



**AN BILLE SLÁINTE (LEASÚ), 1996
HEALTH (AMENDMENT) BILL, 1996**

EXPLANATORY MEMORANDUM

Purpose of the Bill

The primary purpose of the Bill is to strengthen the arrangements governing the financial accountability of health boards and to clarify the respective roles of the members of health boards and their chief executive officers.

It gives effect to a commitment in *A Government of Renewal* to introduce legislation to improve the accountability of health boards. It also implements undertakings in the Health Strategy, *Shaping a Healthier Future*, to improve the organisational and management arrangements in health boards and begins the process of removing the Department of Health from detailed involvement in operational matters.

Provisions of the Bill

Section 1 contains definitions of key terms used in the Bill.

Section 2 provides that health boards must have regard to certain matters in carrying out any of their functions. These relate to securing the most beneficial, effective and efficient use of resources; co-operating and co-ordinating their activities with other health boards, local authorities and public bodies; and giving due consideration to the policies and objectives of Ministers and of the Government.

Sections 3 and *4* clarify the respective roles of the members of health boards and their chief executive officers.

Section 3 provides that certain functions known as "reserved functions" will be carried out directly by the members of health boards. These include the adoption, supervision and amendment of service plans, the appointment and removal of the chief executive officer, the purchase and disposal of assets, the borrowing of money and decisions to discontinue the provision and maintenance of any premises.

Section 4 provides that, generally, any function that is not a "reserved function" will be performed by the chief executive officer and the staff of the board and shall be known as an "executive function".

Section 5 requires the Minister to determine in respect of each health board for each financial year the maximum amount of net expenditure that may be incurred for that year. The term "net expenditure" means the gross expenditure of a health board for a year less the income of the board, other than grants made to the health board by the Minister under the Health Act, 1970. The Minister is required to notify health boards in writing of the amount so determined within

21 days of the publication of the Estimates by the Government. The Minister is also empowered to amend a determination by varying the amount of net expenditure that a health board may incur in respect of a financial year. There is also provision to enable the Minister to make a determination in respect of a period other than a financial year. This will facilitate multi-annual budgeting.

Section 6 requires a health board, within 42 days of the receipt of a determination, or a shorter period not less than 21 days as the Minister may direct, to adopt and submit to the Minister a service plan in respect of the period to which that determination relates. A service plan shall include a statement of the services to be provided by the board consistent with the financial limits determined by the Minister under *section 5*.

If a health board does not submit a service plan within the relevant time-scale, the Minister may allow a further period not exceeding 10 days to enable the board to do so. If a health board fails to submit a service plan, the Minister may direct the chief executive officer to prepare and submit a plan within 10 days and that plan shall be deemed to have been adopted by the board. The Minister may, not later than 21 days after the receipt of a service plan, direct a health board to modify its plan and the board is required to comply with such a direction.

Section 7 provides that where the Minister amends a determination of a health board, he or she may direct that the service plan of the board shall stand amended accordingly or, alternatively, require the health board to submit an amended service plan. The power to direct that a plan stand amended is intended to deal with situations such as where the Minister makes additional funds available to meet agreed pay increases or to develop particular services or facilities. It shall be a reserved function of the members of a health board to supervise the implementation of its service plan in order to ensure that the net expenditure does not exceed the amount determined by the Minister. A health board may amend its service plan, provided that it does not exceed the net expenditure determined by the Minister.

Section 8 provides that whenever the Minister makes a determination, he or she shall specify the amount of indebtedness that a health board may incur and a health board shall not exceed the amount determined by the Minister.

Section 9 requires the chief executive officer to implement the service plan of the health board and to ensure that the net expenditure and indebtedness of the board do not exceed the amounts determined by the Minister. Where the chief executive officer forms an opinion that a decision or a proposed decision of the board will result in net expenditure or indebtedness exceeding the amounts determined by the Minister, he or she is required to inform the Minister and the board of that opinion.

Section 10 provides that if the net expenditure incurred by a health board is greater or less than the amount determined by the Minister, the health board shall charge the amount of such excess or credit the amount of such surplus in its income and expenditure account for the next year.

Section 11 provides that a health board shall keep all proper and usual accounts and such special accounts as the Minister may direct. A health board is also required to prepare and adopt annual financial statements on or before 1 April in the year following the year to which they relate.

Section 12 provides that if the Minister is satisfied that a health board is not performing any of its functions in an effective manner or has failed to comply with any direction given by the Minister, he or she may, by order, transfer specified functions of a health board for a period of not more than two years to either the chief executive officer or such other person as the Minister may specify. Before exercising this power, the Minister must have a report prepared in relation to the performance by the board of its functions, must give the board at least 14 days notice of his or her intention to exercise the power and must have regard to any representations made by the board in this regard.

Section 13 empowers the Minister to give directions in writing to a health board on any matter in relation to which directions are provided for and provides that a health board shall comply with any such direction.

Section 14 provides that future appointees as chief executive officers of health boards shall hold office on a fixed term contract basis and may be removed from office by the health board with the consent of the Minister in accordance with the terms and conditions of their contract.

Section 15 requires a health board to prepare and adopt an annual report in relation to the performance of its functions during the preceding year. The report shall include details of the services provided by the board during the year. The Minister is empowered to specify other particulars that must be included in the annual report.

Section 16 provides for the formal dissolution of the Dublin, Cork and Galway Regional Hospital Boards, the Local Health Committees and the National Health Council, all of which have ceased to function.

Section 17 contains miscellaneous amendments to the Health Act, 1970. Most of these are required to bring the relevant provisions of the Act into line with this Bill. It also imposes a new statutory obligation on health boards to develop and implement health promotion programmes.

Section 18 dispenses with the need for a health board to obtain ministerial consent to the acquisition or disposal of land; however, the Minister may give general directions which must be complied with by the board. The acquisition and disposal of land will be a reserved function of the members of the board.

Section 19 dispenses with the need for a health board to obtain ministerial consent to the payment of a grant to a voluntary body; however the Minister may give directions which must be complied with by the board.

Section 20 makes it an offence to carry on a nursing home that is not registered under the Health (Nursing Homes) Act, 1990.

Section 21 allows the Minister to extend by order the term of office of An Bord Altranais which is due to expire on 3 October, 1996, pending the enactment of a Bill to revise the Nurses Act, 1985.

Section 22 amends the definition of "health service" in the Health (Corporate Bodies) Act, 1961. This will enable the Minister to establish bodies to perform functions in or in relation to the provision of personal social services.

Section 23 provides for the repeal of certain provisions of the Health Acts and the revocation of certain regulations consequent on the provisions of this Bill.

Section 24 provides for the laying of orders before each House of the Oireachtas.

Section 25 contains standard provisions regarding short title, construction and commencement.

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Aibreán, 1996.**

Section 17 contains miscellaneous amendments to the Health Act 1970. Most of these are required to bring the relevant provisions of the Act into line with the amendments now statutory. Section 18 dispenses with the need for a health board to obtain ministerial consent to the acquisition or disposal of land; however, the Minister may give general directions which must be complied with by the board. The acquisition and disposal of land will be a reserved function of the boards of the health authorities. Section 19 dispenses with the need for a health board to obtain ministerial consent for the payment of a grant to a voluntary body; however, the Minister may give directions which must be complied with by the board.

Section 20 makes it an offence to carry on a nursing home that is not registered under the Health (Nursing Homes) Act, 1990.

Section 21 allows the Minister to extend by order the term of office of a Board of Directors which is to expire on 3 October 1996 pending the enactment of