

AN BILLE SLAINTE, 1950. HEALTH BILL, 1950.

Mar a tugadh isteach.
As introduced.

ARRANGEMENT OF SECTIONS.

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AN BILLE SLAINTE, 1950. HEALTH BILL, 1950.

BILL

entitled

AN ACT TO AMEND AND EXTEND THE HEALTH ACT, 5 1947.

BE IT ENACTED BY THE OIREACHTAS AS FOLLOWS :-

Principal Act.

1.—In this Act, the expression "the Principal Act" means the Health Act, 1947 (No. 28 of 1947).

Commencement.

2.—Save as otherwise specifically provided thereby, this Act 10 shall come into operation on such day or days as, by order or orders made by the Minister under this section, may be fixed therefor either generally or with reference to any particular purpose or provision and different days may be so fixed for different purposes and different provisions.

Construction of Principal Act and this Act.

- 3.—(1) The Principal Act and this Act shall be construed together as one Act.
- (2) Without prejudice to the generality of subsection (1) of this section, a reference in the Principal Act to that Act shall, save where the context otherwise requires, be construed as including a 20 reference to this Act.

Arrangement for provision of service by urban sanitary authority.

- 4.—(1) A health authority and an urban sanitary authority may, with the consent of the Minister and of the Minister for Local Government make and carry out an arrangement for the provision by the urban sanitary authority of any service which the health 25 authority are empowered by the Principal Act to provide, and the arrangement may include provisions for the recoupment by the health authority of the expenses incurred by the urban sanitary authority in carrying out the arrangement.
- (2) Where an arrangement is made under this section by a health 30 authority and an urban sanitary authority, the Minister may, with the consent of the Minister for Local Government, by order apply in relation to the urban sanitary authority any provisions of the Principal Act or of any regulations thereunder which he considers necessary for the purpose of carrying out the arrangement and 35 may so apply such provisions with any specified modifications or limitations.

Restriction on sections 22 and 23 of Principal Act.

- 5.—(1) The parent of a child or pupil may refuse to submit the child or pupil to the doing in respect of him by a health authority of any of the things authorised by sections 22 and 23 of the Principal Act.
- (2) The regulations to be made under section 28 of the Principal Act shall be framed with due regard to the provisions of this section.

6.—Section 38 of the Principal Act is hereby amended by the Amendment of deletion of paragraphs (h) to (n) of subsection (2) and the substitution therefor of the following paragraphs:

section 38 of Principal Act.

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- "(h) the patient (or the parent of the patient, where the patient is a child) may at any time, but not more often than once in any period of thirty days, appeal against his detention by sending to the committing officer a request in writing to have his detention considered by a member of the appeal panel appointed under this subsection, 10
- (i) the person in charge of such hospital or other place shall afford all reasonable facilities for the purposes of any appeal under paragraph (h) of this subsection, including, where appropriate, facilities for the inspection of 15 any reports and records relating to the patient and available in such hospital or other place and the provision of copies of any such reports or records,
- (j) on appeal being made under paragraph (h) of this subsection, the committing officer shall send to the patient 20 a list of the members of an appeal panel (to be appointed by the Minister) of medical practitioners, together with a request that the patient shall nominate from the panel one member to act in his case and two other members to act as substitutes if the first choice is not available, 25

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- (k) where a nomination under paragraph (j) of this subsection is received by the committing officer-
 - (i) the committing officer shall cause an examination of the patient to be carried out by the medical practitioner nominated by the patient from the appeal panel (or, if that medical practitioner is not available, by one of the substitutes nominated by the patient),
 - (ii) the medical practitioner carrying out the examination shall make to the committing officer a report in the prescribed form on the examination within ten days thereafter,
 - (iii) the committing officer shall send a copy of the report to the patient and to the person in charge of such hospital or other place,
 - (iv) if the report is not made within ten days after the examination, the committing officer shall so inform the person in charge of such hospital or other place and such person shall release the patient and, if necessary, arrange for his conveyance to his usual place of residence,
- (l) a report under paragraph (k) of this subsection shall either recommend that the detention of the patient shall be continued or that the patient shall be released, and in the latter case the person in charge of such hospital or other place shall, on receiving a copy of the report, release the patient and, if necessary, arrange for his conveyance to his usual place of residence,
- (m) the person in charge of such hospital or other place shall 55 provide all reasonable facilities for an examination under paragraph (k) of this subsection, and every health authority and medical officer of health shall, if requested by the person carrying out the examination, furnish any information relating to the patient which may be available in the records kept by such authority 60 or officer,
 - (n) any fees, travelling expenses and subsistence allowances, to be paid to a member of the appeal panel acting on an appeal under this section by the health authority

for which the committing officer acts, shall be in accordance with scales fixed by the Minister".

