



AN BILLE SLÁINTE (CIGIREACHT OSPIDÉAL) 2006
HEALTH (HOSPITALS INSPECTORATE) BILL 2006

EXPLANATORY MEMORANDUM

Purpose of Bill

The Lourdes Hospital Inquiry Report has demonstrated beyond argument the need for a system of permanent, institutionalised inspection, assessment and review of our institutional health services, particularly our hospitals. The clear risk is that institutions otherwise become inward-looking, isolated and detached from generally prevailing standards of acceptable practice.

Hospital services are provided both by the Health Service Executive and by voluntary bodies receiving public funds. It is inappropriate, therefore, that an inspection function should be vested in the HSE. The function is one more appropriately housed within the Department of Health and Children. The function requires a statutory underpinning, with guaranteed independence and with powers of access to buildings, records and personnel.

And the reporting function should be, through the Minister, to the Houses of the Oireachtas and thereby to the general public.

Such inspection and reporting functions, with provisions similar to those proposed in this Bill, are exercised in respect of schools, nursing homes, prisons and mental hospitals. A similar inspectorate has also recently been established for the Garda Síochána.

Provisions of Bill

Section 1 sets out certain definitions used in the Bill.

Section 2 provides that the Minister for Health and Children shall, with the concurrence of the Minister for Finance, appoint a Chief Inspector of Hospitals, together with such and so many Assistant Inspectors as the Minister considers appropriate. The Chief Inspector and Assistant Inspectors shall be known collectively as the Inspectorate.

The Minister must include amongst Assistant Inspectors persons with medical qualifications and persons with other expertise, including expertise in administration.

Assistant Inspectors will perform their functions under the general direction of the Chief Inspector.

Subject to the provisions of the Bill, the Inspectorate and each Inspector shall be independent in the performance of their functions.

Section 3 sets out the functions of the Inspectorate as being, in each year, to visit and carry out a review of hospitals in the State and to furnish a report in writing on—

- the organisation and operation of hospitals and the quality and effectiveness of their services, including the quality of care and treatment given to patients,
- the quality and effectiveness of hospital services in the State generally, including comparison with relevant international practice and standards,
- the degree and extent of compliance by hospitals with any relevant enactment, directive or code of practice, and
- such other matters relating to hospitals and the needs of hospital patients as the Inspectorate considers appropriate to report on.

It will also be a function of the Inspectorate to disseminate information on the performance of its functions and to promote informed debate on those matters.

Section 4 provides that an Inspector has all such powers as are necessary or expedient for the purpose of performing his or her functions and shall be accorded every reasonable facility and co-operation by the proprietor, governing body and staff of a hospital.

Section 5 provides for special inquiries and reports, to be carried out by the Chief Inspector. By *subsection (1)*, the Chief Inspector may, and shall if so requested by the Minister, inquire into and report upon—

- the operation and administration of a specified hospital during a specified period,
- the care and treatment provided to a specified patient,
- any other matter in respect of which an inquiry is appropriate having regard to the provisions of this Act or any other enactment.

For the purposes of such an inquiry, the Chief Inspector has additional powers, including power to visit and inspect at any time any hospital; to require any person to furnish him or her with information in possession of the person that he or she may reasonably require for the purposes of the inquiry; to require any person to make available any relevant record or other document in his or her power or control; to examine and take copies of, or of extracts from, records or other documents; and to take evidence on oath and for that purpose to administer oaths.

It is provided that no enactment or rule of law prohibiting or restricting the disclosure or communication of information shall preclude a person from furnishing to the Chief Inspector any information or record. However, this is subject to the proviso that a person to whom a requirement to provide information is addressed will be entitled to the same immunities and privileges as a witness in a court.

Section 6 provides that the Minister must cause copies of any reports of the Inspectorate to be laid before each House of the Oireachtas. Such reports are absolutely privileged wherever and however published.

By *section 7*, a person who obstructs or interferes with an Inspector while he or she is exercising statutory powers, or who fails to give any information within his or her knowledge reasonably required by an Inspector in the course of carrying out his or her duties, is guilty of an offence and is liable on summary conviction to a fine not exceeding €3,000 or to imprisonment for a term not exceeding 12 months, or to both a fine and imprisonment.

Section 8 provides that an Inspector may include in a report any appropriate recommendations in respect of improvements. Recommendations may relate to—

- the carrying out of essential maintenance or refurbishment,
- the closure, temporarily or permanently, of a specified area or areas,
- the number of patients which may be accommodated,
- the staffing of a hospital, including the number, suitability, training and experience of members of staff,
- the introduction or review of specified policies, protocols or procedures relating to the treatment, care and welfare of patients,
- the maintenance, care and welfare of patients,
- the design, maintenance, repair, cleaning and cleanliness, ventilation, heating and lighting of hospitals,
- the records, including treatment records, to be kept in hospitals, and the duration for which they are kept.

Section 9 provides that the Chief Inspector must, at the request of a committee of either or both of the Houses of the Oireachtas in connection with the subject matter of any report of which copies were laid before those Houses, attend before it in relation to any aspect of that matter.

Section 10 provides in standard form for the short title and collective citation of the Bill.

*An Teachta Eilís Mhic Mhánais,
Bealtaine, 2006.*