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

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**EXPLANATORY AND FINANCIAL MEMORANDUM**

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***Purpose of Bill***

The Bill is, by its long title, an Act to provide for the establishment and functions of the Health and Social Care Professionals Council and of registration 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 to their fitness to practise; and to provide for related matters.

***Provisions of Bill***

**PART 1 — Preliminary Matters**

*Section 1* cites the short title of the Bill as the Health and Social Care Professionals Act 2004.

*Section 2* contains standard provisions relating to the commencement date of the Bill.

*Section 3* defines certain expressions used in the Bill.

*Section 4* designates the following health and social care professions to be subject to the provisions of the Act — chiropodists, clinical biochemists, dietitians, medical scientists, occupational therapists, orthoptists, physiotherapists, psychologists, radiographers, social care workers, social workers and speech and language therapists.

This section enables the Minister to designate additional health and social care professions by regulation in the future. In considering whether it is appropriate and in the public interest that a health and social care profession be designated under this Act, the Minister may 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;

- (c) the existence of defined routes of entry into the profession and independently assessed entry qualifications;
- (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;
- (f) any other factor that the Minister considers relevant.

Regulations under this section must provide for the establishment of registration boards for the professions to be designated, must specify the name by which such boards are to be known and may prescribe a title or more than one title that may only be used by registrants of such designated professions.

*Section 5* provides that expenses incurred by the Minister in administering the Act will be paid out of money provided by the Oireachtas, as sanctioned by the Minister for Finance.

## **PART 2 — Health and Social Care Professionals Council**

*Section 6* establishes the Health and Social Care Professionals Council (the Council) to perform the functions and exercise the powers assigned to it by this Act. This section also enables the Minister, by order, to appoint a day as the establishment day for the Council.

*Section 7* defines the object of the Council as being to protect the public by promoting high standards of professional conduct and professional education, training and competence among registrants of the designated professions.

*Section 8* provides that the Council must do all things necessary and reasonable to further its object and must exercise its powers and perform its functions in the public interest. This section also sets out the functions of the Council as follows:

- (a) to oversee and co-ordinate the activities of registration boards;
- (b) to provide administrative support and secretarial assistance to registration boards and their committees;
- (c) to receive applications and make decisions concerning the refusal of registration boards to grant or restore registration;
- (d) to enforce standards of practice for registrants of the designated professions, including the codes of professional conduct and ethics adopted by their registration boards;
- (e) to establish committees of inquiry into complaints against registrants of the designated professions;
- (f) to make decisions and give directions relating to the imposition of disciplinary sanctions on registrants of the designated professions;

- (g) to 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) to encourage registration boards to collaborate with each other, where practicable, including in the professional education and training of registrants;
- (i) to issue assessment guidelines for the purpose of an assessment of professional competence under *section 90* and
- (j) to 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
  - (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.

*Section 9* lays down the membership of the Council as consisting of a chairperson and the following ordinary members, all of whom are to be appointed by the Minister:

- (a) for each designated profession, one person who—
  - (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—
  - (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,
  - (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
  - (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.

In the case of the first ordinary members of the Council, the Minister is empowered to appoint, for each designated profession, instead of a person who meets the criteria in (a) above, a person who is engaged in the practice, education or training or management of services of the profession.

*Section 10* enables the Council to pay allowances for travelling and subsistence expenses to its members for attendance at meetings or other functions held in connection with the Council's business.

*Section 11* provides for the Council to appoint a chief executive officer to carry on and manage and control generally the administration and business of the Council and the registration boards. The chief executive officer also acts as registrar of each registration board. The Council sets the conditions of the chief executive officer (including those relating to remuneration and allowances), with the approval of the Minister given with the consent of the Minister for Finance.

*Section 12* enables the Council to determine the number, grade and conditions of staff (including those relating to remuneration and allowances) with the approval of the Minister given with the consent of the Minister for Finance. This Section also enables the Council to make and carry out arrangements with any person or body to assist it, registration boards or committees to perform their functions or exercise their powers contained in this Act.