Amendment of section 48 of Principal Act.

7.—Subsection (1) of section 48 of the Principal Act is hereby amended—

- (a) by the substitution of the words "medical officer of health" 5 for the words "district medical officer" in both places where the latter words occur, and
- (b) by the substitution of the words " area or district for which he acts " for the words " his district."

Regulations under lart V of Principal Act.

- 8.—(1) Regulations under Part V of the Principal Act may 10 provide for all or any of the following matters:
 - (a) the licensing or registration of-
 - (i) persons engaged in the manufacture, preparation, importation, storage, distribution or sale of food for human consumption, or
 - (ii) premises, vehicles or stalls in or at which food is manufactured, prepared, stored, distributed or exposed for sale for human consumption,
 - (b) for the description of premises, vehicles or stalls so licensed or registered, 20
 - (c) the prohibition of the manufacture, preparation, importation, storage, distribution, exposure for sale or sale of food otherwise than by licensed or registered persons or in or at licensed or registered premises, vehicles or stalls (as the case may be),
 - (d) the cancellation or suspension of licences or registration,
 - (e) matters ancillary to the foregoing matters.
- (2) Where regulations under Part V of the Principal Act include, by virtue of subsection (1) of this section, provision for the keeping of registers by health authorities—
- (a) any register kept pursuant to the regulations by a health authority shall be deemed to be in proper custody when in the custody of an officer of the health authority authorised in that behalf by the health authority and shall be admissible in evidence without further proof, 35 on production from the proper custody.
 - (b) prima facie evidence of any entry in any register kept pursuant to the regulations by a health authority may be given in any Court or any legal proceedings by the production of a copy of such entry purporting to be a certified to be a true copy by an officer of the health authority authorised in that behalf, and it shall not be necessary to prove the signature of such officer, or that he was in fact such officer or was so authorised,
 - (c) a certificate purporting to be under the hand of an officer 45 of a health authority authorised in that behalf that a specified person, premises, vehicle or stall was not, during a specified period, registered in a specified register kept pursuant to the regulations by the health authority shall be accepted in any Court or any legal proceedings as prima facie evidence of the facts so certified, and it shall not be necessary to prove the signature of such officer, or that he was in fact such officer or was so authorised.

- (3) Regulations under Part V of the Principal Act may provide—
 - (a) for functions to be performed for the purposes of the regulations by Justices of the District Court or Peace Commissioners, and
 - (b) for decisions given by Justices of the District Court or Peace Commissioners in the performance of those functions being, notwitstanding the provisions of any statute, final and not appealable.
- 10 (4) Where any repairs, structural alterations or additions to premises are required by any authority enforcing regulations under Part V of the Principal Act to comply with those regulations—

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- (a) the repairs, structural alterations or additions may be carried out notwithstanding any covenant, agreement or condition in any lease or other contract of tenancy under which the premises are held,
 - (b) before the repairs, structural alterations or additions are carried out, the person required to carry them out shall—
 - (i) if he is not the rated occupier of the premises, inform the rated occupier, and
 - (ii) if he holds the premises under a lease or other contract of tenancy, inform the immediate landlord or his agent.
- 25 (5) In sections 56 and 57 of the Principal Act, the word "food" shall be construed, in addition to referring to any individual food, as referring to any class whatsoever of food.
- (6) This section and the repeal by section 20 of this Act of section 55 of the Principal Act shall be deemed to have come into operation on the day on which Part V of the Principal Act came into operation.
 - 9.—Section 65 of the Principal Act is hereby amended—

