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**AN BILLE UM GHAIMITHE SLÁINTE AGUS CÚRAIM  
SHÓISIALAIGH 2004  
HEALTH AND SOCIAL CARE PROFESSIONALS BILL 2004**

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*Mar a tionscnaíodh  
As initiated*

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SHÓISIALAIGH 2004  
HEALTH AND SOCIAL CARE PROFESSIONALS BILL 2004**

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# **BILL**

5

*entitled*

AN ACT TO PROVIDE FOR THE ESTABLISHMENT AND  
FUNCTIONS OF THE HEALTH AND SOCIAL CARE  
PROFESSIONALS COUNCIL AND OF REGISTRATION  
10 BOARDS FOR CERTAIN DESIGNATED HEALTH AND  
SOCIAL CARE PROFESSIONS; TO PROVIDE FOR THE  
REGISTRATION OF PERSONS QUALIFYING TO USE  
THE TITLE OF A DESIGNATED PROFESSION AND FOR  
THE DETERMINATION OF COMPLAINTS RELATING  
15 TO THEIR FITNESS TO PRACTISE; AND TO PROVIDE  
FOR RELATED MATTERS.

BE IT ENACTED BY THE OIREACHTAS AS FOLLOWS:

## PART 1

### PRELIMINARY MATTERS

20 **1.**—This Act may be cited as the Health and Social Care Pro- Short title.  
fessionals Act 2004.

**2.**—(1) This Act comes into operation on the day that the Mini- Commencement.  
ster may, by order, appoint.

(2) Different days may be appointed under this section, by one or  
25 more than one order, for different purposes or different provisions  
of this Act.

**3.**—(1) In this Act, except where the context otherwise requires— Interpretation.

“bye-law” means a bye-law made by a registration board under  
*section 31*;

30 “Council” means the Health and Social Care Professionals Council  
established under *section 6*;

“Court” means the High Court;

“designated profession” means a health or social care profession that—

- (a) is designated in *section 4(1)*, or
- (b) is designated by regulation under *section 4(2)*;

“establishment day” means— 5

- (a) in relation to the Council, the day appointed under *section 6(3)* for its establishment, and
- (b) in relation to a registration board, the day appointed under *section 26(3)* for its establishment;

“fee” means a fee set by the Council from time to time under *section 18*; 10

“functions” includes duties and responsibilities;

“health or social care profession” has the meaning given by *section 4(3)*;

“Minister” means the Minister for Health and Children; 15

“register” means a register established and maintained under *section 35*;

“registrant”, in relation to a designated profession, means an individual whose name is entered in the register of members of that profession; 20

“registration board” means a board established under *section 26* or established by regulation under *section 4*;

“rule” means a rule made by the Council under *section 22*;

“superannuation benefit” means a pension, gratuity or other allowance payable on resignation, retirement or death. 25

(2) In this Act “material interest” is to be construed in accordance with *section 2(3)* of the Ethics in Public Office Act 1995.

(3) Unless the context otherwise requires, any reference in this Act to a register includes a division of the register and “registered” and “registration” are to be construed accordingly. 30

(4) In this Act—

- (a) a reference to a section, Part or Schedule is to a section or Part of, or a Schedule to, this Act, unless it is indicated that reference to some other enactment is intended,
- (b) a reference to a subsection, paragraph or subparagraph 35 is to the subsection, paragraph or subparagraph of the provision in which the reference occurs, unless it is indicated that reference to some other provision is intended, and
- (c) a reference to any other enactment is to that enactment as 40 amended by or under any other enactment, including this Act, unless the context otherwise requires.



4.—(1) For the purposes of this Act, the following health or social care professions are designated: Designated professions.

- (a) chiropodist;
- (b) clinical biochemist;
- 5 (c) dietitian;
- (d) medical scientist;
- (e) occupational therapist;
- (f) orthoptist;
- (g) physiotherapist;
- 10 (h) psychologist;
- (i) radiographer;
- (j) social care worker;
- (k) social worker;
- (l) speech and language therapist.

15 (2) After consulting the Council, the Minister may, by regulation, designate for the purposes of this Act any health or social care profession not already designated under *subsection (1)*, but only if—

- (a) the fitness of the members to practise their profession is not regulated by or under another Act of the Oireachtas,
- 20 (b) the Minister has given interested persons, organisations and other bodies an opportunity to make representations to him or her concerning the proposed designation,
- (c) the Minister considers that it is appropriate and in the public interest that the profession be designated under  
25 this Act, and
- (d) the steps in *subsection (8)* have been taken.

(3) A health or social care profession is any profession in which a person exercises skill or judgment relating to any of the following health or social care activities:

- 30 (a) the preservation or improvement of the health or well-being of others;
- (b) the diagnosis, treatment or care of those who are injured, sick, disabled or infirm;
- (c) the resolution, through guidance, counselling or otherwise,  
35 of personal, social or psychological problems;
- (d) the care of those in need of protection, guidance or support.

(4) In considering for the purposes of *subsection (2)(c)* whether it is appropriate and in the public interest that a health or social care

profession be designated under this Act, the Minister shall have regard to the following factors:

- (a) the extent to which the profession has a defined scope of practice and applies a distinct body of knowledge;
  - (b) the extent to which the profession has established itself, including whether there is at least one professional body representing a significant proportion of the profession's practitioners; 5
  - (c) the existence of defined routes of entry into the profession and of independently assessed entry qualifications; 10
  - (d) the profession's commitment to continuous professional development;
  - (e) the degree of risk to the health, safety or welfare of the public from incompetent, unethical or impaired practice of the profession; 15
  - (f) any other factor that the Minister considers relevant.
- (5) Regulations under this section shall—
- (a) include provision for the establishment of registration boards for the professions designated in the regulations, and 20
  - (b) specify the name by which each registration board is to be known.
- (6) Regulations under this section may prescribe a title to be used by registrants of each profession designated by the regulations and, for that purpose, may also prescribe one or more than one variant of the prescribed title. 25
- (7) Regulations under this section may also vary, as the Minister considers necessary or expedient in view of the increase in the number of designated professions—
- (a) the total number of persons to be appointed as ordinary members of the Council under *section 9(3)(b)*, and 30
  - (b) the number of them to be appointed to represent the management of a sector, organisation or body, or to represent an establishment or interest, referred to in any subparagraph of that section. 35
- (8) Regulations may be made under this section only if—
- (a) a draft of the proposed regulation has been laid before the Houses of the Oireachtas, and
  - (b) a resolution approving the draft has been passed by each House. 40

Expenses of administering this Act.

**5.**—Any expenses incurred by the Minister in administering this Act are, to such extent as may be sanctioned by the Minister for Finance, payable out of money provided by the Oireachtas.

PART 2

HEALTH AND SOCIAL CARE PROFESSIONALS COUNCIL

5 6.—(1) On the establishment day, a body to be known as the Health and Social Care Professionals Council is established to perform the functions and exercise the powers assigned to it by this Act. Establishment of Council.

(2) The Council is a body corporate with perpetual succession and a common seal and it may—

(a) sue and be sued in its corporate name,

10 (b) acquire, hold and dispose of land or an interest in land, and

(c) acquire, hold and dispose of any other property.

(3) The Minister may, by order, appoint a day as the establishment day of the Council.

15 (4) Subject to this Act, the Council may regulate its own procedure and the procedure of each registration board.

(5) *Schedule 1* applies to the Council.

20 7.—The object of the Council is to protect the public by promoting high standards of professional conduct and professional education, training and competence among registrants of the designated professions. Object of Council.

8.—(1) The Council shall do all things necessary and reasonable to further its object and shall exercise its powers and perform its functions in the public interest. Functions and powers of Council.

25 (2) Without limiting the Council's responsibilities under *subsection (1)*, its functions are to—

(a) oversee and co-ordinate the activities of registration boards,

(b) provide administrative support and secretarial assistance to registration boards and their committees,

30 (c) receive applications and make decisions under *Part 4* concerning the refusal of registration boards to grant or restore registration,

35 (d) enforce standards of practice for registrants of the designated professions, including the codes of professional conduct and ethics adopted by their registration boards,

(e) establish committees of inquiry into complaints under *Part 6* against registrants of the designated professions,

40 (f) make decisions and give directions under *Part 6* relating to the imposition of disciplinary sanctions on registrants of the designated professions,

(g) advise the Minister, either on its own initiative or at the Minister's request, on all matters relating to the Council's functions under this Act,

- (h) encourage registration boards to collaborate with each other, where practicable, including in the professional education and training of registrants,
  - (i) issue assessment guidelines for the purposes of *section 90*, and 5
  - (j) perform any function that may be assigned by the Minister to the Council and that relates to—
    - (i) the registrants of any designated profession, their education and training and the practice of the profession, or 10
    - (ii) the implementation of any directive or regulation of the Council of the European Union concerning the practice of, and persons engaged in, health care or social care.
- (3) The Council has power to do anything that appears to it to be requisite, advantageous or incidental to, or to facilitate, the performance of its functions under this Act. 15

Membership of Council.

**9.—(1)** The Council is to consist of a chairperson and ordinary members, all of whom are to be appointed by the Minister in accordance with this section. 20

(2) A registrant is not eligible to be appointed chairperson of the Council.

(3) The following are to be appointed as ordinary members:

(a) for each designated profession, one person who, subject to *subsections (6) and (7)*— 25

- (i) is an elected member of the registration board of the designated profession concerned, and
- (ii) is nominated by that board for appointment to the Council;

(b) 12 persons of whom— 30

- (i) one is representative of the management of the public health sector, the public social care sector or both sectors,
- (ii) one is representative of the management of a voluntary or private sector organisation concerned with health or social care, 35
- (iii) one is representative of third level educational establishments involved in the education and training of persons with respect to the practice of the designated professions and is nominated by the Minister for Education and Science, and 40
- (iv) 9 are representative of the interest of the general public and are appointed with the consent of the Minister for Enterprise, Trade and Employment.

(4) Before appointing a chairperson under *subsection (1)* or an ordinary member under *subsection (3)(b)(i) or (ii) or subsection (6)*, 45

the Minister may consult with any organisations that he or she considers appropriate.

5 (5) Persons appointed to represent the interests of the general public may include members of advocacy groups and users of services provided by the designated professions.

(6) When the Council is first constituted, the Minister shall, for each designated profession, appoint, instead of a person who meets the criteria in *subsection (3)(a)*, a person who is engaged in—

(a) the practice of that profession,

10 (b) the education or training of persons with respect to the practice of that profession, or

(c) the management of services provided by that profession.

15 (7) *Subsection (6)* applies also to the initial appointment of an ordinary member to the Council as a result of a health or social care profession being designated by regulation.

20 **10.**—A member of the Council or of any committee established by the Council under this Act shall be paid, out of funds at the Council's disposal, such allowances for travelling and subsistence expenses incurred in respect of the member's attendance at a meeting of the Council or committee or otherwise in connection with the affairs of the Council as the Minister, with the consent of the Minister for Finance, may determine. Allowances for expenses of members.

**11.**—(1) The Council shall appoint a chief executive officer to— Chief executive officer.

25 (a) carry on and manage and control generally the administration and business of the Council and the registration boards,

(b) act as registrar of each registration board, and

(c) perform any other duties that may be determined by the Council.

30 (2) The chief executive officer holds office on the conditions (including those relating to remuneration and allowances) that may be determined by the Council with the approval of the Minister given with the consent of the Minister for Finance.

35 (3) The chief executive officer shall be paid by the Council, out of funds at its disposal, the remuneration and allowances determined under *subsection (2)*.

**12.**—(1) Subject to *subsection (2)*, the Council may appoint persons to be members of its staff and may determine their duties. Staff and consultants.

40 (2) The numbers and grades of staff to be appointed under this section and the conditions (including those relating to remuneration and allowances) of their appointment shall be determined by the Council with the approval of the Minister given with the consent of the Minister for Finance.

(3) Staff appointed under this section shall be paid by the Council, out of funds at its disposal, the remuneration and allowances determined under *subsection (2)*.

(4) Subject to *subsection (5)*, the Council may make and carry out arrangements with any person or body to assist any of the following in performing their functions or exercising their powers under this Act: 5

(a) the Council;

(b) a committee of the Council;

(c) a registration board; 10

(d) a committee of a registration board.

(5) The Council's power to make an arrangement to assist a registration board or a committee of a registration board may be exercised only at the request of the registration board concerned.

Superannuation.