*Section 13* provides for the Council to establish a superannuation scheme or schemes for granting superannuation benefits to or in respect of members of its staff.

*Section 14* provides for the secondment of an officer of the Council on nomination to the Seanad or election to the Dáil or European Parliament. This section also precludes a member of the Seanad, Dáil or European Parliament from employment with the Council.

*Section 15* provides for disclosure of material interests by members of the Council or its committees and sets out the procedure for those members with material interests in absenting themselves from discussions at meetings where a matter arises in which that member has a material interest.

*Section 16* provides for disclosure of material interests by members of the Council's staff and sets out the procedure for those members of staff with material interests in refraining from dealing with any matter in which that member of staff has a material interest.

*Section 17* provides that the Council meet out of funds at its disposal, expenses incurred by the Council, including the expenses of providing administrative support and secretarial assistance to registration boards and their committees as well as expenses incurred by registration boards and their committees and for any surplus funds to be spent on the development of education, research or other public purpose connected with any one or more than one of the designated professions.

*Section 18* enables the Council to charge various registration fees and fees for any other services which it or a registration board might provide. This Section also enables the Council to recover as a simple contract debt any amount owing in respect of a fee charged.

*Section 19* enables the Council to borrow for the purpose of providing for current or capital expenditure and to secure such borrowings on its revenue, funds or property. Such borrowing is subject to any conditions that may be imposed by, or in accordance with any directions that may be given by, the Minister.

*Section 20* enables the Council to accept gifts provided any conditions attached by the donor are consistent with its functions.

*Section 21* obliges the Council to keep proper and usual accounts of the Council's income and expenditure, including expenditure incurred by a committee of the Council, each registration board and a committee of a registration board. This section also provides for the audit of these accounts by the Comptroller and Auditor General, for the furnishing of the accounts and the Comptroller and Auditor General's report and certificate to the Minister, for the publication of the accounts, certificate and report and the laying of these before each House of the Oireachtas.

*Section 22* enables the Council to 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,
- (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,
- (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 of inquiry,
- (g) the receiving of submissions by committees of inquiry, and
- (h) any other matter relating to its functions under this Act.

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.

*Section 23* enables the Council to establish committees to perform any of its functions or exercise any of its powers that in the Council's opinion may be better or more conveniently performed by a committee. This section also provides for the membership and the procedures of such committees.

*Section 24* provides that if the Council does not perform a function assigned to it under this Act, the Minister may, by order, direct the Council to perform that function. If the Council does not comply with this order, the Minister may, by order, remove from office any or all of the members of the Council.

*Section 25* provides that, not later than 3 months after the end of the financial year, the Council must submit to the Minister a report of the activities of the Council and of each registration board in the immediately preceding financial year and for the laying of this report before each House of the Oireachtas.

### **PART 3 — Registration boards**

*Section 26* provides for the establishment of the following registration boards:

- Chiropodists Registration Board;
- Clinical Biochemists Registration Board;
- Dietitians Registration Board;
- Medical Scientists Registration Board;
- Occupational Therapists Registration Board;
- Orthoptists Registration Board;
- Physiotherapists Registration Board;
- Psychologists Registration Board;
- Radiographers Registration Board;
- Social Care Workers Registration Board;
- Social Workers Registration Board;
- Speech and Language Therapists Registration Board.

This section also enables the Minister, by order, to appoint a day to be the establishment day of a registration board. The Minister may appoint different days for different registration boards.

*Section 27* defines the object of the registration board of a designated profession as being to protect the public by fostering high standards of professional conduct and professional education, training and competence among registrants of that profession and sets out the functions of each registration board as follows:

- (a) to establish and maintain a register of members of the designated profession;
- (b) to issue certificates of registration;
- (c) to give guidance to registrants concerning ethical conduct and to give guidance and support to them concerning the practice of the designated profession;
- (d) to monitor the continued suitability of education and training programmes;
- (e) to make recommendations with respect to sanctions to be imposed on registrants of the designated profession.