Amendment of section 65 of Principal Act

- (a) by the deletion of the definition of "substance" in sub- Principal Act. section (1) and the substitution therefor of the following:
 - "the word 'substance' means a natural or artificial substance, whether in solid or liquid form or in the form of a gas or vapour, including a preparation or manufactured article or article which has been subjected to any artificial treatment or process',
- (b) by the addition at the end of subsection (3) of the following paragraph:
 - "(j) the enforcement and execution of the regulations—
 - (i) by officers of the Minister,
 - (ii) by health authorities and their officers,
 - (iii) with the consent of the Minister for Finance, by officers of Customs and Excise,
 - (iv) with the consent of the Minister for Industry and Commerce, by officers of that Minister ",
- (c) by the addition at the end of subsection (5) of the words "or by the health authority in whose functional area the offence is committed."

Amendment of section 66 of Principal Act. 10.—Section 66 of the Principal Act is hereby amended by the addition at the end of subsection (9) of the words "or by the health authority in whose functional area the offence is committed".

Order under section 101 of Principal Act. 11.—(1) Where an order under section 101 of the Principal Act provides for a committee to act on behalf of two or more health 5 authorities, that order, or, where that order has already been made (whether before or after the passing of this Act), any order amending that order, may apply to the committee any provisions of the Principal Act or of any regulations thereunder and may so apply such provisions with any specified modifications or limitations.

(2) Where, by virtue of this section, an order under section 101 of the principal Act applies provisions of section 103 of the Principal Act to a committee—

- (a) the order shall not be made save with the consent of the Minister for Local Government,
- (b) the amount standing at any particular time borrowed by the committee shall not exceed one-fourth of the total amounts of the valuations appearing in the valuation lists in force at that time under the Valuation Acts in the functional areas of the health authorities liable to 20 contribute to the expenses of the committee.

Prosecution of certain offences.

12.—An offence under Part V, Part VIII or Part IX of the Principal Act may be prosecuted by the health authority in whose functional area the offence is committed.

Regulations as to filling material.

- 13.—(1) The Minister may make regulations—
 - (a) prescribing a standard of cleanliness for filling material either generally or as respects a particular type of filling material,

- (b) prohibiting the sale or keeping for sale, or use or keeping for use for the purpose of making bedding, cushions, 30 articles of upholstery, toys or similar articles, of filling material which does not conform with the prescribed standard,
- (c) prohibiting the sale or keeping for sale of any bedding, cushion, article of upholstery, toy or similar article containing filling material which does not conform with the prescribed standard.
- (2) Regulations under this section-
 - (a) may provide for the enforcement and execution of the regulations by officers of the Minister, by health 40 authorities and their officers and, with the consent of the Minister for Local Government, by officers of sanitary authorities,
 - (b) may provide for the empowering of specified persons
 (being authorised officers for the purpose of Part IX 45)
 of the Principal Act) to seize and remove, and to detain
 and destroy or have otherwise suitably disposed of,
 filling material which does not conform with the prescribed standard,
 - (c) may provide for the giving and taking (without pay- 50 ment) of samples and the carrying out of tests, examinations and analyses of such samples,
 - (d) may prescribe the classes of persons to be responsible for the carrying out of tests, examinations and analyses of

samples of filling material and the means by and the manner in which any such test, examination or analysis is to be made,

(e) may prescribe the certificate or other evidence to be given of the result of any such test, examination or analysis and the classes of persons by and to whom any such certificate or evidence is to be given,

(f) may provide that any certificate or other evidence prescribed under paragraph (e) of this subsection and given in respect of the test, examination or analysis of a sample shall as respects that sample be evidence for all purposes of the result of the test, examination or analysis,

(g) may provide for the licensing or registration of premises

(g) may provide for the licensing or registration of premises in which filling material is kept for sale or for use for the purpose of making bedding, cushions, articles of upholstery, toys or similar articles and for the prohibition of the keeping for sale or for the said use of filling material in premises which are not licensed or registered,

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(h) may provide for conditions governing the grant, retention or renewal of licences or registrations,

(i) may provide for the imposition of charges in respect of the grant, retention or renewal of licences or registrations,

(j) may provide for the marking or labelling in a specified manner of bedding, cushions, articles of upholstery, toys or similar articles containing filling material,

(k) may provide for the keeping of records by persons engaged in the manufacture, preparation, importation, storage, distribution or sale of filling material or bedding, cushions, articles of upholstery, toys or similar articles containing filling material and for the production of such records for inspection by officers concerned in the enforcement or execution of the regulations.