**13.—**(1) The Council shall prepare and submit to the Minister one or more than one scheme for granting superannuation benefits to or in respect of such members of its staff (including the chief executive officer) as the Council considers appropriate. 15

(2) Each superannuation scheme shall fix the time and conditions of retirement for all persons to or in respect of whom superannuation benefits are payable under the scheme, and different times and conditions may be fixed in respect of different classes of persons. 20

(3) A superannuation scheme submitted to the Minister under this section shall, if approved by the Minister with the consent of the Minister for Finance, be carried out in accordance with its terms. 25

(4) A superannuation scheme may be amended or revoked by a subsequent scheme prepared, submitted and approved under this section.

(5) The Council may not grant, or enter any arrangement for the provision of, any superannuation benefit to or in respect of a member of its staff (including the chief executive officer), except in accordance with a superannuation scheme approved under this section or approved by the Minister with the consent of the Minister for Finance. 30

(6) Any dispute about the claim of any person to, or the amount of, a superannuation benefit payable in pursuance of a superannuation scheme approved under this section shall be submitted to the Minister who shall refer it to the Minister for Finance for decision. 35

(7) The Minister shall ensure that a superannuation scheme approved under this section is laid before each House of the Oireachtas as soon as practicable after it is approved. 40

(8) Either House of the Oireachtas may, by a resolution passed within 21 sitting days after the day on which the superannuation scheme is laid before it, annul the scheme.

(9) The annulment of a superannuation scheme under *subsection (8)* takes effect immediately on the passing of the resolution concerned, but does not affect the validity of anything done under the scheme before the passing of the resolution. 45

14.—(1) A member of the Council’s staff (including the chief executive officer) is immediately seconded from employment by the Council if he or she is—

Membership of either House of Oireachtas or European Parliament.

- (a) nominated as a member of Seanad Éireann,
- (b) elected as a member of either House of the Oireachtas or of the European Parliament, or
- (c) regarded pursuant to section 19 of the European Parliament Elections Act 1997 as having been elected to the European Parliament to fill a vacancy.

(2) A person seconded from employment under *subsection (1)* shall not be paid by, or entitled to receive from, the Council any remuneration or allowances in respect of the period of secondment and that period shall not, for the purposes of any superannuation benefit, be counted as service with the Council.

(3) In relation to a person seconded from employment under *subsection (1)*, the period of secondment begins on the occurrence of the relevant event referred to in that subsection and ends when the person ceases to be a member of either House of the Oireachtas or of the European Parliament.

(4) A person who is entitled under the Standing Orders of either House of the Oireachtas to sit in that House or who is a member of the European Parliament is, while so entitled or such a member, not eligible to be employed in any capacity by the Council.

15.—(1) In this section—

Disclosure of interests by members of Council or committee.

“meeting” means a meeting of the Council or of a committee of the Council;

“member” means a member of the Council or of a committee of the Council;

“specified matter” means—

- (a) an arrangement to which the Council is a party or a proposed such arrangement, or
- (b) a contract or other agreement with the Council or a proposed such contract or other agreement.

(2) Any member present at a meeting where a specified matter arises who, otherwise than in his or her capacity as a member, has a material interest in that matter shall—

- (a) at the meeting disclose to the Council or committee the nature of that interest,
- (b) withdraw from the meeting for as long as the matter is being discussed or considered,
- (c) take no part in any deliberation of the members relating to the matter, and
- (d) refrain from voting on any decision relating to the matter.

(3) If a member discloses a material interest under this section—

(a) the disclosure shall be recorded in the minutes of the meeting concerned, and

(b) for as long as the matter to which the disclosure relates is being dealt with by the meeting, the member shall not be counted in the quorum for the meeting.

5

(4) If at a meeting a question arises as to whether or not a course of conduct, if pursued by a member, would be a failure by the member to comply with *subsection (2)*—

(a) the chairperson of the meeting may, subject to *subsection (5)*, determine the question,

10

(b) the chairperson's determination is final, and

(c) the particulars of the determination shall be recorded in the minutes of the meeting.

(5) If the chairperson is the member in respect of whom the question arises, the other members present at the meeting shall choose one of their number to be the chairperson of the meeting for the purposes of *subsection (4)*.

15

(6) A member who, otherwise than in his or her capacity as a member, has a material interest in a specified matter shall neither influence nor seek to influence any decision to be made by the Council or committee in relation to that matter.

20

(7) On being satisfied that a member of the Council has failed to comply with *subsection (2)* or *(6)*, the Minister may remove that member from office.

(8) A member removed from office under this section is not eligible for appointment under this Act.

25

Disclosure of interests by staff.

**16.—(1)** A member of the Council's staff (including the chief executive officer) who, otherwise than in his or her capacity as such a member, has a material interest in a specified matter as defined in *section 15(1)* shall—

30

(a) disclose to the Council the nature of that interest,

(b) take no part in the negotiation of the arrangement, contract or other agreement concerned or in any deliberation by the Council or its employees relating to that matter,

(c) refrain from making any recommendation relating to the matter, and

35

(d) neither influence nor seek to influence a decision to be made in relation to the matter.

(2) *Subsection (1)* does not apply to contracts or proposed contracts of employment of the members of the Council's staff with the Council.

40

(3) If a person fails to comply with this section, the Council may make such alterations to the person's conditions of employment as it considers appropriate or may terminate the person's contract of employment.

45



**17.—**(1) The Council shall pay the following expenses out of funds at its disposal: Expenses of Council.

5 (a) all expenses incurred by the Council, including the expenses of providing administrative support and secretarial assistance to registration boards and their committees;

(b) all expenses incurred by registration boards and their committees as a result of arrangements made under *section 12(4)*.

10 (2) The Council may allocate in the manner that it may determine the surplus, if any, of funds at its disposal to—

(a) the development of education,

(b) research, or

(c) any other public purpose,

15 connected with any one or more than one of the designated professions.

**18.—**(1) The Council may charge such fees as may, from time to time, be set by the Council for any or all of the following: Power to charge and recover fees.

(a) registration under this Act;

20 (b) retention of registration;

(c) the issue of a certificate of registration to a registrant;

(d) the removal of a name from a register under *section 38(1)*;

(e) the restoration of a name to a register under *section 38(2)*, *39(2)* or *72*;

25 (f) any other service that the Council or a registration board may provide.

(2) The Council may recover as a simple contract debt in any court of competent jurisdiction, from a person by whom the fee is payable, any amount due and owing to the Council in respect of a fee charged under this section.  
30

**19.—**(1) For the purpose of providing for current or capital expenditure, the Council may borrow money subject to any conditions that may be imposed by, or in accordance with any directions that may be given by, the Minister. Power to borrow.

35 (2) Any money borrowed pursuant to this section and any interest accruing on it may be secured on the Council's revenue, funds or property.

**20.—**The Council may accept gifts of land, money or other property on the trusts and conditions, if any, that may be specified by the donor, provided those trusts and conditions are consistent with the Council's object and functions. Gifts.  
40

**21.—**(1) The Council shall keep all proper and usual accounts of—

- (a) all income received by the Council (including the sources of such income),
  - (b) all expenditure (including the subject matter of the expenditure) incurred by—
    - (i) the Council,
    - (ii) a committee of the Council,
    - (iii) each registration board, and
    - (iv) a committee of a registration board,
- 5  
10
- and
- (c) the Council's assets and liabilities.

(2) Not later than 3 months after the end of the financial year to which the accounts relate, the Council shall submit the accounts prepared under this section to the Comptroller and Auditor General for audit. 15

(3) After the audit, the Council shall present to the Minister the audited accounts together with the Comptroller and Auditor General's report.

(4) The Minister shall ensure that, as soon as possible after the audited accounts and the report are presented to the Minister, copies of them are laid before each House of the Oireachtas. 20

(5) As soon as possible after the laying of copies before the Houses of the Oireachtas, the Council shall ensure that the audited accounts and the Comptroller and Auditor General's report are printed, published and put on sale. 25

**22.—**(1) The Council may make rules providing for—

- (a) the establishment, membership, functions and procedures of committees of the Council or a registration board,
- (b) the form and manner in which registration boards are to maintain registers, 30
- (c) the details relating to registrants that, in addition to their names, are to be entered in registers,
- (d) the division of registers into specified divisions for different categories of registrants, 35
- (e) the manner in which fees are to be paid and the time limits for payment of annual fees for retention of registration,
- (f) the receiving and recording of evidence by committees established under *Part 6*,
- (g) the receiving of submissions by committees established under *Part 6*, and 40
- (h) any other matter relating to the Council's functions under this Act.

(2) Rules under *subsection (1)(f)* and *(g)* may, among other things, specify—

5 (a) the form in which and the means by which evidence or submissions may be received by committees established under *Part 6*, and

(b) the conditions subject to which evidence or submissions may be received by those committees by means of a live video link, a video recording, a sound recording or any other mode of transmission.

10 (3) Instead of exercising the power to make rules providing for the establishment, membership, functions and procedures of committees of a registration board, the Council may, by rule and subject to any limits or conditions it considers appropriate, authorise the board to make bye-laws providing for any or all of those matters.

15 **23.—**(1) The Council may establish committees of the Council to perform any of its functions or exercise any of its powers under this Part or *Part 5* that, in its opinion, may be better or more conveniently performed or exercised by a committee and that are assigned by the Council to a committee. Committees of Council.

20 (2) A committee established under this section is to consist of the chairperson of the committee and such other persons, whether members of the Council or not, as the Council may appoint.

25 (3) A person is eligible to be appointed as chairperson of a committee established under this section only if he or she is a member of the Council.

(4) The acts of a committee established under this section are subject to confirmation by the Council, unless the Council dispenses with the necessity for confirmation.

30 (5) The Council may regulate the procedure of a committee established under this section but, subject to any such regulation, a committee may regulate its own procedure.

(6) The Council may at any time dissolve a committee established under this section.

35 **24.—**(1) If the Council does not perform a function assigned to it under this Act, the Minister may, by order, direct the Council— Removal of members of Council from office.

(a) to perform that function, and

(b) for that purpose, to do any other thing that is ancillary or incidental to the function.

40 (2) If the Council does not comply with a provision of an order under *subsection (1)*, the Minister may, by order, remove from office any or all of its members.

45 (3) An order under *subsection (2)* may contain any provisions that the Minister considers necessary to enable the Council's functions to be performed despite the removal from office of any or all of its members and may, in particular, provide for the appointment of one or more than one person to perform any or all of the Council's functions.

**25.**—(1) Not later than 3 months after the end of each financial year, the Council shall submit to the Minister a report of the activities of the Council and of each registration board in the immediately preceding financial year.

(2) The Minister shall ensure that a copy of the report is laid before each House of the Oireachtas as soon as practicable after the submission of the report. 5

### PART 3

#### REGISTRATION BOARDS

**26.**—(1) The following bodies are established, on their respective establishment days, to perform the functions and exercise the powers assigned under this Act to the registration board of a designated profession: 10

- (a) Chiropodists Registration Board;
- (b) Clinical Biochemists Registration Board; 15
- (c) Dietitians Registration Board;
- (d) Medical Scientists Registration Board;
- (e) Occupational Therapists Registration Board;
- (f) Orthoptists Registration Board;
- (g) Physiotherapists Registration Board; 20
- (h) Psychologists Registration Board;
- (i) Radiographers Registration Board;
- (j) Social Care Workers Registration Board;
- (k) Social Workers Registration Board;
- (l) Speech and Language Therapists Registration Board. 25

(2) Each registration board (whether established by this section or by regulation under *section 4*) is a body corporate with perpetual succession and a seal and may sue or be sued in its corporate name.

(3) The Minister may, by order, appoint a day to be the establishment day of a registration board (whether established by this section or by regulation under *section 4*) and may appoint different days for different registration boards. 30

(4) Subject to this Act, each registration board may regulate its own procedure, but only to the extent that the Council decides not to do so. 35

(5) *Schedule 2* applies to each registration board.

**27.**—(1) The object of the registration board of a designated profession is to protect the public by fostering high standards of professional conduct and professional education, training and competence among registrants of that profession. 40

(2) A registration board shall do all things necessary and reasonable to further its object and shall exercise its powers and perform its functions in the public interest.

5 (3) Without limiting its responsibilities under *subsection (2)*, the functions of the registration board of a designated profession are to—

(a) establish and maintain a register of members of the designated profession,

(b) issue certificates of registration under *section 40*,

10 (c) give guidance to registrants concerning ethical conduct and give guidance and support to them concerning the practice of the designated profession,

15 (d) monitor, in accordance with *section 48*, the continuing suitability of programmes approved by the board for the education and training of applicants for registration, and

(e) make recommendations under *Part 6* with respect to sanctions to be imposed on registrants of the designated profession.