*Section 28* lays down the membership of each registration board as follows:

- (a) six persons appointed by the Minister on their election by the registrants of that profession, of whom—
  - (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,
  - (iii) 1 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) seven persons appointed by the Minister, of whom—
- (i) 1 is to be representative of the management of the public health sector, the public social care sector or both sectors,
  - (ii) 1 is to be representative of the management of a voluntary or private sector organisation concerned with health or social care,
  - (iii) 1 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
  - (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.

In the case of the first members of a board, the Minister is empowered to appoint, for each board, instead of a person who meets the criteria in (a) above, a person who is engaged in the practice, education or training or management of services of the profession. Where no person qualifies under the provisions outlined above, the number of persons on the registration board is modified accordingly.

*Section 29* enables the Council to pay allowances for travelling and subsistence expenses to members of each registration board or its committees for attendance at meetings or other functions held in connection with the boards' business.

*Section 30* provides that the chief executive officer will be the registrar of each registration board and that the Council may designate one or more than one member of its staff as deputy registrar. In addition, this section provides that the Council will provide administrative support and secretarial support to each registration board and its committees.

*Section 31* enables each registration board, with the Council's approval, to make bye-laws in relation to—

- (a) the conduct of elections for the appointment of members,
- (b) applications for registration in a register or for restoration to a register,
- (c) qualifications attesting to the standard of proficiency required for registration,
- (d) requirements as to knowledge of the language necessary for practising a designated profession,
- (e) procedures for assessing qualifications awarded, or training or professional experience acquired, outside the State,
- (f) conditions for registration in a division of a register,
- (g) criteria for restoration to a register,

- (h) education, training and continuing professional development of registrants,
- (i) adoption and revision of a code of professional conduct and ethics,
- (j) any other matter specified by the Council in its guidelines.

Where a proposed bye-law might result in an additional burden being imposed on the Exchequer, both the Council and the Minister must approve the draft bye-law.

*Section 32* enables a registration board to establish committees to perform any of its functions or exercise any of the powers conferred on a board and lays down the membership and procedures of such committees.

*Section 33* provides that if a registration board does not perform a function assigned to it under this Act, the Minister may, by order, direct the board to perform that function. If the board does not comply with this order, the Minister may, by order, remove from office any or all of the members of the board concerned.

*Section 34* provides that each registration board must submit to the Council a report of its activities in the immediately preceding year within a timeframe specified by the Council.

#### **PART 4 — Registration**

*Section 35* provides that each registration board must establish and maintain a register of members of that profession.

*Section 36* provides that a person seeking registration must apply to the relevant registration board and the application must be in the form and contain the information required by that registration board. The registration board may verify or require the applicant to verify anything contained in the application or request the applicant to supply further information. Such further information may be required by means of a statutory declaration.

*Section 37* provides that each registration board must register each person who holds an approved qualification, satisfies the board that he or she is a fit and proper person to engage in the practice of the designated profession, satisfies the Board as to his/her knowledge of the language necessary to practise and pays the required fee to the Council. This section also sets out the circumstances when a person who is a national of a Member State of the EU or a person who is a national of a state other than a Member State of the EU is considered to hold an approved qualification.

*Section 38* enables a registrant to apply to have his/her name removed from a register maintained by a registration board and to subsequently apply for restoration.

*Section 39* enables the Council to direct a registration board to remove the name of a registrant from a register for non-payment of a retention fee, properly demanded and to restore such a person to the register on payment of an approved fee within six months after the date on which the required fee became due.

*Section 40* obliges a registration board to issue a certificate of registration to a registrant as soon as possible after the date of registration

or after restoration of a person's name to the register. This section also provides for notice to be given by a registration board if refusing to grant or restore registration.