(3) Where regulations made under subsection (1) of this section provide that any particular certificate or other evidence shall be evidence for all purposes of the result of a test, examination or analysis of a sample, such certificate or other evidence shall, as 40 respects that sample, be accepted by all Courts of Justice as evidence of the result of such test, examination or analysis and shall also be accepted by all Courts of Justice as evidence that such test, examination or analysis was carried out under and in accordance with the regulations.

45 (4) Where a person is charged with having, in contravention of regulations made under this section, kept for sale any filling material or any bedding, cushion, article of upholstery, toy or similar article and it is shown that the material or article was in the possession of such person, the material or article shall, until 50 the contrary is proved, be deemed to have been kept by him for sale.

(5) Where a person is charged with having, in contravention of regulations made under this section, kept any filling material for use for the purpose of making bedding, cushions, articles of up-55 holstery, toys or similar articles and it is shown that the material was in the possession of such person, the material shall, until the contrary is proved, be deemed to have been kept by him for that use.

- (6) If the defendant in any prosecution for an offence under this section proves—
 - (a) that he purchased—
- (i) filling material as of a standard of cleanliness which would not have contravened any regulation under 5 this section, or
 - (ii) an article as containing only filling material of such a standard and with a written warranty to that effect, and
 - (b) that he had no reason to believe at the time when he committed the offence with which he is charged that the filling material did not conform with the prescribed standard of cleanliness, and
 - (c) that at the said time the filling material was in the same state as when he purchased it,

the defendant shall be discharged from the prosecution, but shall be liable to pay the costs incurred by the prosecutor unless he gave due notice to the prosecutor that he proposed to rely on the said defence.

- (7) A statement by the manufacturer, importer or seller of any 20 filling material or any bedding, cushion, article of upholstery, toy or similar article containing filling material which is a statement as to the standard of cleanliness of the filling material and which is in an invoice or on a label attached to the filling material or article or on the container in which the filling material is sold shall 25 be deemed for the purposes of paragraph (a) of subsection (6) of this section to be a warranty.
- (8) Where it appears to the authority or officer enforcing regulations made under this section that an offence has been committed in respect of which proceedings might be taken under this 30 section against some person but that such person could establish a defence under subsection (6) of this section by proving that the offence complained of was due to an act or default of some other person, such authority or officer may take proceedings against that other person without taking proceedings against the first-men- 35 tioned person.
- (9) A person who contravenes a regulation under this section or who wilfully obstructs the execution of a regulation under this section shall be guilty of an offence under this section and shall be liable on summary conviction thereof to a fine not exceeding 40 one hundred pounds or, at the discretion of the Court, to imprisonment for any term not exceeding six months or to both such fine and such imprisonment.
- (10) An offence under this section may be prosecuted by the health authority in whose functional area the offence is com- 45 mitted.
 - (11) In this section, the expression "filling material" includes-
 - (a) rag flock which is produced wholly or in part by tearing up woven, knitted, felted or spun material or other like articles whether new or old, and
 - (b) hair, fibre, down, feathers, wood shavings, sawdust, straw, and other similar materials, whether new or old, used in the making of bedding, cushions, articles of upholstery, toys, or similar articles, and
 - (c) linings, webbings and coverings (other than outer cover- 55 ings) used in the making of bedding, cushions, articles of upholstery, toys or similar articles.

14.—(1) In this section-

the word "substance" means a natural or artificial substance, active substances whether in solid or liquid form or in the form of a gas or vapour, and irradiating including a preparation or manufactured article or article which has apparatus. been subjected to any artificial treatment or process,

Control of use, etc., of radio-

the expression "radio-active substance" means a substance which consists of or contains any radio-active chemical element, whether natural or artificial,

the expression "medical radio-active substance" means a radio-10 active substance which may be used as a prophylactic, diagnostic or therapeutic agent in the prevention or treatment of any human ailment, infirmity, injury or defect.

the expression "medical irradiating apparatus" means irradiating apparatus which may be used as a prophylactic, diagnostic or thera-15 peutic agent in the prevention or treatment of any human ailment, infirmity, injury or defect,

- (2) The Minister may make regulations for the control of the storage, use, exportation or other disposal of medical radio-active substances generally or of any particular medical radio-active substance.
 - (3) The Minister may make regulations for the control of the manufacture, importation, distribution, sale, offering or keeping for sale, use, exportation or other disposal of medical irradiating apparatuses generally or of any specified class of such apparatuses.