20 (4) The registration board of a designated profession has power to do anything that appears to it to be requisite, advantageous or incidental to, or to facilitate, the performance of its functions under this Act and it may, with the Council's approval—

25 (a) engage in research into education and training relating to the practice of the designated profession, including the formulation of experimental curricula and the evaluation of existing programmes and examination and assessment procedures, and

(b) maintain statistical records and make those records available for research and planning.

30 **28.—**(1) Subject to *subsections (4) to (6)*, the registration board of a designated profession is to consist of the following members: Membership of registration boards.

(a) 6 persons appointed by the Minister on their election by the registrants of that profession, of whom—

35 (i) 3 are to be registrants of the designated profession who are engaged in the practice of that profession,

(ii) 2 are to be registrants of the designated profession who are engaged in the management of services provided by that profession, and

40 (iii) one is to be a registrant of the designated profession who is engaged in the State in the education and training of persons with respect to the practice of the designated profession;

(b) 7 persons appointed by the Minister, of whom—

45 (i) one is to be representative of the management of the public health sector, the social care sector or both sectors,

- (ii) one is to be representative of the management of a voluntary or private sector organisation concerned with health or social care,
- (iii) one is to be representative of third level educational establishments in the State involved in the education and training of persons with respect to the practice of the designated profession and is nominated by the Minister for Education and Science, and 5
- (iv) 4 are to be representative of the interest of the general public and are appointed with the consent of the Minister for Enterprise, Trade and Employment. 10

(2) The election of members under *subsection (1)(a)* shall be conducted in accordance with the bye-laws of the registration board concerned and before the commencement of the members' terms of office. 15

(3) Before appointing a member under *subsection (1)(b)(i)* or *(ii)* or *(4)*, the Minister may consult with any organisations that he or she considers appropriate.

(4) When the registration board of a designated profession is first constituted, *subsection (1)(a)* does not apply and instead the Minister shall appoint 6 persons, of whom— 20

- (a) 3 are to be persons who are engaged in the practice of the designated profession,
- (b) 2 are to be persons who are engaged in the management of services provided by the designated profession, and 25
- (c) one is to be a person who is engaged in the State in the education and training of persons with respect to the practice of the designated profession.

(5) If no person qualifies under *subsection (1)(a)(ii)* or *(iii)* for election or under *subsection (1)(b)(iii)* or *(4)(b)* or *(c)* for appointment to the registration board concerned— 30

- (a) *subsection (1)(a)(ii)* or *(iii)* or *subsection (1)(b)(iii)* or *(4)(b)* or *(c)*, as the case may be, does not apply in relation to the board, and
- (b) the references in *subsection (1)(a)* and *(4)* to 6 persons and in *subsection (1)(b)* to 7 persons are, in relation to the board, to be read as modified accordingly. 35

(6) If, for any reason other than the operation of *subsection (5)*, fewer than 6 registrants of a designated profession are elected as members of its registration board under *subsection (1)(a)*, the Minister may appoint as members of the board sufficient registrants of that profession to compensate for the deficiency in the number of elected registrants. 40

(7) Registrants appointed to a registration board under *subsection (6)* are, during their term of office, considered to be elected members of the board. 45

5 **29.**—A member of a registration board or of any committee of a registration board shall be paid, out of funds at the Council’s disposal, such allowances for travelling and subsistence expenses incurred in respect of the member’s attendance at a meeting of the board or committee or otherwise in connection with the affairs of the board as the Minister, with the consent of the Minister for Finance, may determine.

Allowances for expenses of members.

10 **30.**—(1) The chief executive officer of the Council is the registrar of each registration board.

Registrar, deputy registrars and administrative support.

(2) The registrar is responsible for performing on behalf of each registration board its functions under *Part 4*.

(3) The Council may designate one or more than one member of its staff as deputy registrar.

15 (4) Any function or power of the registrar that is performed or exercised by a deputy registrar is considered to have been performed or exercised by the registrar.

(5) The Council shall provide such administrative support and secretarial assistance to each registration board and its committees as the Council considers necessary.

20 **31.**—(1) With the Council’s approval and in accordance with any guidelines issued under *subsection (6)*, the registration board of a designated profession may make bye-laws relating to any or all of the following matters:

Registration board’s power to make bye-laws.

25 (a) the conduct of elections for the appointment of members under *section 28* to the board;

(b) applications for registration in the register of that profession or for restoration to the register;

30 (c) qualifications approved for the purposes of *section 37(2)* as attesting to the standard of proficiency required for registration;

(d) requirements, for the purposes of *section 37(1)(d)*, as to knowledge of the language necessary for practising that profession in the State;

35 (e) procedures for assessing for the purposes of *section 37(3)* qualifications awarded, or training or professional experience acquired, outside the State;

40 (f) the conditions for registration in a division of the register of that profession, but only if division of the register is authorised by any rules or guidelines issued by the Council;

(g) criteria for restoration to the register of that profession;

(h) the education, training and continuing professional development of registrants of that profession;

45 (i) the adoption and revision of a code of professional conduct and ethics;

(j) any other matter specified by the Council in its guidelines.

(2) A code of professional conduct and ethics adopted by the registration board of a designated profession must specify the standards of conduct, performance and ethics expected of registrants of that profession.

(3) If authorised by the Council under *section 22(3)*, a registration board may make bye-laws providing for the establishment, membership, functions and procedures of committees of the board. 5

(4) Bye-laws under *subsection (1)* may establish categories of registrants and may be different for different categories of registrants. 10

(5) Where a proposed bye-law under *paragraph (c)* or *(h)* of *subsection (1)* or a proposed amendment of a bye-law under either paragraph might result in an additional burden being imposed on the Exchequer, the bye-law or amendment may be made only if—

(a) after receiving a draft of the proposed bye-law or amendment for its approval, the Council refers the draft to the Minister, and 15

(b) both the Council and the Minister approve the draft.

(6) For the purposes of this section, the Council may issue guidelines applicable to all or any of the registration boards. 20

Committees of registration board.

**32.—**(1) With the Council's approval and subject to any rules under *section 22(1)* or bye-laws under *section 31(3)*, a registration board may establish committees to perform any of its functions or exercise any of its powers under this Part or *Part 5* that, in the board's opinion, may be better or more conveniently performed by a committee and that are assigned by the board to a committee. 25

(2) A committee established under this section is to consist of the chairperson of the committee and such other persons, whether members of the registration board or not, as the board may appoint.

(3) A person is eligible to be appointed as chairperson of a committee of a registration board only if he or she is a member of that board. 30

(4) The acts of a committee are subject to confirmation by the registration board, unless the board dispenses with the necessity for confirmation. 35

(5) A registration board may regulate the procedure of its committees if authorised to do so under *section 22(3)*, but, subject to any such regulation, a committee may regulate its own procedure.

(6) A registration board may at any time dissolve a committee of the board. 40

Removal of members of registration board from office.

**33.—**(1) If a registration board does not perform a function assigned to it under this Act, the Minister may, by order, direct the board—

(a) to perform that function, and

(b) to do any other thing that is ancillary or incidental to the function. 45



(2) If a registration board does not comply with a provision of an order under *subsection (1)*, the Minister may, by order, remove from office any or all of its members.

5 (3) An order under *subsection (2)* may contain any provisions that the Minister considers necessary to enable the functions of the registration board concerned to be performed despite the removal from office of any or all of its members and may, in particular, provide for the appointment of one or more than one person to perform any or all of the board's functions.

10 **34.—(1)** Within the period specified under *subsection (2)*, each registration board shall submit to the Council a report of its activities in the immediately preceding financial year. Annual report of registration board.

(2) The Council may specify the period within which a report is to be submitted by a registration board, having regard to the time needed to include the contents of the board's report in the Council's report under *section 25* for the same financial year.

## PART 4

### REGISTRATION

20 **35.—(1)** The registration board of each designated profession shall— Establishment and maintenance of registers.

(a) as soon as practicable after the board's establishment day, establish a register of members of that profession,

25 (b) enter in the register the name of every person granted registration by the board under *section 37* or *90* and any other details relating to that person that are required by the Council under its rules, and

(c) maintain the register in accordance with the rules.

(2) If authorised by any rules made or guidelines issued by the Council, a register may be divided into the divisions specified in those rules or guidelines for different categories of registrants.

**36.—(1)** A person seeking registration as a member of a designated profession shall apply to the registration board of that profession. Application for registration.

35 (2) The application must be in the form and contain the information required by the bye-laws of the registration board concerned.

(3) The registration board may—

(a) verify or require the applicant to verify anything contained in the application,

40 (b) request the applicant to supply to the board, within a reasonable time specified by the board, further information relating to the application, and

(c) require that information requested under *paragraph (b)* be supplied by means of a statutory declaration.

**37.—(1)** The registration board of a designated profession shall grant registration to any person who—

- (a) complies with *section 36* and with any requirement imposed on, or request made to, him or her under that section, 5
- (b) holds an approved qualification in that profession,
- (c) satisfies the board that he or she is a fit and proper person to engage in the practice of the profession,
- (d) in the case of a national of a state other than the State, satisfies the board as to his or her knowledge of the language necessary for practising the profession in the State, and 10
- (e) pays the required fee to the Council.

(2) A person holds an approved qualification in a designated profession if the person has been awarded in the State a qualification that the registration board of that profession has, by bye-law, approved as attesting to the standard of proficiency required for registration. 15

(3) A person who is a national of a member state holds an approved qualification in a designated profession if— 20

- (a) the person has been awarded in a member state a qualification in that profession that the State, pursuant to a directive or relevant measure, is obliged to recognise as corresponding to a qualification referred to in *subsection (2)*, or 25
- (b) the person has been awarded in a member state a lesser qualification specified pursuant to a directive or relevant measure and he or she meets the applicable compensatory requirements specified pursuant to the directive or that measure for the practice of that profession in the State by persons holding the lesser qualification. 30

(4) A person who is a national of an offshore state holds an approved qualification in a designated profession if the person has undergone training in that profession in the offshore state and he or she— 35

- (a) has been awarded a qualification in the profession that the registration board of the profession is satisfied attests to a standard of proficiency comparable to the standard attested to by the qualification referred to in *subsection (2)*, or 40
- (b) has, in or outside the State, undergone such additional training or acquired such experience as satisfies that board, following a test of competence that it may require the person to take, that he or she has the requisite standard of proficiency for registration. 45

(5) A registration board may register a person in more than one division of a register if the person satisfies the conditions specified in the bye-laws for registration in each division.

(6) In this section—

“compensatory requirements” means requirements relating to an adaptation period of further education, training or supervision or to aptitude tests;

5 “directive” means a directive adopted by an institution of the European Communities or the European Union for the recognition of professional education and training;

“EEA Agreement” means the Agreement on the European Economic Area signed at Oporto on 2 May 1992 as adjusted by the Protocol done at Brussels on 17 March 1993;

10 “EEA measure” means a measure or decision taken by the Joint Committee under the EEA Agreement;

“EEA state” means a state (other than a member state of the European Union) that is a contracting party to the EEA Agreement;

15 “member state” means a member state of the European Union and includes the following:

(a) on the State being required to implement an EEA measure having an effect corresponding to that of a directive, an EEA state;

(b) the Swiss Confederation;

20 “offshore state” means a state other than a member state;

“relevant measure” means—

(a) any EEA measure having an effect corresponding to that of a directive, and

25 (b) a measure that is in force by virtue of the Swiss Confederation Agreement;

“Swiss Confederation Agreement” means the Agreement between the European Community and the Swiss Confederation on the Free Movement of Persons, done at Luxembourg on 21 June 1999.

30 **38.—(1)** A registration board may remove the name of a registrant from its register if the registrant—

(a) applies to the board for its removal,

(b) pays the required fee to the Council, and

(c) is not at the time of application the subject of a complaint or inquiry under *Part 6*.

35 (2) A registration board shall restore the name of a person to its register if—

(a) the name was removed from the register solely because of an application under *subsection (1)*,

40 (b) the person applies to the board for restoration to the register and pays to the Council the required fee, and

(c) the person meets the criteria established by bye-law for restoration to the register.

Removal of names from register at registrants’ request and restoration to register.

Removal of names from register for failure to pay annual fee and restoration to register.