*Section 41* sets out the content of a notice of a decision made by a registration board under this Part.

*Section 42* provides that a registrant may appeal a decision of a registration board to refuse to grant or restore registration to the Council and sets out the procedure to be followed by the Council on hearing the application or on receipt of appropriate submissions.

*Section 43* provides that a person who is refused registration or restoration to the register may appeal the Council's decision to the High Court within 30 days.

*Section 44* requires each registration board to make any corrections to the registers where new information becomes available regarding registrants, where errors or fraud are discovered or where the death of a practitioner becomes known to a board. Any changes to a register must be notified to the person concerned or to the next of kin.

*Section 45* requires each registration board to make the register available for inspection by members of the public at all reasonable times and also requires each registration board to publish the register in the manner and at the times it considers appropriate.

*Section 46* provides that a certificate purporting to be signed by the registrar is, without proof of signature, evidence of the matters certified in the certificate, unless the contrary is shown.

## **PART 5 — Education and Training**

*Section 47* enables each registration board to approve or withdraw approval for education and training programmes for the education and training of candidates for registration. Where approval is refused or withdrawn there is provision for an appeal to the Minister who may, following consultation with the Minister for Education and Science, direct the board to give or continue approval or confirm its decision to withdraw approval.

*Section 48* requires a registration board to monitor the ongoing suitability of education and training programmes approved by the board including any clinical training and experience being provided. This may be carried out as occasion may require but in any event not less than once every 5 years. Following this review, a registration board must make appropriate recommendations to the Minister for Education and Science.

## **PART 6 — Complaints, Inquiries and Discipline**

*Section 49* sets out the definitions to be used in regard to complaints, inquiries and discipline including:

“poor professional performance” means any failure of the registrant to meet the standards of competence that may reasonably be expected of registrants practising that profession.

“professional misconduct” 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
- (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).

*Section 50* requires the Council to establish a preliminary proceedings committee, a professional conduct committee and a health committee to perform functions and exercise powers in regard to complaints, inquiries and discipline and sets out the membership of such committees. This section provides that the Council shall appoint a registered medical practitioner with relevant expertise to advise a health committee in relation to each complaint referred to that committee.

*Section 51* enables any person to make a complaint to the Council concerning a registrant on the following grounds:

- (a) professional misconduct;
- (b) poor professional performance;
- (c) impairment of the registrant's ability to practise by reason of a physical or mental ailment, an emotional disturbance or an addiction to alcohol or drugs;
- (d) a failure to comply with a term or condition of registration imposed under fitness to practice procedures;
- (e) a failure to comply with an undertaking or any action specified in a consent 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.

A complaint may also be made on the grounds of professional misconduct or poor professional performance even though the matter to which the complaint relates occurred outside the State.

This section also provides that a complaint must be made 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. The Council must make reasonable efforts to ensure that the complainant is informed of all decisions made under this Part by the Council or a committee in relation to a complaint.

*Section 52* provides that the Council must refer each 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. The preliminary proceedings committee may seek further information from the complainant or verify anything contained in the complaint and the registrant may supply to the committee any information that he or she believes should be

considered by the preliminary proceedings committee or a committee of inquiry.

*Section 53* provides that if a preliminary proceedings committee is of the opinion that there is not sufficient cause to warrant further action being taken in relation to a complaint, the committee must inform the Council who, after considering the matter, may decide that no further action is taken in relation to the complaint or may direct that further action be taken. On deciding that no further action is to be taken, the Council must inform all parties.

*Section 54* provides that the Council may develop guidelines for resolving complaints by mediation or other informal means. 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.

*Section 55* provides that where a preliminary proceedings committee, or the Council under the procedure set out in *section 53*, is of the opinion that there is sufficient cause to warrant further action being taken in relation to a complaint, the committee shall refer the complaint either for resolution by mediation or other informal means or to a professional conduct committee or a health committee. If a preliminary proceedings committee is informed that a complaint referred to mediation cannot be resolved, the committee must refer the complaint to a committee of inquiry.

