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**AN BILLE SLAINTE, 1969****HEALTH BILL, 1969****EXPLANATORY MEMORANDUM**

1. The objects of the Health Bill, 1969 are to provide for a number of improvements and extensions in the health services, to establish a new administrative system for the services and to consolidate the law on a major part of the services. The Bill is primarily based on the proposals for changes in the health services and their administration contained in the White Paper, "The Health Services and their Further Development" (Pr. 8653), laid before the Houses of the Oireachtas in January, 1966. The Bill also contains some further provisions on the services and their administration which arise from the Report, "Outline of the Future Hospital System" (Pr. 154), presented in July, 1968 and the Report, "The Child Health Services" (Pr. 171), presented in August, 1968.

**PART I****PRELIMINARY AND GENERAL**

2. This Part of the Bill contains the normal provisions on short title, collective citation, construction, commencement, interpretation and repeals.

**PART II****ADMINISTRATION**

3. Part II provides for the transfer of responsibility for the administration of the health services from the present local authorities to new specially-constituted bodies to be known as health boards. Chapter I of this Part deals with the constitution of the health boards and the remaining Chapters deal with their officers and servants, etc., their financing and the consequential dissolution of the local authorities which are at present specially constituted in some areas for administering the health services.

**Chapter I—Health Boards**

4. Section 4 outlines the proposed constitution of the health boards. Each board's functional area will extend to a number of counties and the membership of the board will consist of persons appointed by the major local authorities (county councils, county borough corporations and, in the appropriate case, the Corporation of Dún Laoghaire) within its area, persons elected by the medical profession and ancillary professions and persons appointed by the Minister. At least half of the members will be appointed by the local authorities. The detailed provisions on membership of health boards, holding of meetings, etc. are set out in the Second Schedule. The functional area of each health board, and its constitution will be specified in regulations made by the Minister. He will be obliged to consult the relevant local authorities before making these regulations and it is required that drafts be presented for approval to each House of the Oireachtas before they are made.



5. Miscellaneous functions of the existing local health authorities will be transferred to the health boards by section 6. In addition to these functions, the boards will have the responsibility of administering the new provisions on health services contained in Part IV of the Bill.

6. For each county (or other appropriate unit), there will be set up under section 7 a local committee, including local authority members, with the main function of advising the health board on the provision of health services in the county or other area covered by the committee. Other functions may also be delegated by the health board to such committees. The board itself will have authority to set up other committees and to delegate functions to them (section 8). Health boards may be authorised to join together for the performance of specific functions, if necessary through the establishment of a joint board (section 10). Under section 11, the Minister would be given power similar to that which exists as respects local authorities in Part IV of the Local Government Act, 1941, to remove from office the members of a health board and to make arrangements for the discharge of its functions by a person or persons appointed by him.

#### *Chapter II—Officers and Servants, etc.*

7. This Chapter provides the basis for the appointment of officers and servants by health boards and for arrangements with other bodies for the provision of services. The health boards will not come within the county management system, so the provisions on officers and servants do not follow in all respects the pattern in the Local Government Acts.

8. The appointment of an officer to act as a chief executive officer to each health board is dealt with in section 12. There is provision whereby the Minister can arrange with the Local Appointments Commissioners for the selection in advance of the setting up of the health boards of persons to become chief executive officers but subsequent permanent appointments to these offices will be made through the Commissioners on the requisition of the board itself. Temporary appointments, as may be required from time to time, will be made by the Minister.

9. The appointment of other officers and servants of health boards will be governed by section 13 and the other provisions of this Chapter. The actual appointment of officers and servants will be a function of the chief executive officer of the board, but, as respects officers to which the Local Authorities (Officers and Employees) Acts, 1926 and 1940 apply (see section 14), appointments will have to be made in accordance with the requirements of those Acts. In addition, in making appointments and in determining terms and conditions of employment, duties, remuneration and allowances, the chief executive officer will be governed by the directions of the Minister. Provisions similar to section 38 of the Local Government Act, 1946, which allows officers, with approval, to perform duties through deputies in specified circumstances, are included in section 13 (6) and (7).