**39.—(1)** The Council may decide to direct a registration board to remove from its register the name of a registrant who—

- (a) has failed to pay within the time required by the rules the annual fee for retention of registration, and
- (b) has been notified on more than one occasion by the Council to pay the fee. 5

(2) A registration board shall restore the name of a person to its register if—

- (a) the name was removed from the register solely because of failure to pay the required fee, 10
- (b) within 6 months after the date on which the required fee became due, the person applies to the board for restoration to the register, and
- (c) the person pays to the Council both the annual fee for retention of registration and a fee for restoration to the register. 15

Certificate of registration and notification of decision.

**40.—(1)** A registration board shall, as soon as practicable after the date of registration or after the restoration of a person's name to its register, issue to the registrant a certificate of registration stating that his or her name is entered in its register. 20

(2) A registration board shall, as soon as practicable after refusing to grant registration to a person or refusing to restore a person's name to a register or after complying with a direction of the Council to remove a person's name from a register, notify the person of its decision. 25

Content of notification of decision.

**41.—(1)** A notification of decision under this Part must include the following information:

- (a) the decision;
- (b) the date on which it was made;
- (c) the reason for the decision. 30

(2) The notification must also include—

- (a) if the decision relates to a registration board's refusal to grant registration or to restore a person's name to its register, the time allowed under *section 42* for applying to the Council for cancellation of the decision, or 35
- (b) if the decision relates to the Council's confirmation of a decision referred to in *paragraph (a)*, the time allowed under *section 43* for bringing an appeal to the Court for cancellation of the decision.

Right to apply to Council for cancellation of decision refusing to grant or restore registration.

**42.—(1)** A person may apply to the Council for cancellation of a decision made by a registration board refusing to grant the person registration or refusing to restore the person's name to its register. 40

(2) The application must be made within 30 days after the person receives notification of the decision from the registration board.

(3) On hearing the application or on receipt of appropriate submissions, the Council may—

(a) if satisfied that the registration board's decision was properly made, confirm that decision, or

5 (b) if not so satisfied, cancel that decision and do one of the following:

(i) direct the registration board to grant registration to the applicant or to restore the applicant's name to the register, as the case may be;

10 (ii) direct the registration board to make a new decision;

(iii) give such other directions to the registration board as the Council considers appropriate.

(4) As soon as practicable after making a decision under this section, the Council shall notify the applicant of the decision.

15 **43.—**(1) A person may appeal to the Court against a decision made by the Council under *section 42(3)* confirming a decision of a registration board refusing to grant the person registration or refusing to restore the person's name to its register. Appeal to High Court from Council's decision under *section 42*.

20 (2) The appeal must be brought within 30 days after the person receives notification of the decision from the Council.

(3) In an appeal under this section, the Court may consider any evidence adduced or argument made, whether or not adduced or made to the Council.

25 (4) On the hearing of the appeal, the Court may make any order or give any direction it considers appropriate, including an order—

(a) confirming the decision under appeal, or

(b) modifying or overturning that decision.

**44.—**(1) A registrant shall, as soon as practicable, notify the registration board concerned of— Updating of registrant information and correction of errors.

30 (a) any errors in the register of which the registrant is aware and that relate to his or her registration,

(b) any change in the name or address of the registrant or any change of employer,

35 (c) any grant to the registrant by a body (other than the board) in or outside the State of a licence, certificate or registration relating to the practice of a profession,

(d) any change in the status of such licence, certificate or registration (including the attachment of conditions to it),

40 (e) any matter likely to affect the registrant's entitlement to such licence, certificate or registration, and

(f) any matter likely to affect the registrant's entitlement to be registered under this Act.

(2) A registration board shall take the steps it considers necessary to ensure the accuracy of the information in its register.

(3) A registration board shall, for the purpose of keeping its register correct—

(a) correct all typographical errors in the register, 5

(b) remove from the register the names of persons convicted under *section 79(4)* of the offence of making or causing to be made a false declaration or misrepresentation for the purpose of obtaining registration under this Act,

(c) enter in the register every change that comes to its attention in respect of the information in the register relating to registrants, and 10

(d) remove from the register the name of any registrant whose death has been notified to, or otherwise come to the attention of, the board. 15

(4) As soon as practicable after taking any action under *subsection (3)*, a registration board shall notify the person concerned or his or her next of kin, as the case may be, of the action and the reason it was taken.

Access to, and publication of, registers.

**45.—**(1) Subject to *subsection (2)*, a registration board shall— 20

(a) make its register available for inspection by members of the public at all reasonable times, and

(b) publish its register in the manner, and at the times, that it considers appropriate.

(2) A registration board need not make available for inspection or publish the residential addresses, home telephone numbers or e-mail addresses of registrants or other similar details that, in its opinion, should, in the interests of the security of registrants, be protected from disclosure. 25

Evidence relating to registration, etc.

**46.—**(1) In any legal proceedings, a certificate signed by the registrar stating that a person— 30

(a) is registered in a specified register or in a specified division of a specified register,

(b) is not registered in a specified register or in a specified division of a specified register, 35

(c) was at a specified date or during a specified period registered in a specified register or in a specified division of a specified register,

(d) was not, at a specified date or during a specified period, registered in a specified register or in any register or in a specified division of a specified register, or 40

(e) has never been registered under this Act,

is, in the absence of evidence to the contrary, proof of the matters stated in the certificate.

5 (2) In any legal proceedings, a printed document that appears to be a copy of, or extract from, a register published under *section 45* and that is certified by the registrar to be a true copy of or extract from that register is, in the absence of evidence to the contrary, proof of the matters stated in the document.

10 (3) A certificate or document referred to in *subsection (1)* or *(2)* that appears to be signed by the registrar is admissible in any legal proceedings as evidence of the matters stated in the certificate or document, as the case may be, without proof of the registrar's signature.

## PART 5

### EDUCATION AND TRAINING

15 **47.—(1)** On application by an institution for approval of an education and training programme, a registration board may—

Approval of education and training programmes.

(a) approve that programme if satisfied that it is suitable for the education and training of candidates for registration in its register, or

(b) refuse to approve the programme if not so satisfied.

20 (2) For the purposes of *subsection (1)*, a registration board may issue guidelines concerning the requirements for its approval of education and training programmes.

(3) On making a decision concerning an application by an institution under *subsection (1)*, the registration board shall, by written notice, inform the institution of—

25 (a) the decision,

(b) the date on which it was made, and

(c) if the board refuses to approve the education and training programme, the reason for the decision.

30 (4) If a registration board (whether as a result of carrying out its duty under *section 48* or for any other reason) is of the opinion that an education and training programme approved by it may no longer be suitable for the education and training of candidates for registration, the board shall—

35 (a) inform the institution concerned of the opinion and the reason, and

(b) give that institution an opportunity to make, within 30 days after the date of being so informed, representations to the board as to why the approval should not be withdrawn.

40 (5) If, after considering the representations, if any, made by such institution within the time allowed under *subsection (4)* and after consulting with the Council, the registration board decides to withdraw its approval of the education and training programme, it shall, by written notice, inform the institution of—

45 (a) the decision and the date on which it was made,

(b) the date, not less than 3 months after the date of the notice, on which the decision will become effective, and

(c) the reason for the decision.

(6) If a registration board refuses to approve an education and training programme or informs an institution of its decision to withdraw such approval, the institution concerned may request the Minister to direct the board to grant or continue the approval. 5

(7) The request to the Minister must be made within 30 days after the institution is informed under this section of the registration board's decision to refuse approval of the education and training programme or to withdraw such approval. 10

(8) If, after consulting the Minister for Education and Science, the Minister is satisfied as to the suitability of the education and training programme, he or she may direct the board to grant or continue the approval. 15

(9) If, after consulting the Minister for Education and Science, the Minister is not satisfied as to the suitability of the education and training programme, he or she may confirm the registration board's decision.

(10) A registration board shall comply with a direction given by the Minister under *subsection (8)*. 20

Monitoring of continuing suitability of education and training programmes.

**48.—(1)** A registration board shall, as occasion may require but in any event not less than once in every 5 years, satisfy itself as to—

(a) the suitability of the education, training, assessment and examination provided by any education and training programme approved by the board, and 25

(b) the clinical training and experience provided in any education and training programme approved by the board.

(2) After complying with *subsection (1)*, a registration board shall make appropriate recommendations to the Minister and the Minister for Education and Science. 30

## PART 6

### COMPLAINTS, INQUIRIES AND DISCIPLINE

Definitions (*Part 6*).

**49.—In this Part—**

“allegation” means an allegation concerning a matter that constitutes a ground for complaint under *section 51(1)*; 35

“committee of inquiry” means a health committee or a professional conduct committee;

“complaint” means a complaint made under *section 51*;

“disciplinary sanction” means a sanction specified in any paragraph of *section 64(1)*; 40

“health committee” means a committee established under *section 50(1)(c)*;



“poor professional performance”, in relation to a registrant of a designated profession, means any failure of the registrant to meet the standards of competence that may reasonably be expected of registrants practising that profession;

5 “preliminary proceedings committee” means a committee established under *section 50(1)(a)*;

“professional conduct committee” means a committee established under *section 50(1)(b)*;

10 “professional misconduct”, in relation to a registrant of a designated profession, means any act, omission or pattern of conduct of the registrant that—

(a) is a breach of the code of professional conduct and ethics adopted by the registration board of that profession, or

15 (b) if the registrant has been granted by a body outside the State a licence, certificate or registration relating to the practice of that profession, is a breach of a standard of conduct, performance or ethics that applies to a person holding that licence, certificate or registration and that corresponds to a standard contained in the code referred to in *paragraph (a)*.

20

**50.—(1)** The Council shall establish the following committees to perform functions and exercise powers under this Part: Disciplinary committees.

(a) a preliminary proceedings committee;

(b) a professional conduct committee;

25 (c) a health committee.

(2) The members of each committee shall be appointed by the Council in accordance with this section.

30 (3) Neither the chairperson of the Council nor the chairperson of a registration board is eligible to be appointed as the chairperson or an ordinary member of a committee established under this section.

(4) A majority of the members of each committee shall be registrants of the designated professions and at least one third of the members of each committee shall be persons other than registrants.

35 (5) For each case that comes before a committee, the majority referred to in *subsection (4)* shall include—

(a) at least one member who is a registrant of the same designated profession as the registrant to whom the case relates, and

40 (b) at least one member who is a registrant of another designated profession.

(6) Persons who are not members of the Council or of a registration board may be appointed to a committee under this section.

(7) A person is not eligible to be, at any one time, a member of more than one of the committees established under this section.

(8) The Council shall appoint a registered medical practitioner with relevant expertise to advise a health committee in relation to each complaint referred to the committee.

(9) The registered medical practitioner is to be present at the meetings of the health committee, but is not entitled to vote. 5

(10) The members of a committee established under this section have, in performing their functions and exercising their powers, the same protection and immunity as a judge of the Court performing the functions and exercising the powers of a judge.

(11) The Council may regulate the procedure of a committee established under this section, but, subject to any such regulation, the committee may regulate its own procedure. 10

(12) In this section, “registered medical practitioner” means a person whose name is entered in the General Register of Medical Practitioners established under the Medical Practitioners Act 1978. 15

Complaints about  
conduct or  
competence of  
registrants.

**51.—(1)** A complaint may be made to the Council concerning a registrant on the grounds of—

- (a) professional misconduct,
- (b) poor professional performance,
- (c) impairment of the registrant’s ability to practise the designated profession concerned because of a physical or mental ailment, an emotional disturbance or an addiction to alcohol or drugs, 20
- (d) a failure to comply with a term or condition of registration imposed under this Part, 25
- (e) a failure to comply with an undertaking or to take any action specified in a consent given in response to a request under *section 60*,
- (f) a contravention of this Act, the rules or bye-laws, or
- (g) a conviction in the State for an offence triable on indictment or a conviction outside the State for an offence consisting of acts or omissions that, if done or made in the State, would constitute an offence triable on indictment. 30

(2) A complaint may be made under *subsection (1)* on the grounds of professional misconduct or poor professional performance even though the matter to which the complaint relates occurred outside the State. 35

(3) The complaint must be in writing or in any other form acceptable to the Council and it may be made by or on behalf of any person or by a registration board. 40

(4) The Council shall make reasonable efforts to ensure that the complainant is kept informed of all decisions made under this Part by the Council or a committee in relation to a complaint.

**52.**—(1) As soon as practicable after receiving a complaint, the Council shall refer the complaint to a preliminary proceedings committee for its opinion on whether there is sufficient cause to warrant further action being taken in relation to the complaint.

Referral of complaints to preliminary proceedings committee.