*Section 56* provides that, as soon as practicable after a complaint is referred to a committee of inquiry, the registrar must notify the registrant outlining the referral of the complaint to a committee of inquiry, the nature of the matter that is to be the subject of the inquiry and the opportunity of the registrant, or his or her representative, to be present and to defend the registrant at the hearing. Not later than 30 days before the date of the hearing before the committee of inquiry, the registrar must notify the registrant of the date, time and place of the hearing.

*Section 57* provides for the conduct of a hearing.

- A hearing before a professional conduct committee will generally be held in public.
- A hearing before a health committee will generally be held in private.
- At the hearing, the registrar presents evidence in support of the complaint, testimony of witnesses is given on oath and there is a full right to cross examine witnesses and to call evidence in defence and reply.

This section also provides that a committee to which a complaint is referred may transfer the complaint to another committee of inquiry but only if it is satisfied that it is appropriate to do so and the legal rights of the registrant will not be prejudiced by doing so.

*Section 58* provides that each committee of inquiry has the powers, rights and privileges vested in the High Court or a judge of the High Court relating to enforcing the attendance of witnesses, examining witnesses on oath and compelling the production of records. This section also lays down the means by which a committee may receive evidence and entitles a witness to the same immunities and privileges as a witness before the High Court. In addition, this section makes it an offence to fail to comply with a summons or to refuse to cooperate with the committee.

*Section 59* enables the Council to apply to the High Court for an order directing a registration board to suspend a registrant's registration pending the completion of an inquiry, if it considers that the action is necessary to protect the public.

*Section 60* provides that 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;
- (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;
- (d) consent to being admonished or censured by the Council.

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

*Section 61* provides that if a complaint is withdrawn, a committee may, with the Council's agreement, decide that no further action is to be taken or decide to proceed as if the complaint had not been withdrawn.

*Section 62* requires that, on completion of an inquiry, a committee of inquiry must submit its findings in writing to the Council and specifies the items that must be included in the report.

*Section 63* provides that, on receiving the report of a committee of inquiry concerning a complaint, the Council shall:

- if allegations have not been substantiated, dismiss the complaint; or
- if allegations have been substantiated, request the registration board concerned to recommend one or more than one disciplinary sanction to be imposed on the registrant.

*Section 64* provides that, within 30 days after receiving a copy of a report of a committee of inquiry, and following its consideration, the registration board must recommend that one or more than one of the following disciplinary sanctions be imposed on the registrant:

- an admonishment or a censure;
- the attachment of conditions to his or her registration, including restrictions on the practice of the designated profession by the registrant;
- the suspension of his or her registration for a specified period;
- the cancellation of his or her registration;
- a prohibition from applying for a specified period for restoration to the register.

*Section 65* provides that following consideration of the registration board's recommendation under *section 64*, the Council may direct the board concerned to impose on the registrant one or more than

one of the disciplinary sanctions referred to in that section and shall specify—

- in the case of the attaching of conditions to registration, the nature of the conditions to be attached,
- in the case of suspension of registration, the period of suspension,
- in the case of prohibition against applying for restoration, the period for which he or she is prohibited from applying for restoration to the register.

*Section 66* provides that as soon as practicable after directing a registration board to impose a disciplinary sanction on a registrant, the Council shall notify the registrant of—

- the nature of the disciplinary sanction that the board has been directed to impose,
- the date on which the direction was given,
- the reasons for the imposition of the sanction,
- the time allowed to the registrant for bringing an application to the High Court for cancellation of the direction,
- the time allowed to the Council for bringing an application to the High Court for confirmation of the direction.

*Section 67* provides that a direction given by the Council to a registration board to impose a disciplinary sanction (other than an admonishment or censure) does not take effect unless the direction is confirmed by the High Court.

