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**An Bille um an nGníomhaireacht Athbhreithnithe Comhlachtaí Poiblí, 2016**  
**Public Bodies Review Agency Bill 2016**

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*Mar a tionscnaíodh*

*As initiated*

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**AN BILLE UM AN nGNÍOMHAIREACHT ATHBHREITHNITHE COMHLACHTAÍ  
POIBLÍ, 2016  
PUBLIC BODIES REVIEW AGENCY BILL 2016**

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CONTENTS

PART 1

PRELIMINARY AND GENERAL

Section

1. Short title
2. Commencement
3. Review of Act
4. Lapsing of this Act
5. Interpretation
6. Public body
7. Regulations

PART 2

PUBLIC BODIES REVIEW AGENCY

8. Establishment of Public Bodies Review Agency
9. Objects of Agency
10. Primary functions of Agency
11. Secondary functions of Agency
12. Reports of Agency
13. Information gathering
14. Authorised persons
15. Charges for services

PART 3

BOARD OF THE AGENCY

16. Composition of Board

17. Role of Board
18. Removal of Board member
19. Resignations and casual vacancies
20. Removal of members from office
21. Meetings and procedures of Board
22. Committees of Board
23. Remuneration and expenses of members of Board and committees

#### PART 4

##### CHIEF EXECUTIVE OFFICER OF THE AGENCY

24. Chief executive officer of Agency
25. Functions of chief executive officer
26. Delegation of functions of chief executive officer
27. Accountability of chief executive officer and Board members to Committee of Public Accounts
28. Accountability of chief executive officer to other Oireachtas Committees

#### PART 5

##### EMPLOYEES AND ADVISERS

29. Employees of Agency
30. Superannuation
31. Advisers

#### PART 6

##### ACCOUNTABILITY AND FUNDING OF AGENCY

32. Directions to Agency
33. Grants to Agency
34. Code of governance
35. Accounts of Agency
36. Gifts
37. Annual report

#### PART 7

##### STANDARDS, DISQUALIFICATIONS, ETC.

38. Standards of integrity
39. Codes of conduct
40. Confidential information
41. Disqualification of Board member

PART 8

SETTING OF STANDARDS FOR PUBLIC BODIES

42. Setting of standards for public bodies

PART 9

OFFENCES AND PENALTIES

43. Offence of non-cooperation or obstruction

SCHEDULE

PUBLIC BODIES

ACTS REFERRED TO

Companies Act 2014 (No. 38)

Companies Acts

Comptroller and Auditor General (Amendment) Act 1993 (No. 8)

Ethics in Public Office Act 1995 (No. 22)

European Parliament Elections Act 1997 (No. 2)

Protected Disclosures Act 2014 (No. 14)

Public Service Management (Recruitment and Appointments) Act 2004 (No. 33)

Standards in Public Office Act 2001 (No. 31)



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AN BILLE UM AN nGNÍOMHAIREACHT ATHBHREITHNITHE COMHLACHTAÍ  
POIBLÍ, 2016  
PUBLIC BODIES REVIEW AGENCY BILL 2016

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# Bill

*entitled*

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An Act to establish a body to be known as *An Ghníomhaireacht Athbhreithnithe Comhlachtaí Poiblí*, or in the English language as the Public Bodies Review Agency, conferred with the necessary powers and functions and to provide for related matters.

**Be it enacted by the Oireachtas as follows:**

## PART 1

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### PRELIMINARY AND GENERAL

#### **Short title**

1. This Act may be cited as the Public Bodies Review Agency Act 2016.

#### **Commencement**

2. (1) This Act comes into operation on such day or days as the Minister may appoint by order. 15  
(2) Different days may be appointed under this section for different purposes or different provisions of this Act.

#### **Review of Act**

3. (1) The Minister shall— 20
  - (a) before the end of each relevant period, commence a review of the operation of this Act, and
  - (b) not more than 3 months after the end of each relevant period, make a report to each House of the Oireachtas of the findings resulting from the review and of the conclusions drawn from the findings. 25
- (2) A report made under *subsection (1)* shall include any such recommendations for amendments of this Act, or any instrument made under it, as appear to the Minister to be appropriate in consequence of the findings resulting from the review.

- (3) In conducting a review the Minister shall—
  - (a) consult the Agency,
  - (b) take into account any relevant report of a committee appointed by either House of the Oireachtas or jointly by both Houses, and
  - (c) take into account the views expressed by public bodies. 5
- (4) A report which has been prepared under this section shall be laid before each House of the Oireachtas.
- (5) In this section “relevant period” means—
  - (a) the period of 5 years beginning immediately after the commencement of this section, and 10
  - (b) each five year period thereafter.