5 (2) The preliminary proceedings committee may, by written notice, do one or more of the following:

(a) require the complainant to verify, by affidavit or otherwise, anything contained in the complaint;

10 (b) request the complainant to supply to the committee, within a reasonable time specified in the notice, more information relating to the matter raised by the complaint;

(c) require that information requested under *paragraph (b)* be supplied by the complainant by means of a statutory declaration.

15 (3) The preliminary proceedings committee shall notify the registrant of the complaint, its nature and the name of the complainant.

(4) The registrant may supply to the preliminary proceedings committee any information that he or she believes should be considered by the committee or a committee of inquiry.

20 (5) If requested by the preliminary proceedings committee to supply any information relating to the complaint, the registrant shall supply the information within such reasonable time as may be specified by that committee.

25 (6) Before forming an opinion on whether there is sufficient cause to warrant further action being taken in relation to the complaint, the preliminary proceedings committee shall consider—

(a) any information supplied under this section concerning the complaint, and

30 (b) whether the matter is trivial or vexatious or the complaint is without substance or made in bad faith.

**53.**—(1) If the preliminary proceedings committee is of the opinion that there is not sufficient cause to warrant further action being taken in relation to a complaint, it shall inform the Council of that opinion.

If, in opinion of preliminary proceedings committee, complaint does not warrant further action.

35 (2) After being informed of the opinion and considering the matter, the Council may—

(a) decide that no further action is to be taken in relation to the complaint, or

40 (b) if it considers it necessary to do so, direct that further action be taken under *section 55*.

(3) On deciding under *subsection (2)(a)* that no further action is to be taken in relation to a complaint, the Council shall so inform—

(a) the registrant who is the subject of the complaint, and

(b) the registration board concerned.

Resolution of complaints by mediation or other informal means.

**54.—(1)** The Council may develop guidelines for resolving complaints by mediation or other informal means.

(2) The guidelines may include provision for any or all of the following:

- (a) a determination to be made about whether a complaint can be resolved by mediation or other informal means or whether it warrants the holding of an inquiry; 5
- (b) the persons who may attempt to mediate or otherwise resolve the complaint;
- (c) the recording of the manner in which the complaint was resolved and of the agreement of the complainant and the registrant to the resolution; 10
- (d) the steps to be taken (including notice to the complainant, the registrant and the preliminary proceedings committee that referred the complaint for resolution by mediation or other informal means) if the complaint cannot, in the opinion of the person attempting to do so, be resolved by mediation or other informal means; 15
- (e) any other matters that the Council considers necessary or appropriate for facilitating the resolution of a complaint by mediation or other informal means. 20

(3) No attempt may be made to resolve a complaint by mediation or other informal means without the consent of the complainant and the registrant against whom the complaint was made.

(4) A consent given by a registrant for the purpose of this section is not to be taken as an admission of any allegation made by the complainant against the registrant. 25

(5) No answer or statement made, in the course of attempting to resolve a complaint pursuant to the guidelines, by the complainant or by the registrant may— 30

- (a) be communicated to any person other than the persons participating in the attempt to resolve the complaint, or
- (b) be used in any disciplinary, civil or criminal proceedings.

(6) The Council may revise any guidelines developed under this section or may withdraw those guidelines and develop new guidelines. 35

Referral of complaint to mediation, etc., or to committee of inquiry.

**55.—(1)** If a preliminary proceedings committee is of the opinion that there is sufficient cause to warrant further action being taken in relation to a complaint or if the Council decides that such action is necessary, the preliminary proceedings committee shall either— 40

- (a) refer the complaint for resolution by mediation or other informal means, but only if it determines in accordance with the guidelines under *section 54* that the complaint is one that could be so resolved, or
- (b) refer the complaint to whichever of the following committees of inquiry it considers appropriate: 45
  - (i) a professional conduct committee;

(ii) a health committee.

5 (2) On being informed pursuant to the guidelines under *section 54* that a complaint referred for resolution by mediation or other informal means cannot be so resolved (whether because of the failure of the parties to consent to any attempt to resolve the complaint or for any other reason), a preliminary proceedings committee shall refer the complaint to a committee of inquiry.

10 **56.**—(1) As soon as practicable after a complaint is referred under *section 55(1)(b)* or (2) to a committee of inquiry, the registrar shall notify the registrant to whom the complaint relates of the following: Duty to notify registrant of referral to, and hearing by, committee of inquiry.

- (a) the referral of the complaint to a committee of inquiry and the name of the committee;
- 15 (b) the nature of the matter that is to be the subject of the inquiry, including the particulars of any evidence in support of the complaint;
- (c) the opportunity of the registrant, or his or her representative, to be present and to defend the registrant at the hearing.

20 (2) Not later than 30 days before the date of the hearing before the committee of inquiry, the registrar shall notify the registrant of the date, time and place of the hearing.

**57.**—(1) A committee of inquiry shall, subject to *subsection (6)* and *sections 60* and *61*, hear a complaint referred to it under *section 55(1)(b)* or (2). Conduct of hearing.

25 (2) A hearing before a professional conduct committee must be held in public, unless—

- (a) the registrant or the complainant requests the committee to hold all or part of the hearing otherwise than in public, and
- 30 (b) the committee is satisfied that it would be appropriate in the circumstances to hold the hearing or part of the hearing otherwise than in public.

35 (3) A hearing before a health committee shall be held otherwise than in public, unless the registrant requests that all or part of the hearing be held in public.

(4) At the hearing before the committee of inquiry—

- (a) the registrar, or any other person with leave of the committee, shall present the evidence in support of the complaint,
- 40 (b) the testimony of witnesses attending the hearing shall be given on oath, and
- (c) there shall be a full right to cross examine witnesses and call evidence in defence and reply.

45 (5) Any member of a committee of inquiry may administer oaths required for the purposes of an inquiry.

(6) A committee to which a complaint is referred under *section 55(1)(b)* or (2) may transfer the complaint to another committee of inquiry before or after hearing any evidence relating to the complaint, but only if it is satisfied that—

- (a) in view of the nature of the complaint, it is appropriate to do so, and 5
- (b) the legal rights of the registrant will not be prejudiced by doing so.

(7) A committee of inquiry to which a complaint is transferred under *subsection (6)* shall, subject to *sections 60* and *61*, hear the complaint and, for that purpose— 10

- (a) may receive in evidence a transcript or part of a transcript of evidence taken before the committee that transferred the complaint and draw any conclusions of fact from the evidence that it considers appropriate, or 15
- (b) if satisfied that it is necessary in the interests of fair procedures to do so, may rehear any evidence taken before the committee that transferred the complaint.

Powers and  
protections relating  
to witnesses and  
evidence.

**58.—**(1) For the purposes of an inquiry under this Part, a committee of inquiry has all the powers, rights and privileges that are vested in the Court or a judge of the Court on the occasion of an action and that relate to— 20

- (a) enforcing the attendance of witnesses,
- (b) examining witnesses on oath or otherwise, and
- (c) compelling the production of records. 25

(2) A summons issued by the chairperson of a committee of inquiry or by such other member of that committee as may be authorised by it for the purpose of the inquiry may be substituted for and is the equivalent of any formal process capable of being issued in an action for enforcing the attendance of witnesses and compelling the production of records. 30

(3) *Subsection (2)* is not to be taken to limit the generality of *subsection (1)*.

(4) Subject to any rules in force under *section 22* and to the necessity of observing fair procedures, a committee of inquiry may receive evidence given— 35

- (a) orally before the committee,
- (b) by affidavit, or
- (c) as otherwise allowed by those rules, including by means of a live-video link, a video recording, a sound recording or any other mode of transmission. 40

(5) A witness before a committee of inquiry is entitled to the same immunities and privileges as a witness before the Court.

- (6) A person is guilty of an offence if he or she—
- (a) having been duly summoned to attend before a committee of inquiry fails without reasonable excuse to attend at the time and place indicated on the summons,
  - 5 (b) while attending as a witness before a committee of inquiry refuses to—
    - (i) take an oath lawfully required by the committee to be taken,
    - 10 (ii) produce any record in the person's power or control that he or she is lawfully required by the committee to produce, or
    - (iii) answer any question that he or she is lawfully required by the committee to answer,
- or
- 15 (c) while attending before a committee of inquiry does anything that, if the committee were a court of law having power to punish for contempt, would be contempt of court.

(7) A person guilty of an offence under this section is liable on  
20 summary conviction to a fine not exceeding €2,500.

(8) If a person fails to comply with a summons to attend before a committee of inquiry or refuses, while attending as a witness before a committee of inquiry, to do any thing referred to in *subsection (6)(b)* that he or she is lawfully required by the committee to do, the  
25 Court, on application by the Council, may—

- (a) by order require the person to attend before the committee or to do the thing that he or she refused to do, as the case may be, and
- 30 (b) make such interim or interlocutory orders as it considers necessary for that purpose.

(9) Neither an application for an order under *subsection (8)* nor the making of such order precludes proceedings being brought for an offence under *subsection (6)(a)* or *(b)* in relation to a person on whose failure or refusal the application or order was based.

35 **59.—(1)** The Council may apply to the Court for an order directing a registration board to suspend the registration of a registrant against whom a complaint has been made if the Council considers that the suspension is necessary to protect the public until further steps are taken under this Part in relation to the complaint.

If immediate suspension of registration is necessary to protect the public.

40 (2) An application under this section shall be heard otherwise than in public, unless—

- (a) the registrant concerned requests that it be heard in public, and

(b) the Court considers it appropriate to hear the application in public.

(3) After hearing the application, the Court may, in relation to the registrant—

(a) make any order it considers appropriate, including an order directing the registration board concerned to suspend his or her registration for a period specified in the order, and 5

(b) give to the Council or the registration board concerned any direction that the Court considers appropriate. 10

If registrant consents to censure or remedial action, etc.

**60.**—(1) A committee of inquiry may, at any time after a complaint is referred to it, request the registrant concerned to do one or more of the following:

(a) undertake to not repeat the conduct to which the complaint relates; 15

(b) undertake to take such educational courses, training or other means of improving the registrant’s competence to practise as may be specified by the registration board concerned;

(c) consent to undergo medical treatment; 20

(d) consent to being admonished or censured by the Council.

(2) If a registrant refuses to give an undertaking or consent requested under this section, the committee of inquiry may proceed as if the request had not been made.

If complaint is withdrawn.

**61.**—If a complaint is withdrawn while it is being considered by a preliminary proceedings committee or a committee of inquiry, the committee considering the complaint may, with the Council’s agreement— 25

(a) decide that no further action is to be taken in relation to the matter raised by the complaint, or 30

(b) proceed as if the complaint had not been withdrawn.

Report to Council by committee of inquiry.

**62.**—(1) On completing an inquiry into a complaint, a committee of inquiry shall make a written report on its findings to the Council.

(2) The report of the committee of inquiry must specify the following: 35

(a) the nature of the complaint that resulted in the inquiry;

(b) the evidence presented to the committee;

(c) the committee’s findings as to whether any allegation made by a complainant against the registrant is substantiated. 40

(3) In addition to the matters specified under *subsection (2)*, the report of the committee of inquiry may include such other matters relating to the registrant as the committee considers appropriate.



**63.—**(1) On receiving the report of a committee of inquiry concerning a complaint against a registrant, the Council shall do one of the following: Steps to be taken by Council after receiving report.

5 (a) if the committee finds that no allegation made by the complainant against the registrant is substantiated, dismiss the complaint;

(b) if the committee finds that any allegation made by the complainant against the registrant is substantiated, request the registration board concerned to recommend under *section 64* one or more than one disciplinary sanction to be imposed on the registrant.

10 (2) On dismissing a complaint or making a request under this section concerning a registrant, the Council shall supply the registration board concerned with a copy of the report that formed the basis for the dismissal or request.

**64.—**(1) Within 30 days after receiving a copy of a report of a committee of inquiry concerning a registrant who is the subject of a request under *section 63(1)(b)*, a registration board shall recommend to the Council that one or more than one of the following disciplinary sanctions be imposed on the registrant: Duty of registration board to recommend appropriate disciplinary sanction.

20 (a) an admonishment or a censure;

(b) the attachment of conditions to his or her registration, including restrictions on the practice of the designated profession by the registrant;

25 (c) the suspension of his or her registration for a specified period;

(d) the cancellation of his or her registration;

(e) a prohibition from applying for a specified period for restoration to the register.

30 (2) Before making a recommendation under this section, the registration board concerned shall consider the findings in the committee of inquiry's report.