*Section 68* provides that a registrant to whom a direction to impose a disciplinary sanction (other than an admonishment or censure) relates, may apply to the High Court within 30 days for an order cancelling the direction. After hearing the application, the Court may make an order to cancel, confirm or modify the direction or give any other direction the Court thinks fit.

*Section 69* provides that the Council may, within 60 days after the registrant was notified of its direction, apply to the High Court for an order confirming a direction to a registration board to impose a disciplinary sanction (other than an admonishment or censure) on a registrant if the registrant does not, within the 30 days allowed, apply to the Court for an order cancelling the direction.

*Section 70* provides that at a hearing of an application under *section 68* or *69*, the High Court may admit and have regard to evidence of any person of good standing in the designated profession concerned as to what constitutes professional misconduct or poor professional performance in relation to the practice of that profession. This section also provides for an appeal to the Supreme Court against a decision of the High Court on a specified question of law.

*Section 71* provides that on complying with a direction confirmed or given by the High Court in relation to certain disciplinary sanctions, the Council must notify the registrant of—

- the conditions to be attached to his or her registration,
- the suspension or cancellation of his or her registration and the period during which the registration is to be suspended.

*Section 72* provides that the Council may direct a registration board to restore to its register the name of any person whose registration has been cancelled if—

- the person has requested the Council to make the direction and has paid the required fee,
- the person is not prohibited from applying for restoration to the register,
- the person has been given an opportunity to make an oral or written submission to the Council,
- the Council has considered any submission made and the criteria established by bye-law for restoration to the register,
- the Council thinks it appropriate to make the direction.

This section also provides that the Council may attach to the registration any conditions it considers appropriate and the registration board concerned shall notify the person of these conditions. If the Council refuses to direct a registration board to restore a person's name to its register, the person must be informed in writing of the decision, the date on which it was made, the reasons for the decision and the time allowed for an appeal to the High Court for cancellation of the Council's decision.

*Section 73* provides that the Council may direct a registration board to remove any or all of the conditions attached to a registration if—

- the registrant has requested the Council to make the direction,
- the registrant has been given an opportunity to make an oral or written submission to the Council,
- the Council has considered any submission made or other relevant information that comes to its attention,
- the Council thinks it appropriate to make the decision.

*Section 74* provides that a person may appeal to the High Court a decision made by the Council refusing to direct a registration board to restore the person's name to its register or refusing to direct a registration board to remove a condition attached under *section 72* or refusing to direct a registration board to remove a condition attached under *section 73*.

*Section 75* provides that the Council shall notify the Minister and employer, if known, as soon as practicable after any of the following measures take effect:

- the cancellation of a person's registration;
- the restoration of a person's name to a register;
- the suspension of a person's registration;
- the termination of the period during which a person's registration is suspended;
- the attachment of conditions to a person's registration;
- the removal of conditions attached to a person's registration;
- the prohibiting of a person from applying for a specified period for restoration to the register;
- the administering of admonishment or censure to a person.

This section also provides that the Council must also notify the Minister and employer, if known, if it comes to the Council's attention that, under the law of another country, the above actions have been taken in relation to a registrant.

*Section 76* provides that the Council may, if it is satisfied that it is in the public interest to do so, advise the public when any of the above measures take effect.

*Section 77* provides that the proceedings, reports and communications of a committee, the Council or registration board in relation to fitness to practise issues are absolutely privileged in any action for defamation.

## **PART 7 — Professional Titles and Offences**

*Section 78* makes it an offence to use the title of any registered practitioner as set out in the Act or prescribed by regulation, unless entitled to do so. A chartered physiotherapist is, however, entitled to use a title that he or she is entitled to use by virtue of being a member of the Irish Society of Chartered Physiotherapists.

*Section 79* provides for the prosecution of offences under the Act and for a fine not exceeding €2,500 and/or imprisonment for a term not exceeding 6 months to be imposed on conviction.