10. Sections 15 and 16 govern the general performance of their duties by the chief executive officer and the other officers of a health board. Under section 16, there will be power for the chief executive officer to delegate functions to other officers, on the general lines of that for delegation by county managers under section 17 of the City and County Management (Amendment) Act, 1955. Section 16 states the respective functions of the health boards, their chief executive officers and the other officers within the new administrative structure. It is stated that officers will perform their duties on behalf of the board and, in general, in accordance with its decisions and directions and those of its committees. However, where, under the new Act or otherwise, a specific statutory function is given to the chief executive officer, the board and its committees will not be empowered to take decisions or to issue directions to him about the discharge of that



function. In general, the functions on which the board will be limited in this way will relate to decisions on cases—such as on eligibility for services or on the supervision of staff. Similarly where, under any statute, functions are conferred directly on another officer of a health board, the board itself will not be involved in the discharge of that function (an example of this is the functions given to medical superintendents of psychiatric hospitals under the Mental Treatment Acts).

11. Section 17 deals with the qualifications for officers under health boards. Section 18 will prescribe the normal age limit of 65 years for such officers and will allow a higher limit to be fixed by order of the Minister. Under section 19, the superannuation code for local authority staffs will be applied to officers and servants of health boards.

12. Sections 20 to 23 deal with the suspension and removal from office of chief executive officers and other officers of health boards. The Minister or the health board will have power to suspend the chief executive officer; such a suspension may be terminated by the Minister. The removal of a chief executive officer, on the grounds stated in section 20 (5), will be a matter for the Minister. The chief executive officer, on the grounds stated in section 21 (1), will have authority to suspend another officer of the board. Suspensions of less than one month's duration may be terminated by the chief executive officer, longer suspensions by the Minister. The removal of an officer or servant will be a matter for the chief executive officer but, where a permanent officer is concerned, his power of removal will be restricted as follows:

- (a) in a case where an officer has absented himself from duty without leave or without reasonable cause, the removal may only be done on a direction of the Minister;
- (b) in any other case of misconduct or unfitness, the removal may only be done after consideration by the special committee appointed under section 23 (and, where a request is made to him under section 23 (9), by the Minister) and
- (c) where removal for a cause other than misconduct or unfitness arises, the removal can be done only with the approval of the board.

13. Under section 24, a health board will be authorised to make an arrangement with a local authority to do work for it (there is power for local authorities to do work similarly for health boards in section 59 of the Local Government Act, 1955) and, under section 25, a health board will have authority to arrange with other persons or bodies to provide services.

### *Chapter III—Finance*

14. The general object of this Chapter is to provide accountancy and budgeting procedures for health boards so as to fit in with general national programming of social expenditure. Under sections 26 and 27, accounts of health boards will be kept in a prescribed form and will be audited by a local government auditor. The abstract of accounts will be sent to the Minister and presented by him to each House of the Oireachtas. He will also have copies sent to the Minister for Finance. Each health board will be required to submit, at the prescribed times, estimates of receipts and expenditure and the board will be limited in its expenditure, both total and for particular services and purposes, to a budget approved by the Minister for Health. The chief executive officer will have a special financial responsibility in relation to the board's functions (sections 29 and 30).

15. In accordance with section 31, each health board will be financed by State grants and contributions from the relevant local authorities. The State grants will be made up of basic grants to meet



one-half of authorised revenue expenditure and supplementary grants, as determined by the Minister with the consent of the Minister for Finance, to reduce the amount of local contributions. The allocation of liability for contributions between the various local authorities will be specified in regulations made by the Minister for Local Government.

16. Health boards will have power, similar to that of local authorities, to borrow money and may accept gifts if conditions attached to the acceptance are consistent with the board's functions (section 32).