**65.—**(1) If a committee of inquiry finds that an allegation made by a complainant against a registrant is substantiated, the Council shall, after considering the committee's report and any recommendation made by the registration board concerned within the time allowed under *section 64*, direct the board to impose on the registrant one or more than one disciplinary sanction specified in the direction. Direction by Council to impose disciplinary sanction.

35 (2) However, the Council may not direct a registration board to cancel the registration of a registrant on the grounds of a conviction for an offence referred to in *section 51(1)(g)* unless—

40 (a) in the Council's opinion, the nature of the offence or the circumstances in which it was committed ought to disqualify the registrant for practising the designated profession, or

45

(b) a conviction for such offence would render a person ineligible for registration as a registrant of the designated profession.

(3) On giving a direction to a registration board to impose on a registrant a disciplinary sanction referred to in *section 64(1)(b), (c), or (e)*, the Council shall specify in the direction— 5

(a) in the case of a disciplinary sanction referred to in *section 64(1)(b)*, the nature of the conditions to be attached to his or her registration,

(b) in the case of a disciplinary sanction referred to in *section 64(1)(c)*, the period of suspension of his or her registration, and 10

(c) in the case of a disciplinary sanction referred to in *section 64(1)(e)*, the period for which he or she is prohibited from applying for restoration to the register. 15

Duty to notify registrant of Council's directions.

**66.—**(1) As soon as practicable after directing a registration board under *section 65* to impose a disciplinary sanction on a registrant, the Council shall notify the registrant and the complainant of the following:

(a) the nature of the disciplinary sanction that the board has been directed to impose; 20

(b) the date on which the direction was given;

(c) the reasons for the imposition of the sanction.

(2) If the registration board was directed to impose a disciplinary sanction other than an admonishment or a censure, the notification under *subsection (1)* must also specify— 25

(a) the time allowed to the registrant for bringing an application to the Court for cancellation of the direction, and

(b) the time allowed to the Council for bringing an application to the Court for confirmation of the direction. 30

Confirmation by High Court required before certain directions become effective.

**67.—**A direction under *section 65* to impose a disciplinary sanction (other than an admonishment or a censure) on a registrant does not take effect unless the direction is confirmed by the Court on application under *section 68* or *69*.

Application to High Court for cancellation of Council's direction.

**68.—**(1) A registrant affected by a direction to impose a disciplinary sanction (other than an admonishment or a censure) may apply to the Court for an order cancelling the direction. 35

(2) An application for an order under this section must be made within 30 days after the registrant receives from the Council notification of the direction. 40

(3) At the hearing of the application, the Court may consider any evidence adduced or argument made, whether or not adduced or made to a committee of inquiry.

(4) After hearing the application, the Court may—

(a) make any order that it considers appropriate, including an order cancelling, confirming or modifying the direction, and

5 (b) give to the Council or the registration board concerned any direction that the Court considers appropriate.

10 **69.**—(1) If a registrant does not, within the time allowed under *section 68(2)*, apply to the Court for an order cancelling a direction by the Council to impose a disciplinary sanction (other than an admonishment or a censure) on the registrant, the Council shall apply to the Court for an order confirming the direction. Application to High Court for confirmation of Council's direction.

(2) An application for an order under this section must be made within 60 days after the registrant receives from the Council notification of the direction.

15 (3) After hearing the application, the Court shall, by order, confirm the Council's direction relating to the registrant, unless the Court sees good reason not to do so.

20 **70.**—(1) At the hearing of an application under *section 68* or *69*, the Court may admit and have regard to evidence of any person of good standing in the designated profession concerned as to what constitutes poor professional performance or professional misconduct in relation to the practice of that profession. Evidence relating to application to High Court and right of appeal from decision under *section 68* or *69*.

25 (2) The decision of the High Court on an application under *section 68* or *69* is final except that, by leave of that Court or the Supreme Court, the Council or the person to whom the decision of the High Court relates may appeal against that decision to the Supreme Court on a specified question of law.

30 **71.**—(1) On complying with a direction confirmed or given by the Court to attach conditions to a registration, the registration board concerned shall notify the registrant of the conditions. Duty to notify registrant of compliance with directions confirmed or given by High Court.

(2) On complying with a direction confirmed or given by the Court to suspend for a specified period or to cancel a registration, the registration board concerned shall notify the registrant of—

(a) the suspension or cancellation, as the case may be, and

35 (b) in the case of a suspension, the period, beginning not earlier than 7 days after the date of the Court's decision, during which the registration is to be suspended.

40 **72.**—(1) The name of any person whose registration has been cancelled under this Part may not be restored to a register except in accordance with this section. Restoration to register.

(2) The Council may at any time direct a registration board to restore to its register the name of any person whose registration has been cancelled under this Part if—

- (a) the person has requested the Council to make the direction and has paid the fee required at the time of the request for restoration, 5
- (b) the person is not prohibited under this Part from applying for restoration to the register,
- (c) the person has been given an opportunity to make an oral or written submission to the Council, 10
- (d) the Council has considered any submission made under *paragraph (c)* and the criteria established by bye-law for restoration to the register, and
- (e) after consulting the registration board, the Council considers it appropriate to make the direction. 15

(3) On directing a registration board to restore a person's name to its register, the Council may also direct the board to attach to the registration any conditions that, after consulting the board, the Council considers appropriate.

(4) On complying with a direction to restore a person's name to its register or to attach conditions to a registration, the registration board concerned shall notify the registrant of the restoration and, if applicable, of the attachment of the conditions. 20

(5) On deciding to refuse to direct a registration board to restore a person's name to its register, the Council shall, as soon as practicable, notify the person of— 25

- (a) the decision,
- (b) the date on which it was made,
- (c) the reasons for the decision, and
- (d) the time allowed under *section 74* for bringing an appeal to the Court for cancellation of the decision. 30

Removal of conditions of registration.

**73.—**(1) The Council may at any time direct a registration board to remove all or any conditions attached under this Part to a registration if—

- (a) the registrant has requested the Council to make the direction, 35
- (b) the registrant has been given an opportunity to make an oral or written submission to the Council,
- (c) the Council has considered any submission made under *paragraph (b)* and any other relevant information that has come to its attention, and 40
- (d) after consulting the registration board, the Council considers it appropriate to make the direction.

(2) On complying with a direction to remove any or all conditions attached under this Part to a registration, the registration board concerned shall notify the registrant of their removal. 45

(3) On deciding to refuse to direct a registration board to remove any condition attached under this Part to a registration, the Council shall, as soon as practicable, notify the registrant of—

- (a) the decision,
- (b) the date on which it was made,
- (c) the reasons for the decision, and
- (d) the time allowed under *section 74* for bringing an appeal to the Court for cancellation of the decision.

10 **74.—(1)** A person may appeal to the Court against a decision made by the Council—

Appeal to High Court from Council's decision under *section 72* or *73*.

- (a) under *section 72* refusing to direct a registration board to restore the person's name to its register or directing a registration board to attach conditions to his or her registration, or
- (b) under *section 73* refusing to direct a registration board to remove a condition attached under this Part to his or her registration.

(2) The appeal must be brought within 30 days after the person receives from the Council notification of the decision.

20 (3) In an appeal under this section, the Court may consider any evidence adduced or argument made, whether or not adduced or made to the Council.

(4) On the hearing of the appeal, the Court may—

- (a) make any order that it considers appropriate, including an order cancelling, confirming or modifying the decision, and
- (b) give to the Council or the registration board concerned any direction that the Court considers appropriate.

30 (5) On complying with any direction given by the Court, the registration board concerned shall notify the person who brought the appeal of the board's compliance with the direction.

**75.—(1)** The Council shall notify the Minister as soon as practicable after any of the following measures take effect under this Part:

Notification to Minister and employer of certain disciplinary matters.

- (a) the cancellation of a person's registration;
- (b) the restoration of a person's name to a register;
- (c) the suspension of a person's registration;
- (d) the termination of the period during which a person's registration is suspended;
- (e) the attachment of conditions to a person's registration;
- (f) the removal of conditions attached under this Part to a person's registration;

(g) the prohibiting of a person from applying for a specified period for restoration to the register;

(h) the admonishment or censuring of a person.

(2) If it comes to the Council's attention that, under the law of a state other than the State, an action corresponding to one referred to in any of *paragraphs (a) to (h) of subsection (1)* has been taken in relation to a registrant, the Council shall notify the Minister of the matter. 5

(3) The Council shall notify an employer if—

(a) it comes to the Council's attention that any action referred to in *subsection (1) or (2)* has been taken in relation to a registrant employed by the employer, and 10

(b) the employer's name is known to the Council.

Disciplinary information may be published in public interest.

**76.**—The Council may, if satisfied that it is in the public interest to do so, advise the public when any of the following measures take effect under this Part: 15

(a) the cancellation of a person's registration;

(b) the restoration of a person's name to a register;

(c) the suspension of a person's registration;

(d) the termination of the period during which a person's registration is suspended; 20

(e) the attachment of conditions to a person's registration;

(f) the removal of conditions attached to a person's registration;

(g) the prohibiting of a person from applying for a specified period for restoration to the register; 25

(h) the admonishment or censuring of a person;

(i) any action in respect of which the Minister is required to be notified under *section 75(2)*.

Privilege relating to disciplinary proceedings.

**77.**—In any action for defamation, the following proceedings, reports and communications are absolutely privileged: 30

(a) proceedings of a preliminary proceedings committee or of a committee of inquiry under this Part;

(b) communications by a committee of inquiry under *section 60*; 35

(c) reports of a committee of inquiry under *section 62*;

(d) communications by the Council under *section 63*;

(e) any other communication made by a committee established under this Part, the Council or a registration board in performing a function or exercising a power of the committee, Council or board, as the case may be. 40

PART 7

PROFESSIONAL TITLES AND OFFENCES

5 **78.—**(1) A registrant of a profession designated in *section 4(1)* is entitled to use the title specified in the applicable paragraph of that section for that profession. Use of professional titles.

(2) In addition, a registrant of a profession designated in *section 4(1)* is entitled to use any title for the time being prescribed under *section 94(3)* for that profession.

10 (3) A registrant of a profession designated by regulation under *section 4(2)* is entitled to use any title for the time being prescribed under *section 4(6)* for that profession.

(4) A person shall not use a title referred to in any of *subsection (1) to (3)* unless entitled by virtue of this section to use that title.

15 (5) A chartered physiotherapist does not contravene *subsection (4)* by using the title that he or she is entitled to use by virtue of being a member of the Irish Society of Chartered Physiotherapists.

**79.—**(1) A person is guilty of an offence if, with intent to deceive, he or she— Offences.

(a) contravenes *section 78(4)*,

20 (b) falsely represents himself or herself to be registered in a register maintained by a registration board under this Act, or

25 (c) being registered in a division of a register maintained by a registration board under this Act, falsely represents himself or herself to be registered in a division of that register other than the division in which he or she is registered.

(2) A person is guilty of an offence if he or she, with intent that any person be deceived, causes or permits another person to make representations about the first mentioned person that, if made by himself or herself with intent to deceive, would be an offence under *subsection (1)*.

(3) A person is guilty of an offence if he or she, with intent to deceive, makes with regard to another person any representation that—

35 (a) he or she knows to be false, and

(b) if made by the other person would be an offence by the other person under *subsection (1)*.

(4) A person is guilty of an offence if he or she makes or causes to be made any false declaration or misrepresentation for the purpose of obtaining registration under this Act.

40 (5) A person guilty of an offence under this section is liable on summary conviction to a fine not exceeding €2,500 or imprisonment for a term not exceeding 6 months or both.

Prosecution of offences.

**80.**—(1) Summary proceedings for an offence under this Act may be brought and prosecuted by the Council.

(2) Despite section 10(4) of the Petty Sessions (Ireland) Act 1851, proceedings for an offence under this Act may be instituted at any time within 2 years after the date of the alleged commission of the offence. 5

## PART 8

### DISSOLUTION OF NATIONAL SOCIAL WORK QUALIFICATIONS BOARD

Definitions (*Part 8*).

**81.**—In this Part—

“National Social Work Qualifications Board” means the board established by the National Social Work Qualifications Board (Establishment Order) 1997 (S.I. No. 97 of 1997); 10

“transfer day” means the day appointed by the Minister under *section 82* as the transfer day.

Transfer day and dissolution of Board.

**82.**—(1) The Minister shall, by order, appoint a day as the transfer day for the purposes of this Part. 15

(2) The National Social Work Qualifications Board is, by this Act, dissolved on the transfer day.

(3) References to the National Social Work Qualifications Board in any Act of the Oireachtas passed before the transfer day or in any instrument made before the transfer day under an Act of the Oireachtas are to be read on and after that day as references to the Council. 20

Transfer of staff.