(4) The Minister may make regulations for-25

- (a) the prevention of danger to the health of persons occupied in the use of radio-active substances or irradiating apparatus and of other persons whose health may be endangered by such use,
- (b) ensuring the safe disposal of radio-active waste products 30 resulting from the use of radio-active substances or irradiating apparatus.
 - (5) Regulations under this section may, in particular, make provision for all or any of the following matters:
- (a) the enforcement and execution of the regulations— 25
 - (i) by officers of the Minister,
 - (ii) by health authorities and their officers,
 - (iii) with the consent of the Minister for Finance, by officers of Customs and Excise,
- (iv) with the consent of the Minister for Industry and 40 Commerce, by officers of that Minister,
- (b) the prohibition of the storage, use, exportation or other disposal of medical radio-active substances either absolutely or subject to specified conditions (including the grant of a licence for such storage, use, exportation or 45 other disposal),
 - (c) the prohibition of the manufacture, importation, distribution, sale, offering or keeping for sale, use, exportation or other disposal of irradiating apparatuses either absolutely or subject to specified conditions (including the grant of a licence for such manufacture, importation, distribution, sale, offering or keeping for sale, use, exportation or other disposal),
 - (d) the determination of the classes of persons to whom licences under the regulations are to be granted,

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- (e) the prescribing of conditions governing the grant, retention or renewal of licences under the regulations,
- (f) the refusal or revocation of licences under the regulations,
- (g) the giving and the taking, with or without payment (as the regulations may provide), of samples of radioactive substances,
- (h) the imposition of charges (whether fixed, variable or partly fixed and partly variable) in respect of the grant, retention or renewal of licences under the regulations.
- (6) A person who contravenes a regulation under this section shall be guilty of an offence under this section and shall be liable on summary conviction thereof to a fine not exceeding five hundred pounds and to forfeiture of any substance or apparatus in relation to which the offence was committed.
- (7) An offence under this section may be prosecuted by the Minister or by the health authority in whose functional area the offence is committed.

Transfer to health authority of powers, functions and duties in relation to medical assistance.

- 15.—(1) The Minister may by order transfer from a public assistance authority to a health authority whose functional area is 20 situate wholly or partly in the public assistance district of the public assistance authority any of the powers, functions and duties of the public assistance authority in relation to medical assistance.
- (2) An order under this section may contain such provisions as the Minister considers necessary or expedient for enabling any powers, functions and duties transferred to a health authority to be exercised or performed by them or on their behalf and, in particular may contain provisions with respect to the following matters:
 - (a) transfers of property,

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- (b) adjustments of property rights and liabilities,
- (c) transfers of holders of offices,
- (d) application to the health authority, with or without modification, of any provisions made by or under statute which relate to the transferred powers, functions and 31 duties
- (3) Where the dispensary district of a medical officer consists of a part in a county and a part in a county borough, an order under this section may provide that:
 - (a) such dispensary medical officer shall, as respects the part 40 in the county, be an officer of the council of the county and, as respects the part in the county borough, be an officer of the corporation of the county borough, and
 - (b) the council of the county and the corporation of the county borough may make such financial adjustments as may be agreed upon between them or, in default of agreement, as may be determined by the Minister.
- (4) Where, by an order under this section, the holder of an office is transferred, the office shall, for the purposes of any enactment relating to superannuation, be deemed not to have been abolished. 50
- (5) In this section the expressions "public assistance authority", "public assistance district", "medical assistance" and "dispensary district" have the same meanings as in the Public Assistance Act, 1939 (No. 27 of 1939).

16.—(1) In this section—

the expression "local authority to whom this section applies" means—

Post-graduate medical education for medical officers

- (a) a health authority, or
- (b) a public assistance authority under the Public Assistance Act, 1939 (No. 27 of 1939);

the expression "medical officer" means an officer of a local authority to whom this section applies whose office is an office the holder of which is required to be a registered medical practitioner.