#### *Chapter IV—Dissolution of certain bodies, etc.*

17. Section 33 and the Third Schedule provide for the dissolution of the special joint health authorities in Dublin, Cork, Limerick and Waterford which were established by the Health Authorities Act, 1960. When these bodies are dissolved the main part of their property, rights and liabilities will be transferred to the relevant health boards established under the Bill, as will the officers working on the health services. These joint health authorities, however, also administer public assistance in their areas and, in accordance with section 80 of the Bill, this function will be transferred to the county councils and county borough corporations in these areas. Accordingly, there is provision in section 33 whereby property used for this service and officers engaged on it will be transferred to the relevant county council or county borough corporation.

18. Dissolutions of joint boards established under section 45 of the Health Act, 1953, are provided for by section 34. These are the Western Health Institutions Board and the seven joint mental health boards for—

Carlow and Kildare  
Cavan and Monaghan  
Galway and Roscommon  
Laois and Offaly  
Leitrim and Sligo  
Longford, Meath and Westmeath  
Tipperary (N.R.) and Tipperary (S.R.).

The health institutions (hospitals, clinics, dispensaries, etc.) and other property of county councils used for the health services will be similarly transferred under section 35, but there is provision under which the Minister will be empowered to transfer specified health institutions to the regional hospital boards (see section 40) rather than to the health boards. Health officers of county councils will be transferred to health boards under section 36.

### **PART III**

#### **HOSPITALS ETC.**

19. This Part of the Bill is intended to replace provisions in Part II of the Health Act, 1947 and Part II of the Health Act, 1953, governing the provision of health institutions by local authorities. A general power to provide and maintain hospitals etc. will be given by section 37; section 38 deals with arrangements for religious services in hospitals (it will replace section 12 of the Health Act, 1953) and, by section 39 (which will replace section 20 of the Health Act, 1947), health boards will be empowered to acquire land for voluntary hospitals.

20. Section 40 arises from recommendations in the Report "Outline of the Future Hospital System". It proposes the establishment of a body to be known as Comhairle na nOspidéal and of three regional hospital boards based on Dublin, Cork and Galway. The main function of Comhairle na nOspidéal will be to advise on the regula-



tion of the number and type of appointments of consultants in health board hospitals and in voluntary hospitals engaged in providing services under the Act—thus promoting co-ordinated development of specialist hospital out-patient and in-patient services. It will also have more general advisory functions on the organisation and operation of hospital services.

21. Half of the members of the regional hospital boards will be appointed by the relevant health boards and half by the Minister after consultation with representative bodies. Each regional hospital board will be concerned with the general organisation and development in its region of hospital services in hospitals administered by health boards and by other bodies engaged in providing services under the Act. These boards will not be charged with the direct administration of hospitals but, as mentioned in relation to section 35, it is intended that hospitals may be vested in them. (Voluntary hospitals would, of course, remain vested as at present; their ownership would not be affected by the Bill.)

22. Following on the establishment of the bodies referred to in the preceding paragraphs and of the health boards, whose combined functions would largely cover those at present given to the Hospitals Commission, it is proposed to dissolve the Commission (section 41).

23. Section 42 will permit the transfer of the administration of the Central Mental Hospital, Dundrum, to the relevant health board. This hospital was erected under the Central Criminal Lunatic Asylum (Ireland) Act, 1845, and its title was changed by section 39 of the Mental Treatment Act, 1961. It is vested in the Commissioners of Public Works and is now administered direct under the Minister for Health. Under section 42, the hospital would remain vested in the Commissioners of Public Works, but responsibility for its administration would be transferred to the health board, which would have similar responsibility for most other psychiatric hospitals in the Dublin area.

## PART IV

### HEALTH SERVICES

#### *Chapter I—Eligibility*

24. This Chapter is intended to replace sundry provisions on eligibility for health services in Part III of the Health Act, 1953, with changes in terminology and a number of modifications. The definition of "full eligibility" in section 43 will replace the definition of persons entitled to general medical services in section 14 (2) of the Health Act, 1953. The main modifications being made are—

- (a) under the new section, it will be clear that only a person's own means and that of the husband or wife will be taken into account in assessing eligibility and
- (b) there will be power, by Ministerial regulations, to make uniform specifications of classes of persons who will be regarded as coming within the definition of "full eligibility" (at present the Minister has no functions in this respect). Such regulations could not be made until a draft had been approved by each House of the Oireachtas.