**83.**—(1) Every person who, immediately before the transfer day, was a member of the staff of the National Social Work Qualifications Board is transferred to, and becomes a member of, the Council’s staff on the transfer day. 25

(2) Except in accordance with a collective agreement negotiated with a recognised trade union or staff association, a person transferred under this section is entitled, while in the Council’s service, to be employed on conditions of employment no less favourable than those to which that person was entitled immediately before the transfer day. 30

(3) The previous service of a person transferred under this section with the National Social Work Qualifications Board is to be counted as service for the purposes of, but subject to any exceptions or exclusions in, the following Acts: 35

- (a) the Redundancy Payments Acts 1967 to 2003;
- (b) the Protection of Employees (Part-Time Work) Act 2001;
- (c) the Organisation of Working Time Act 1997; 40
- (d) the Minimum Notice and Terms of Employment Acts 1973 to 2001;
- (e) the Unfair Dismissals Acts 1977 to 2001;



(f) the Carer's Leave Act 2001;

(g) the Parental Leave Act 1998.

5 (4) Any superannuation benefits awarded by the Council to or in respect of a person transferred under this section, and the conditions relating to those benefits, are to be no less favourable than those applicable to or in respect of that person immediately before the transfer day.

(5) In this section—

10 “conditions of employment” includes conditions in respect of remuneration and related matters;

“recognised trade union or staff association” means a trade union or staff association recognised by the Council for the purposes of negotiations that are concerned with the conditions of employment or working conditions of employees.

15 **84.—**(1) With effect from the transfer day, the following are transferred to the Council:

Transfer of property and liabilities to Council.

(a) all property (real and personal) and rights held or enjoyed immediately before that day by the National Social Work Qualifications Board;

20 (b) all liabilities incurred before that day by that Board that had not been discharged before that day.

(2) Accordingly, without any further conveyance, transfer or assignment—

25 (a) such property vests, on the transfer day, in the Council for all the estate, term or interest for which, immediately before that day, it was vested in the National Social Work Qualifications Board, but subject to all trusts and equities affecting the property and capable of being performed,

30 (b) such rights are, on and from that day, rights of the Council, and

(c) such liabilities are, on and from that day, liabilities of the Council.

35 (3) All moneys, stocks, shares and securities transferred to the Council by this section that, immediately before the transfer day, are in the name of the National Social Work Qualifications Board, shall, at the request of the Council, be transferred into its name.

40 (4) Every right and liability transferred to the Council by this section may, on and after the transfer day, be sued on, recovered or enforced by or against the Council in its own name and it shall not be necessary for it to give notice of the transfer to the person whose right or liability is transferred by this section.

45 **85.—**Every contract or agreement made between the National Social Work Qualifications Board (or any trustee or agent acting on its behalf) and any other person, and in force immediately before the transfer day—

Preservation of certain contracts and adaptation of references.

(a) continues in force on and after that day,

(b) is to be read and have effect as if the name of the Council were substituted in the contract or agreement for that of the National Social Work Qualifications Board or, as the case may be, any trustee or agent acting on its behalf, and

(c) is enforceable against the Council. 5

Pending legal proceedings.

**86.**—If, immediately before the transfer day, any legal proceedings to which the National Social Work Qualifications Board is a party are pending, the Council’s name shall be substituted in the proceedings for the name of that Board, and the proceedings shall not abate because of the substitution. 10

Preparation of accounts.

**87.**—(1) As soon as practicable after the transfer day, the Council shall prepare, in such form as may be approved by the Minister, all proper and usual accounts of money received or expended by the National Social Work Qualifications Board in the accounting year, or the part of an accounting year, of that Board ending immediately before the transfer day. 15

(2) The Council shall submit accounts prepared under this section to the Comptroller and Auditor General for audit and *subsections (3) and (4) of section 21* apply in relation to those accounts.

Revocation of order.

**88.**—The National Social Work Qualifications Board (Establishment) Order 1997 (S.I. No. 97 of 1997) is revoked on the transfer day. 20

## PART 9

### TRANSITIONAL PROVISIONS

Definitions (*Part 9*).

**89.**—In this Part— 25

“relevant date”, in relation to an application under this Part to the registration board of a designated profession, means the date on which the register of the members of that profession is established;

“transitional period”, in relation to an application under this Part to the registration board of a designated profession, means the period beginning on the relevant date and ending 2 years after that date. 30

Registration of existing practitioners.

**90.**—(1) The registration board of a designated profession listed in the second column of *Schedule 3* shall grant registration to a person who, at any time during the period of 5 years ending on the relevant date, was engaged in the practice of that profession and who— 35

(a) applies during the transitional period to that board for registration,

(b) complies with *section 36(2)* and with any requirement imposed on, or request made to, him or her under *section 36(3)* as applied by this section, 40

(c) either—

(i) holds a qualification listed opposite that profession in the third column of that Schedule, or

(ii) successfully completes an assessment of professional competence set by the board in accordance with any guidelines issued by the Council,

(d) satisfies the board that he or she is a fit and proper person to engage in the practice of that profession, and

(e) pays the required fee to the Council.

(2) The registration board of a designated profession (other than a profession listed in the second column of *Schedule 3*) shall grant registration to a person who, any time during the period of 5 years ending on the relevant date, was engaged in the practice of the designated profession and who—

(a) applies during the transitional period to that board for registration,

(b) complies with *section 36(2)* and with any requirement imposed on, or request made to, him or her under *section 36(3)* as applied by this section,

(c) either—

(i) satisfies the board that he or she holds a qualification prescribed under *section 94* for that profession, or

(ii) successfully completes an assessment of professional competence set by the board in accordance with any guidelines issued by the Council,

(d) satisfies the board that he or she is a fit and proper person to engage in the practice of that profession, and

(e) pays the required fee to the Council.

(3) *Section 36(3)* applies in relation to an application for registration made during the transitional period under this section and *sections 42* and *43* apply in relation to any decision made by a registration board or the Council concerning that application.

## PART 10

### MISCELLANEOUS MATTERS

**91.—**(1) Neither the Council nor any person who is or was a member, officer or employee of the Council or a committee of the Council is liable for damages for anything done or omitted to be done by the Council or that person in good faith and without negligence under this Act.

Liability of Council and registration boards for acts or omissions.

(2) Neither a registration board nor any person who is or was a member of a registration board or a committee of such board is liable for damages for anything done or omitted to be done by the board or that person in good faith and without negligence under this Act.

(3) Subject to any enactment or rule of law, the Council may indemnify any person who is or was a member of—

- (a) the Council,
- (b) a registration board, or
- (c) a committee of the Council or of a registration board,

in respect of anything done or omitted to be done by that person in performing their functions under this Act. 5

Judicial notice of seals and admissibility of sealed instruments.

**92.—**(1) Judicial notice shall be taken of the seal of the Council and the seal of each registration board.

(2) Any record that appears to be an instrument made by the Council and to be sealed with its seal apparently authenticated in accordance with *Schedule 1* is admissible in evidence and is deemed, 10 in the absence of evidence to the contrary, to be such instrument without proof.

(3) *Subsection (2)* applies also in respect of any record that appears to be an instrument made by a registration board and to be sealed with its seal apparently authenticated in accordance with 15 *Schedule 2*.

How registrants, former registrants and applicants are to be notified.

**93.—**(1) Where the Council or a registration board is required or authorised under this Act to notify a registrant or a former registrant, the notification shall be sent by pre-paid post to him or her at the address stated in the register in which his or her name is or was (as 20 the case may be) registered.

(2) Where the Council or a registration board is required or authorised under *Part 4* to notify an applicant of a decision to refuse to grant registration or of the confirmation of such decision, the notification shall be sent by pre-paid post to the applicant at the address 25 stated in the application for registration.

(3) Where a notification under this Act has been sent to a person in accordance with *subsection (1)* or *(2)*, the notification is deemed, in the absence of evidence to the contrary, to have been duly delivered to the person on the third day after the day on which it was 30 so sent.

Minister's power to make regulations.

**94.—**(1) The Minister may—

- (a) by regulation provide for any matter referred to in this Act as prescribed or to be prescribed, and
- (b) in addition to any other power conferred on him or her 35 to make regulations, make regulations generally for the purposes of and for the purposes of giving full effect to this Act.

(2) Regulations under this Act may contain any transitional and other supplementary and incidental provisions that appear to the 40 Minister to be necessary or expedient for the purposes of the regulations.

(3) After consulting the registration board of any profession designated in *section 4(1)*, the Minister may, by regulation, prescribe one or more than one title that is a variant of the title specified in 45 that section for the profession and that, in addition to the title specified in that section, may be used by registrants of that profession.

(4) The Minister shall ensure that every regulation made under a provision of this Act (other than *section 4* or *subsection (3)* of this section) is laid before each House of the Oireachtas as soon as practicable after it is made.

5 (5) Either House of the Oireachtas may, by a resolution passed within 21 sitting days after the day on which a regulation is laid before it under *subsection (4)*, annul the regulation.

(6) The annulment of a regulation under *subsection (5)* takes effect immediately on the passing of the resolution concerned, but does not affect the validity of anything done under the regulation before the passing of the resolution.

(7) A regulation may be made under *subsection (3)* only if—

(a) a draft of the proposed regulation has been laid before the Houses of the Oireachtas, and

15 (b) a resolution approving the draft has been passed by each House.

**95.**—The Minister may, by order, amend or revoke an order made under *section 24* or *33* or this section. Minister's power to amend or revoke certain orders.

## SCHEDULE 1

20 THE COUNCIL: MISCELLANEOUS PROVISIONS *Section 6(5)*.

### *Definitions.*

1. In this Schedule, except where the context otherwise requires—

25 “casual vacancy” means a vacancy in the membership of the Council caused by a person ceasing under *paragraph 7* to be a member of the Council;

“chairperson” means the chairperson of the Council;

“member” means the chairperson or an ordinary member;

“ordinary member” means a member of the Council other than the chairperson.

30 *Seal of Council.*

2. (1) The Council shall, as soon as practicable after its establishment, provide itself with a seal and shall retain possession of its seal.

(2) The seal of the Council must be authenticated by—

35 (a) the signature of its chairperson or other member authorised by it to act in that behalf, and

(b) the signature of a member of the Council's staff authorised by it to act in that behalf.

*Term of office of ordinary members.*

3. (1) Subject to *subparagraph (2)*, an ordinary member holds office for a term of 4 years from the date of his or her appointment.
- (2) One-half of the ordinary members of the Council first constituted under this Act hold office for a term of 2 years from the date of their appointment. 5
- (3) The members who are to hold office for a term of 2 years shall be decided by lot to be drawn in the manner that may be determined by the Minister. 10
- (4) No person may hold office as an ordinary member of the Council for more than 2 consecutive terms.
- (5) A term of 2 years under *subparagraph (2)* is not to be counted for the purpose of *subparagraph (4)*, but a term of any duration resulting from an appointment to fill a casual vacancy is to be counted for that purpose. 15

*Term of office of chairperson.*

4. (1) The chairperson holds office for the term specified under *subparagraph (2)* at the time of appointment.
- (2) The Minister may specify a term of not less than 3 years and not more than 6 years as the chairperson's term of office. 20

*Removal from office.*

5. (1) The Minister may at any time remove a member from office if— 25
  - (a) in the Minister's opinion the member has become incapable through ill-health of performing his or her functions,
  - (b) the member has committed stated misbehaviour, or
  - (c) the removal of the member appears to the Minister to be necessary for the Council to perform its functions effectively. 30
- (2) *Subparagraph (1)* is not to be taken to limit the Minister's power under *section 24* to remove any or all of the members. 35

*Resignations.*

6. (1) The chairperson may resign office at any time by giving to the Council written notice of resignation signed by him or her.
- (2) An ordinary member may resign membership at any time by giving to the chairperson written notice of resignation signed by the member. 40
- (3) The resignation of the chairperson or an ordinary member becomes effective on the date of the Council's meeting next held after written notice of the resignation is received by the Council or the chairperson, as the case may be. 45

*Termination of membership before completion of term.*

7. Despite *paragraphs 3 and 4*, a person ceases to be a member of the Council if the person

- 5
- (a) is removed from office under *paragraph 5, section 15* or *section 24*,
  - (b) resigns or dies, or
  - (c) ceases, if appointed under *section 9(3)(a)*, to be a registrant of the designated profession by virtue of which he or she was so appointed.