- 10 (2) A local authority to whom this section applies may, in accordance with a scheme approved of by the Minister, do all or any of the following things:—
 - (a) provide and maintain a medical school for the postgraduate medical education of medical officers (including medical officers of other authorities),
 - (b) make arrangements for the post-graduate medical education of any of their medical officers at a medical school provided under this section by another authority,
- (c) defray the expenses incurred by any of their medical officers in attending a course of study at a medical school provided under this section.

17.—(1) In this section—

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the expression "local authority to whom this section applies" means—

Schools for training of nurses.

- 25 (a) a health authority, or
 - (b) a public assistance authority under the Public Assistance Act, 1939 (No. 27 of 1939);

the word "institution" means-

- (a) in relation to a health authority, a health institution, or
- 30 (b) in relation to a public assistance authority under the Public Assistance Act, 1939, a district institution under that Act;

the expression "nursing school" means a school for the training of persons to be nurses;

- 35 the expression "student nurse" means a person being trained to be a nurse.
- (2) A local authority to whom this section applies may, with the consent of the Minister, and shall, if the Minister so directs, provide and maintain a nursing school in connection with an institution maintained by them and may subject to such conditions as they think fit, admit persons to such school as student nurses.
 - (3) A local authority who maintain a nursing school under this section may, with the consent of the Minister, pay remuneration to a student nurse of the school.
- 45 18.—(1) The Minister, after consultation with the Minister for Control of use Agriculture, may by order declare, as respects a specified fumigant, of fumigants. that—
 - (a) all uses of the fumigant shall be restricted, or
- (b) the use of the fumigant for a specified purpose or in specified circumstances shall be restricted.

- (2) Where an order under this section declares that all uses of a fumigant shall be restricted, a person shall not use the fumigant save with the permission of the chief medical officer for the area in which the fumigant is used and in accordance with any directions which the officer may give for the purpose of safeguarding public health.
- (3) Where an order under this section declares that the use of a fumigant for a specified purpose or in specified circumstances shall be restricted, a person shall not use the fumigant for that purpose or in those circumstances (as the case may be) save with 10 the permission of the chief medical officer for the area in which the fumigant is used and in accordance with any directions which the officer may give for the purpose of safeguarding public health.
- (4) A person who contravenes subsection (2) or subsection (3) of this section shall be guilty of an offence under this section and 15 shall be liable on summary conviction thereof to a fine not exceeding twenty pounds.
- (5) An offence under this section may be prosecuted by the health authority in whose functional area the offence is committed.

Provisions with respect to certain superannuation payments.

- 19.—(1) Where—
 - (a) an officer of a sanitary authority ceased to hold office before the 1st day of April, 1948,

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- (b) an allowance under any enactment relating to superannuation was granted to him on such cesser, and
- (c) he would, if he had remained in office until the 1st day of 25 April, 1948, have been transferred under Part VII of the Principal Act to the service of a health authority,

that health authority shall make such (if any) payments of the allowance as may fall to be made in respect of periods beginning on or after the 1st day of April, 1948, and no contribution referable to health service shall be required to be made to any such payment by any other authority.

- (2) Where a payment under any enactment relating to superannuation is made by a health authority in respect of an officer transferred to their service under Part VII of the Principal Act, no contribution referable to health service shall be required to be made to the payment by any other authority.
- (3) In this section, the expression "health service" means service before the 1st day of April, 1948, of such a kind that an officer engaged therein immediately before that date would have been transferred on that date under Part VII of the Principal Act to the service of a health authority.

Repeals.

20.—Sections 25, 26, 55 and 67 of the Principal Act are hereby repealed.

Short title and collective citation.

- 21.—(1) This Act may be cited as the Health Act, 1950.
- (2) The Principal Act and this Act may be cited together as the Health Acts, 1947 and 1950.

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BILLE

(mar a tugadh isteach) dá ngairmtear

Acht do leasú agus do leathnú an Achta Shláinte, 1947.

An tAire Sláinte a thug isteach.

Do hordaíodh, ag Dáil Éireann, do chlóbhualadh, 9ú Samhain, 1950.

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