**Lapsing of this Act**

- 4. (1) Subject to *subsection (2)*, this Act shall cease to be in operation on and from the 31st day of December 2031, unless a resolution has been passed by each House of the Oireachtas resolving that that section should continue in operation. 15
- (2) This Act may be continued in operation from time to time by a resolution passed by each House of the Oireachtas before its expiry for such period as may be specified in the resolutions.

**Interpretation**

- 5. In this Act— 20
  - “Agency” means the Public Bodies Review Agency established under *section 8*;
  - “authorised person” means a person who has been appointed under *section 14*;
  - “Board” means the Board of the Agency as provided for in *Part 3*;
  - “consulting services” includes the provision of services relating to organisational change, cultural change, strategy, operations and other related areas; 25
  - “head of the public body” means a person occupying the role of Chief Executive, Director General of the relevant public body or other position of equivalent standing, and it includes the Chairperson of the relevant public body;
  - “Minister” means the Minister for Public Expenditure and Reform;
  - “ordinary member” means a member of the Board other than the chairperson; 30
  - “relevant Minister” means the Minister with responsibility for oversight of the particular public body concerned.

**Public body**

- 6. (1) In this Act “public body” means—
  - (a) the bodies specified in the *Schedule*, 35

- (b) any other body prescribed by the Minister, in regulations made under *section 7*, as being a public body, and
  - (c) “public bodies” shall be construed accordingly.
- (2) In prescribing a body as being a public body for the purpose of *subsection (1)*, the Minister may only prescribe a body which fulfils any of the following criteria— 5
- (a) is an entity established by or under any enactment (other than the Companies Acts), or
  - (b) is a company (within the meaning of the Companies Acts) a majority of the shares in which are held by or on behalf of a Minister of the Government.
- Regulations** 10
7. (1) The Minister may make regulations—
- (a) prescribing any matter which is referred to in this Act as prescribed or to be prescribed, or
  - (b) for the purposes of enabling any provision of this Act to have full effect.
- (2) Every regulation or order made by the Minister shall be laid before each House of the Oireachtas as soon as practicable after they are made and, if a resolution annulling the regulation, order or rules is passed by either House within the next subsequent 21 days on which that House has sat after the regulation, order or rules are laid before it, the regulation, order or rules shall be annulled accordingly, but without prejudice to the validity of anything previously done thereunder. 15 20
- (3) Regulations made under this Act may—
- (a) include such consequential, incidental, transitional or supplementary provisions as may be considered by the Minister, as the case may be, to be necessary or appropriate for the purposes of this Act, and
  - (b) apply, either generally or by reference, to a specified class or classes of persons or category or categories of licensees or to any other matter as may be considered by the Minister to be appropriate. 25
- (4) The Minister may prescribe an entity, organisation or forum to be a public body within the meaning of *section 6*.

PART 2 30

PUBLIC BODIES REVIEW AGENCY

**Establishment of Public Bodies Review Agency**

8. (1) There is hereby established a body, to be known as *An Ghníomhaireacht Athbheithnithe Comhlachtaí Poiblí*, or in the English language as the Public Bodies Review Agency, to perform the functions assigned to it by this Act. 35
- (2) The Minister shall, by order, appoint a day to be the establishment day for the purposes of this Act.

- (3) The Agency is a body corporate with perpetual succession.
- (4) The Agency may sue and be sued in its corporate name and, with the consent of the Minister and the Minister for Finance, may acquire, hold and dispose of land or an interest in land and any other property.
- (5) The Agency shall provide itself with a seal as soon as may be after the Agency's establishment. 5
- (6) The seal of the Agency shall be authenticated by the signature of—
  - (a) the chairperson of the Agency or of another member of the Board of the Agency authorised by it to act in that behalf, and
  - (b) by the signature of the chief executive officer or of another member of staff of the Agency as may be designated by the chief executive officer. 10
- (7) Judicial notice shall be taken of the seal of the Agency, and any document purporting to be an instrument made by the Agency and to be sealed with the seal of the Agency shall, unless the contrary is shown, be received in evidence and be deemed to be that instrument without further proof. 15

**Objects of Agency**

- 9. The object of the Agency is to review the role and effectiveness of public bodies so as to ensure that they continue to be fit for purpose, that they adopt and retain a culture of continuous improvement and contribute to society in a positive, meaningful and measurable way. 20