10 *Casual vacancies.*

8. (1) If a casual vacancy occurs among the members (other than those appointed under *section 9(3)(a)*)—

- 15
- (a) the Council shall notify the Minister as soon as practicable, and
  - (b) the Minister, after consulting any body or organisation that he or she considers appropriate, shall, within 8 weeks after being notified of that vacancy, appoint a person to fill the vacancy.

20 (2) If a casual vacancy occurs among the ordinary members appointed under *section 9(3)(a)*, the Council shall co-opt to fill the vacancy a person who would, under this Act, be eligible to be elected and nominated for appointment under that section and the Minister shall appoint that person.

25 (3) A person appointed under this section to fill a casual vacancy holds office for the unexpired portion of his or her predecessor's term of office.

*Convening meetings and notifying members.*

30 9. (1) The first meeting of the Council is to be held on the day appointed by the Minister and the members shall be notified by the Minister of the date, time and place of the meeting.

35 (2) The Council shall hold at least 4 meetings in each year and may hold any other meetings that it considers necessary for performing its functions.

(3) The chairperson—

- 40
- (a) on his or her own initiative, may convene a meeting of the Council, and
  - (b) when requested to do so by a requisition signed by not fewer than 10 members, shall convene a meeting of the Council.

(4) If, after being requested under *subparagraph (3)*, the chairperson, refuses to convene a meeting, any 5 members may convene a meeting as soon as practicable.

- (5) If the chairperson, without refusing, fails to convene a meeting within 7 days after being requested under *subparagraph (3)*, any 5 members may convene a meeting at the end of that period.
- (6) At least 3 clear days before a meeting of the Council, other than the first meeting, notice of the date, time and place of the meeting shall be sent to each member. 5

*Quorum.*

- 10. At least 40 per cent of the members in office constitute a quorum at a meeting of the Council. 10

*Chairing of meetings.*

- 11. (1) While present at a meeting of the Council, the chairperson of the Council shall chair the meeting.
- (2) If the chairperson of the Council is not present or if the office of the chairperson is vacant, the members present at the meeting shall choose one of their number to chair the meeting. 15

*Voting at meetings.*

- 12. (1) Subject to *paragraph 10*, at a meeting of the Council each question shall be determined by a majority of the votes of the members present and voting on the question. 20
- (2) If there is an equal division of votes, the question shall be determined by a second or casting vote of the person chairing the meeting.

*Power to act despite vacancy or defect in appointment.* 25

- 13. (1) The Council may act despite one or more than one vacancy among its members, provided there is a quorum.
- (2) The proceedings of the Council are not invalid by reason only of any defect in the appointments to the Council or in the qualifications of any of its members. 30

*Minutes of meetings.*

- 14. (1) The Council shall ensure that minutes of each meeting of the Council are prepared and that they include the names of all persons present at the meeting.
- (2) The minutes of a meeting shall be submitted for confirmation as an accurate record at the next meeting of the Council. 35
- (3) When confirmed, with or without amendment, the minutes of a meeting shall be signed by the person chairing the meeting at which they were submitted for confirmation. 40



## SCHEDULE 2

### REGISTRATION BOARDS: MISCELLANEOUS PROVISIONS

Section 26(5).

#### *Definitions.*

1. In this Schedule, except where the context otherwise requires—

5 “casual vacancy” means a vacancy in the membership of a registration board caused by a person ceasing under *paragraph 7* to be a member of the board;

“member”, in relation to a registration board, includes the chairperson of the board.

10 *Seal of registration board.*

2. (1) A registration board shall, as soon as practicable after its establishment, provide itself with a seal and shall retain possession of its seal.

15 (2) The seal of a registration board must be authenticated by—

(a) the signature of its chairperson or other member of the board authorised by it to act in that behalf, and

(b) the signature of another member of the board authorised by it to act in that behalf.

20 *Term of office.*

3. (1) Subject to *subparagraph (2)*, a member of a registration board holds office for a term of 4 years from the date of his or her appointment.

25 (2) If a member of a registration board is also a member of the Council whose term of office, by the operation of *paragraph 3(2) of Schedule 1*, expires 2 years after the date of being appointed to the Council, the member’s term of office on the board is 2 years from the date of his or her appointment.

30 (3) No person may hold office as a member of a registration board for more than 2 consecutive terms.

35 (4) A term of 2 years resulting from the operation of *subparagraph (2)* is not to be counted for the purposes of *subparagraph (3)*, but a term of any duration resulting from an appointment to fill a casual vacancy is to be counted for that purpose.

#### *Election and term of office of chairperson.*

4. (1) A registration board may elect one of its members to be its chairperson.

40 (2) If 2 or more persons receive an equal number of votes at an election of the chairperson, it shall be determined by lot which of them is to be the chairperson.

- (3) The chairperson holds office for such period as may be specified by the registration board at the time of appointment, unless he or she—
- (a) ceases to be a member of the board,
  - (b) resigns the office of chairperson, or 5
  - (c) is removed from the office of chairperson by a resolution of the board.
- (4) A resolution of a registration board is effective for the purpose of removing the chairperson from office only if—
- (a) at least 7 days notice of the board’s intention to propose the resolution is given to each member, and 10
  - (b) at least 66 per cent of the members in office vote for the resolution.

*Removal from office.*

5. (1) The Minister may at any time remove a member of a registration board from office if— 15
- (a) in the Minister’s opinion, the member has become incapable through ill-health of performing his or her functions,
  - (b) the member has committed stated misbehaviour, or 20
  - (c) the removal of the member appears to the Minister to be necessary for the Board to perform its functions effectively.
- (2) *Subparagraph (1)* is not to be taken to limit the Minister’s power under *section 33* to remove from office any or all of the members of a registration board. 25

*Resignations.*

6. (1) A person who holds the office of chairperson of a registration board may resign the office at any time by giving to the board written notice of resignation signed by that person. 30
- (2) Any other member of a registration board may resign membership at any time by giving to the chairperson of the board written notice of resignation signed by the member. 35
- (3) A resignation becomes effective on the date of the registration board’s meeting next held after receipt of the written notice of resignation.
- (4) A member who resigns as chairperson does not for that reason only cease to be a member of the registration board. 40

*Termination of membership before completion of term.*

7. Despite *paragraphs 3* and *4*, a person ceases to be a member of a registration board if the person—

- (a) is removed from office under *paragraph 5 or section 33*,  
(b) resigns or dies, or  
(c) ceases, if appointed under *section 28(1)(a)*, to be a registrant of the designated profession concerned.

*Casual vacancies.*

8. (1) If a casual vacancy occurs among the members of a registration board (other than those appointed on election under *section 28(1)(a)*)
- (a) the board shall notify the Minister as soon as practicable, and
- (b) the Minister, after consulting any body or organisation that he or she considers appropriate, shall, within 8 weeks of being notified of that vacancy, appoint a person to fill the vacancy.
- (2) If a casual vacancy occurs among the members appointed to a registration board under *section 28(1)(a)*, the board shall co-opt to fill the vacancy a person who would be eligible under that section to be elected for appointment as a member of that board and the Minister shall appoint that person to fill the vacancy.
- (3) A person appointed to fill a casual vacancy holds office as a member of the registration board concerned for the unexpired portion of his or her predecessor's term of office.

*Convening meetings and notifying members.*

9. (1) The first meeting of a registration board is to be held on the day appointed by the Minister for that board and the members shall be notified by the Minister of the date, time and place of the meeting.
- (2) A registration board shall hold at least 4 meetings in each year and may hold any other meetings that it considers necessary for performing its functions.
- (3) The chairperson of a registration board—
- (a) on his or her own initiative, may convene a meeting of the board, and
- (b) when requested to do so by a requisition signed by not fewer than 5 members, shall convene a meeting of the board.
- (4) If, after being requested under *subparagraph (3)*, the chairperson refuses to convene a meeting, any 5 members may convene a meeting as soon as practicable.
- (5) If the chairperson, without refusing, fails to convene a meeting within 7 days after being requested under *subparagraph (3)*, any 5 members may convene a meeting at the end of that period.

- (6) At least 3 clear days before a meeting of a registration board, other than the first meeting, notice of the date, time and place of the meeting shall be sent to each member.

*Quorum.* 5

10. At least 40 per cent of the members in office constitute a quorum at a meeting of a registration board.

*Chairing of meetings.*

11. (1) While present at a meeting of a registration board, the chairperson of that board shall chair the meeting. 10
- (2) If the chairperson of the registration board is not present or if the office of chairperson is vacant, the members present at the meeting shall choose one of their number to chair the meeting.

*Voting at meetings.* 15

12. (1) Subject to *paragraphs 4(4)(b) and 10*, each question at a meeting of a registration board shall be determined by a majority of the votes of the members present and voting on the question.
- (2) If there is an equal division of votes, the question shall, 20 subject to *paragraph 4(2)*, be determined by a second or casting vote of the person chairing the meeting.

*Power to act despite vacancy or defect in appointment.*

13. (1) A registration board may act despite one or more than one vacancy among its members, provided there is a quorum. 25
- (2) The proceedings of a registration board are not invalid by reason only of any defect in the appointments to the board or in the qualifications of any of its members.

*Minutes of meetings.*

14. (1) A registration board shall ensure that minutes of the proceedings of each meeting of the board are prepared and that they include the names of all persons present at the meeting. 30
- (2) The minutes of a meeting shall be submitted for confirmation as an accurate record at the next meeting of the registration board. 35
- (3) When confirmed, with or without amendment, the minutes of a meeting shall be signed by the person chairing the meeting at which they were submitted for confirmation.

SCHEDULE 3

QUALIFICATIONS REQUIRED BY EXISTING PRACTITIONERS

Section 90(1).

	<b>PROFESSION</b>	<b>QUALIFICATION</b>
5	1. Chiropodists	Bachelor of Science in Podiatry.
	2. Clinical Biochemists	Degree in which biochemistry was taken as a subject in the final examination.
10	3. Dietitians	Bachelor of Science in Human Nutrition from the University of Dublin, or Diploma in Dietetics and Nutrition from the Dublin Institute of Technology.
15		
20	4. Medical Scientists	Bachelor of Science (Applied Sciences) (Honours) (Biomedical option) from the University of Dublin/the Dublin Institute of Technology Kevin Street, or Bachelor of Science (Honours) in Biomedical Science from the Joint University College - Cork Institute of Technology course, or Diploma in Medical Laboratory Sciences awarded before 1994 by the Dublin Institute of Technology or the Cork Institute of Technology, or Certificate in Medical Laboratory Sciences awarded before 1997 by the Dublin Institute of Technology Kevin Street, the Cork Institute of Technology or the Galway/Mayo Institute of Technology.
25		
30		
35		
40		
45	5. Occupational Therapists	Bachelor of Science (Honours) in Occupational Therapy from the University of Dublin, or Diploma of the College of Occupational Therapy.
50	6. Orthoptists	Bachelor of Medical Science in Orthoptics, or Bachelor of Medical Science (Honours) in Orthoptics, or Bachelor of Science (Honours) in Orthoptics.
55	7. Physiotherapists	Bachelor of Science (Honours) in Physiotherapy from the University of Dublin, or Bachelor in Physiotherapy (Honours) from the National University of Ireland, or Diploma in Physiotherapy of the National University of Ireland or of the University of Dublin.
60		

8	Psychologists	A recognised University degree or diploma obtained with first or second class honours in which psychology was taken as a major subject and honours obtained in that subject.	5
9.	Radiographers	Diploma of the College of Radiographers, or Bachelor of Science (Radiography) from the National University of Ireland, Dublin, or Bachelor of Science (Therapeutic Radiography) from the University of Dublin.	10 15
10.	Social Care Workers	National Diploma in Child Care awarded by the Higher Education and Training Awards Council/Dublin Institute of Technology, or National Diploma in Applied Social Care Studies awarded by the Higher Education and Training Awards Council/Dublin Institute of Technology, or Diploma in Social Care awarded by the Higher Education and Training Awards Council/Dublin Institute of Technology, or Diploma in Applied Social Studies/Social Care from the Dublin Institute of Technology, or Open Training College National Diploma in Applied Social Studies (Disability).	20 25 30 35 40
11.	Social Workers	National Qualification in Social Work awarded by the National Social Work Qualifications Board, or Certificate of Qualification in Social Work awarded by the Central Council for Education and Training in Social Work, U.K.	45
12.	Speech and Language Therapists	Bachelor of Science (Clinical Speech and Language Studies) from the University of Dublin, or Bachelor of Science (Remedial Linguistics) from the University of Dublin, or Licentiatehip of the College of Speech Therapists.	50 55