25. Section 44 will consolidate the provisions on eligibility for hospital services and certain other services in section 15 (2), (6) and (8) of the Health Act, 1953, as amended by subsequent Acts. It is proposed to take power under section 44 to alter the definition of "limited eligibility" by regulations. Under section 6 (2) of the Social Welfare (Miscellaneous Provisions) Act, 1965, there is power to vary by order the present remuneration limit of £1,200 a year for social welfare insurance of non-manual employees. In the event of any such variation, it is necessary to have power to change by regulations the definition of "limited eligibility" for health services, either



in conformity with the alteration in the limit for insurability or otherwise, as may be determined at the time. These regulations also could not be made until a draft had been approved by each House of the Oireachtas.

26. Section 45 provides for appeals against decisions of officers of health boards in relation to eligibility for services. There is a right of appeal at present under section 15 (9) of the Health Act, 1953, but only against a decision that a person's income is over the statutory limit of £1,200 a year. Under this new section the right of appeal would extend to all decisions on eligibility.

27. Sections 46, 47 and 48 of the Bill will replace sections 27, 28, and 30 of the Health Act, 1953.

#### *Chapter II—Hospital In-Patient and Out-Patient Services*

28. This Chapter will replace, with some modifications, the provisions in sections 15 to 17, 25 and 26 of the Health Act, 1953, on the provision of general institutional and specialist services, the provisions in section 19 of the Mental Treatment Act, 1945 (as amended by section 71 (2) of the Health Act, 1953, and later Acts) on the provision of mental hospital care and the provision in section 104 of the Health Act, 1947, on ambulance services.

29. The obligation to be imposed on health boards by section 50 (1) of the Bill is generally similar to the present obligation of health authorities, but section 15 (7) of the 1953 Act, under which hospital services are available to pupils of national schools in respect of defects discovered at school health examination is not being re-enacted. The net effect of this is that children of higher-income group parents who may be attending national schools will lose entitlement to hospital treatment on the grounds of discovery at school health examination. However, under section 50 (2), in-patient services in respect of prescribed long-term diseases and disabilities will be made available to children of parents in the higher income group, irrespective of where the defect is discovered. These changes are generally in line with the recommendations in the Report, "The Child Health Services".

30. Under section 51, there is provision for regulations imposing charges for in-patient services in specified circumstances on persons without full eligibility. This will replace the provision in section 15 (4) of the Health Act, 1953 (as amended) whereby charges, normally up to a maximum of ten shillings a day, may be made on the middle income group.

31. Section 52 of the Bill, dealing with choice of hospital or home, is to replace section 25 of the 1953 Act and section 53 will replace section 26 of that Act.

32. Section 54 proposes to modify the present provisions on out-patient services (mainly in section 15 of the Health Act, 1953, as amended) by—

- (a) eliminating the present charges (7/6d. for x-rays and 2/6d. for other services) on the middle income group,
- (b) making the services available without means test for all children in respect of prescribed long-term diseases and disabilities, and
- (c) extending the services available for defects discovered at school health examinations to defects discovered at examinations of pre-school children.

#### *Chapter III—General Medical Services*

33. Section 56 of the Bill and the repeal in accordance with the First Schedule of sections 14, 51 and 52 of the Health Act, 1953, will



give the general statutory backing for the proposed new general medical service under which a choice of doctor will, as far as practicable, be offered to participants. Section 57 (1) deals with the supply of drugs, medicines and medical and surgical appliances to persons using this service. The provision will permit arrangements in this respect to be made through retail pharmaceutical chemists.

34. Section 57 (2) proposes to introduce a new scheme for persons with limited eligibility under which they will be entitled to get assistance in meeting exceptional expenditure on drugs etc. The cost, or a proportion of it, over and above a fixed amount within a prescribed period will be met by the health board. Section 57 (3) introduces a new provision for the supply without charge of drugs, etc. to persons suffering from prescribed long-term diseases or disabilities.

