture, managers of health authorities, chief medical officers and other assigned officers of local authorities.

PART X.

MISCELLANEOUS.

28. The following is an outline of the more important provisions of this Part :—

- (a) Section 92 provides for the establishment of a National Health Council to advise the Minister on matters affecting the health of the people and for the establishment of special consultative councils, when necessary, to advise him on particular matters.

- (b) Section 97 confers a general power on health authorities in regard to the provision of ambulances. It replaces section 140 of the Public Health (Ireland) Act, 1878, and section 50 of the Public Health Acts Amendment Act, 1907, which give powers for the provision of ambulances for only limited classes of cases.
- (c) Section 98 will amend the Rats and Mice (Destruction) Act, 1919, by making the owner, as distinct from the tenant, responsible for taking measures to destroy rats and mice in tenements and small dwellings. It has been represented to the Minister that this Act is at present very difficult to enforce in the case of dwelling-houses tenanted by several families.
- (d) It is proposed under section 99 to dissolve the port sanitary authorities set up under the Public Health (Ireland) Act, 1896. Four such authorities are in existence, viz., those for Dublin, Waterford and New Ross, Cork and Galway. As explained in paragraph 9, sanitary authorities will not henceforth be associated with health functions and the retention of the title in the case of these port bodies would be anomalous. Moreover, an examination of their operations has satisfied the Minister that the volume of health work normally arising in the ports for which they act is not sufficient to require the retention of separate authorities and he considers the present occasion opportune to transfer the responsibility for their health functions to the local health authority.
- (e) Section 100 provides that a health authority will be required to pay compensation in respect of any injury to person or property caused in the exercise of their functions under the Act, provided, of course, that such injury was not due to wilful negligence on the part of the person concerned.

SCHEDULES.

29. The First Schedule contains particulars of the Acts and sections of the Acts proposed to be repealed. The Second Schedule details some of the matters which may be dealt with in regulations for the prevention of the spread of infectious disease.

Roinn Sláinte.

17 Aibreán, 1947.

APPENDIX.

TABLE OF COMPARISON OF THE NUMBERING OF PROVISIONS OF THE HEALTH BILL,
1947, AND THE PUBLIC HEALTH BILL, 1945 (AS AMENDED IN COMMITTEE).

Health Bill, 1947	Public Health Bill, 1945	Health Bill, 1947	Public Health Bill, 1945	Health Bill, 1947	Public Health Bill, 1945
Section	Section	Section	Section	Section	Section
1	1	34	31	70 (New Section)	—
2	2	35	32	71 to 84	115
3	3	36	34		
4	4	—	35		
—	5	37	37	85	112 (5) and 113 (3)
5	7	38	38	86 (New Section)	—
6	6	39	36		
7	8	40	110		
8	9	41	23	87	111
9	10	42 (New Section)	—	88	112
—	11	43	23 (3)	89	113
10	13	44 (New Section)	—	90	114
11	14	45 (New Section)	—	91	119
12	15	46 (New Section)	—	92	12
13	16	47 (New Section)	—	93	100
14 (New Section)	—	48	33	94	Report Amend. ment 222
15	17	49	39	95	101
16	18	50 (New Section)	79	—	105
17	124	51	80 and 83	96	116
18	40	52	81	97 (New Section)	—
19	41	53	82	98 (New Section)	—
20	Report Amend. ment 81	54	84(b)	99 (New Section)	—
21	44	55	84	100 (New Section)	—
22	45	56	86	First Schedule	First Schedule
23	Report Amend. ment 117	57	87	Second Schedule	Second Schedule
24 (New Section)	—	58	88	Schedule	Schedule
25	19 and 20	59	89		
26	21	60	103		
27	22	61	102		
28 (New Section)	—	62 (New Section)	—		
—	24	63	94		
29	25	64	95		
30	26	65	96		
31	27	66	97		
32	28	67	98		
33	Report Amend. ment 42	68	99		
—	29	69 (New Section)	—		
—	30	—			