**Primary functions of Agency**

- 10. (1) The functions of the Agency are subject to this Act and to the extent practicable, to further the Agency's object.
- (2) The primary function of the Agency is—
  - (a) at the request of the Minister, 25
  - (b) at the request of the relevant Minister,
  - (c) at the request of the head of the public body, or
  - (d) at the discretion of the Agency,
 to—
  - (i) conduct detailed reviews of the role and remit of a public body, 30
  - (ii) assess the effectiveness of a public body in discharging its functions,
  - (iii) conduct themed reviews across multiple public bodies,
  - (iv) conduct follow-up or interim reviews,
  - (v) make recommendations regarding the future of a public body, and
  - (vi) report on all reviews and recommendations. 35
- (3) A report which is prepared under this section may recommend—

- (a) the implementation of certain actions within a fixed timeframe,
  - (b) the application of revised functions or remit for the public body,
  - (c) the merger of two or more bodies,
  - (d) the dissolution of a public body, or
  - (e) legislative change. 5
- (4) Each public body shall be subject to a review under this section at a frequency of not less than every seven years.

### Secondary functions of Agency

11. (1) The secondary functions of the Agency are as follows:
- (a) to assess the appropriateness of, and monitor compliance with, the standards referred to in *section 42* and to report on findings made; 10
  - (b) to provide, on an informal basis, advice to public bodies undergoing restructuring, implementing a significant change programme or devising new proposals regarding its strategic direction; and
  - (c) upon request, and subject to *section 15*, to provide consulting services for reward to government bodies in other jurisdictions. 15
- (2) In carrying out its functions the Agency shall have regard to—
- (a) the policies and objectives of the Government or any Minister of the Government in so far as they may affect or relate to the functions of the Agency, and
  - (b) developments and innovations relating to public service bodies in other jurisdictions. 20
- (3) The Agency has all the powers as are necessary or expedient for the performance by it of its functions.

### Reports of Agency

12. (1) Where the Agency conducts a review under *section 10*, it shall— 25
- (a) submit a copy of the report in draft to the head of the public body which was the subject of the review affording it ten working days to provide comments,
  - (b) submit a copy of the finalised report to—
    - (i) the Minister,
    - (ii) the relevant Minister, and 30
    - (iii) the head of the public body which was the subject of the review,
  - (c) cause copies of the finalised report to be laid before each House of the Oireachtas, and
  - (d) arrange for the finalised report to be published on the internet.
- (2) Once a report of the Agency has been laid before each House of the Oireachtas under 35

*subsection (1)*, it shall be the subject of consideration during public session by the Committee on Finance, Public Expenditure and Reform and Taoiseach or its successor committee howsoever named.

- (3) (a) Within 90 days of a report being submitted to the Minister and the relevant Minister under *subsection (1)*, a joint response of the Ministers shall be issued in which they detail the actions that will be taken within specified timeframes to implement each of the recommendations contained in the report of the Agency. 5
- (b) Where in the joint response of the Minister and the relevant Minister no substantive action is proposed to be taken in respect of certain recommendations contained in the report of the Agency, the joint response of the Ministers shall explain the reasoning for no action being proposed to be taken. 10

### **Information gathering**

13. (1) The Agency may require a public body to provide it with any information that the Agency needs in order to discharge its functions under this Act.
- (2) An authorised person may request to interview— 15
- (a) any person working for a public body, or
- (b) any other person whom he or she believes may have information which is likely to be of assistance to the Agency.
- (3) During the course of an interview conducted under *subsection (2)*, an authorised person may make a requirement of a person to provide information. 20
- (4) The Agency may with the agreement of each of the persons concerned conduct exit interviews with any senior official who leaves the employment of a public body.
- (5) In this section, “senior official” means a person at Assistance Principal level or above.

### **Authorised persons**

14. (1) The Agency may appoint such and so many persons as it may determine (referred to in this Act as “authorised persons”) to assist in the discharging of the functions of the Agency which are referred to in *sections 10* or *11*. 25
- (2) The Agency shall furnish an authorised person with an authorisation and, when exercising authority under this section, an authorised person shall, if requested to do so, produce the authorisation or a copy of it together with a form of personal identification. 30
- (3) An authorised person may, for the purposes of discharging a function under this Act, require any person to—
- (a) provide any information including information stored electronically,
- (b) produce any document and make copies of such documents, 35
- (c) answer questions, and
- (d) provide assistance and cooperation.