35. Section 58 will replace section 102 of the Health Act, 1947. Section 59 will introduce a new provision for a home help service to be operated by the health boards.

#### *Chapter IV—Services for Mothers and Children*

36. Sections 60 and 61 will replace, in part, sections 16 and 17 of the Health Act, 1953. Section 62, which will replace section 23 of the 1953 Act, provides for a doubling of the maternity cash grant to £8 and also provides that, in the case of multiple births, a separate grant will be paid for each child born alive. Section 63 will re-enact section 24 of the 1953 Act.

37. Section 54 will replace sections 18, 19 and 32 of the 1953 Act. The main changes proposed are—

- (a) provision is made in section 64 (1) for examination of pre-school children at "other prescribed places" which could include general practitioners' surgeries (the Report, "The Child Health Services" recommended this for rural areas),
- (b) the health examination service may be extended to an elementary school which is not a national school only if the governing body so requests and not, as is provided for in section 19 of the 1953 Act, by order of the health authority.

#### *Chapter V—Other Services*

38. Section 65 (dental, ophthalmic and aural services) will replace section 14 (in part) and sections 20 and 21 of the 1953 Act. Sections 66 and 67 will replace section 50 of that Act. The provisions of that section on maintenance allowances are being changed so that only the person's own means and that of a husband or wife will be taken into account in assessing eligibility (at present the means of sons, daughters and parents and of any brothers or sisters normally resident with a person are taken into account).

39. Under section 68, health boards will be given a new power to arrange for carrying out tests for particular diseases. This service will be available to all income groups.

#### *Chapter VI—Miscellaneous provisions on services*

40. Section 69 of the Bill will replace section 22 of the 1953 Act and section 2 of the Health Act, 1954. Sections 70 to 72 will replace sections 29, 31 and 33 of the 1953 Act.

### **PART V**

#### **MISCELLANEOUS PROVISIONS**

41. Section 73 is designed to provide a simple and cheap procedure for amending charters or private Acts relating to hospitals. Orders under the section would be subject to approval by the Houses of the



Oireachtas before coming into effect. By section 74 it is proposed to clear up the legal position as respects the removal of bodies found in public places. Because of confusion on legal responsibilities in this respect, there has sometimes been delay in the removal of such bodies to appropriate premises. Section 75 will make a minor amendment of the Rats and Mice (Destruction) Act, 1919 to facilitate the operation of that Act. Section 76 is a technical amendment of the Health Services (Financial Provisions) Act, 1947. That Act will, under the Bill, be repealed eventually but, to enable arrears of grants under it to be paid it will remain in operation side by side with section 31 of the Bill for some time.

42. Sections 77 and 78 are designed to permit the adaptation of the Mental Treatment Acts, insofar as not repealed, to the new administrative structure, pending the replacement of those Acts by a new one. Section 79 adapts the provisions on local inquiries in the Local Government Act, 1941, to cover the Minister's functions as respect health boards. Section 80 is consequential on the dissolution of the Dublin, Cork, Limerick and Waterford Health Authorities under section 33. It will give the county councils and county borough corporations in each of these areas direct responsibility for the administration of public assistance. Section 81 will provide power for adaptations of enactments consequential on the Bill and section 82 will make amendments in the City and County Management (Amendment) Act, 1955 to delete a requirement that the consent of the Minister for Health be obtained by the Minister for Local Government before deciding on issues relating to the grouping of counties for management purposes.

#### FIRST SCHEDULE

43. The repeals listed in this Schedule are consequential on the provisions in the text of the Bill. To the extent that any repealed provision is specifically replaced by a particular new provision, this is generally referred to in the notes above on the sections of the Bill.

#### SECOND SCHEDULE

44. The Second Schedule contains the detailed rules on membership and meetings of the health boards and the bodies to be established under section 40.

#### THIRD SCHEDULE

45. The Third Schedule, which is related to section 33, contains provisions consequential on the dissolution of the Dublin, Cork, Limerick and Waterford Health Authorities.

*An Roinn Sláinte,*

*Máirta, 1969.*

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