*Section 80* provides that summary proceedings for an offence against this Act may be brought and prosecuted by the Council.

## **PART 8 — Dissolution of National Social Work Qualifications Board**

*Section 81* defines the definitions used in this Part.

*Section 82* provides that the National Social Work Qualifications Board is dissolved on the day appointed by the Minister as the transfer day.

*Section 83* provides that the staff of the National Social Work Qualifications Board are transferred to and become members of the Council's staff on the transfer day.

*Section 84* provides for the transfer of property, rights and liabilities from the National Social Work Qualifications Board to the Council on the transfer day.

*Section 85* provides for the continuation of every contract or agreement made between the National Social Work Qualifications Board and any other person before the transfer day.

*Section 86* provides that where, 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 is substituted for the name of the National Social Work Qualifications Board.

*Section 87* obliges the Council to prepare accounts of money received and expended by the National Social Work Qualifications Board in the accounting year, or part of year, immediately preceding the transfer day and for the submission of these accounts to the Comptroller and Auditor General for audit.

*Section 88* provides that the National Social Work Qualifications Board (Establishment) Order 1997 is revoked on the transfer day.

## **PART 9 — Transitional Provisions**

*Section 89* defines terms used in this Part.

*Section 90* provides that a registration board must grant registration to persons engaged in the practice of a health and social care profession at any time during the 5 years preceding the establishment of the register for the particular profession, provided that he or she—

- applies during the 2 year transitional period to the board and in the manner required,
- satisfies the board that he or she holds a prescribed qualification or successfully completes an assessment of professional competence,
- satisfies the board that he or she is a fit and proper person to engage in the practice of that profession, and
- pays the required fee to the Council.

## **PART 10 — Miscellaneous Matters**

*Section 91* provides that neither the employees of the Council nor any member of it or its committees or a registration board is liable for any damages for anything done or omitted to be done in good faith and without negligence.

*Section 92* provides that judicial notice be taken of the Council's seal and the seal of each registration board and provides that these seals may be received in evidence.

*Section 93* sets out how registrants, former registrants and applicants are to be notified.

*Section 94* confers power on the Minister to make regulations for matters prescribed in the Act and provides that such regulations must be laid before each House of the Oireachtas and that either House of the Oireachtas may annul such regulations by a resolution passed within 21 sitting days after the making of the regulation.

This section also provides that the Minister may make regulations to prescribe additional titles to be protected for use by registrants, only if a draft of the proposed regulation has been laid before the Houses of the Oireachtas and a resolution approving the draft has been passed by each House.

*Section 95* confers power on the Minister to amend or revoke orders made.

*Schedule 1* sets out the following miscellaneous provisions for the Council:—

- definitions;
- seal of the Council;
- term of office of ordinary members;
- term of office of chairperson;
- removal from office;
- resignations;

- termination of membership before completion of term;
- casual vacancies;
- convening meetings and notifying members;
- quorum;
- chairing of meetings;
- voting at meetings;
- power to act despite vacancy or defect in appointment;
- minutes of meetings.;

*Schedule 2* sets out the following miscellaneous provisions for each registration board:

- definitions;
- seal of registration boards;
- term of office;
- election and term of office of chairperson;
- removal from office;
- resignations;
- termination of membership before completion of term;
- casual vacancies;
- convening meetings and notifying members;
- quorum;
- chairing of meetings;
- voting at meetings;
- power to act despite vacancy or defect in appointment;
- minutes of meetings.

*Schedule 3* lays down the qualifications required by existing practitioners in order to be granted registration under *Part 9* (grandparenting provisions).

### ***Financial Implications***

In accordance with a key principle of self-regulation, the proposed regulatory system will be self-financing. All expenses of the Council must be met from fee income from registrants.

*An Roinn Sláinte agus Leanaí,  
Deireadh Fómhair, 2004.*