## Charges for services

15. (1) Where the Agency provides services to government bodies in other jurisdictions, the Agency may make charges as it deems appropriate for the provision of those services and shall record the receipts from those charges as income.
- (2) The Agency may recover, as a simple contract debt in any court of competent jurisdiction, from the person by whom it is payable any amount due and owing to the Agency under *subsection (1)*. 5

## PART 3

### BOARD OF THE AGENCY

## Composition of Board 10

16. (1) The Agency shall have a Board consisting of 11 members (including the chairperson and 10 ordinary members) appointed by the Minister in accordance with this section.
- (2) The members of the Board shall be appointed by the Minister from among persons, who in the opinion of the Minister, have experience and expertise in relation to matters connected with the functions of the Agency which would enable such a person to make a substantial contribution to the performance by the Agency of its functions. 15
- (3) Without prejudice to the generality of *subsection (2)*, of the members of the Board—
- (a) 1 shall be a person with expertise in the management of a private sector auditing or accountancy firm,
  - (b) 1 shall be a person with private sector expertise in advising Government or public bodies on issues relating to public administration, 20
  - (c) 1 shall be a person with academic or professional expertise in large scale organisational change management,
  - (d) 1 shall be a person with expertise in project management,
  - (e) 1 shall be a person with expertise in the conduct of audits, 25
  - (f) 1 shall be a person with academic expertise in public administration,
  - (g) 1 shall be a person who has served as a Secretary General of, or an Assistant Secretary in, a Government Department,
  - (h) 1 shall be a person who has served as the head of a public body,
  - (i) 3 shall be persons who in the Minister's opinion, have specialist knowledge or experience in either— 30
    - (i) strategic planning,
    - (ii) public administration,
    - (iii) the provision of audit services,
    - (iv) organisational change, or 35
    - (v) human resources.

- (4) A person is not eligible for appointment as a member of the Board if the person—
- (a) is a member of either House of the Oireachtas or of the European Parliament,
  - (b) is regarded, pursuant to section 19 of the European Parliament Elections Act 1997, as having been elected to the European Parliament to fill a vacancy, or
  - (c) is a member of a local authority. 5
- (5) The chairperson of the Board holds office for a period not exceeding 5 years from the date of his or her appointment, as the Minister shall determine.
- (6) Subject to *subsection (7)*, an ordinary member of the Board shall hold office for a period not exceeding 5 years from the date of his or her appointment, as the Minister shall determine. 10
- (7) Of the ordinary members of the Board first constituted under this section—
- (a) 5 members of the Board, as shall at a meeting held for the purposes of this subsection be selected—
    - (i) by unanimous agreement of the members of the Board attending the meeting, or 15
    - (ii) where no such agreement can for whatever reason be reached, by the drawing of lots by the members of the Board so attending,
 shall hold office for a period of 3 years, and
  - (b) the remaining 5 members shall hold office for a period up to 5 years.
- (8) Subject to *subsection (9)*, a member of the Board whose term of office expires by the passage of time is eligible for reappointment to the Board. 20
- (9) A member of the Board who has served two terms of office is not eligible for reappointment to the Board.
- (10) The Minister shall endeavour to ensure that among the members of the Board there is an equitable balance between men and women. 25

### **Role of Board**

17. (1) The Board is the governing body of the Agency with authority, in the name of the Agency, to perform the functions of the Agency.
- (2) The Board may delegate any of its functions to the chief executive officer.
- (3) If a function of the Agency is delegated to the chief executive officer under *subsection (2)*, the delegation remains in force until the Board revokes the delegation. 30

### **Removal of Board member**

18. (1) The Minister at any time may remove a member of the Board from office if, in the Minister's opinion—
- (a) the member has become incapable through ill-health of performing the functions of the office, 35

- (b) the member has committed stated misbehaviour,
  - (c) the member’s removal from office appears to be necessary for the Board to perform its functions in an effective manner,
  - (d) the member has contravened a provision of this Act or a provision of the Ethics in Public Office Act 1995 that by a regulation made under section 3 of that Act applies to that member, or 5
  - (e) in performing functions under this Act, the member has not complied with—
    - (i) a code of conduct, under section 10(3) of the Standards in Public Office Act 2001, or
    - (ii) the code of governance under *section 34* that relates to the Board member. 10
- (2) A member of the Board ceases to hold office if the member—
- (a) is adjudicated bankrupt,
  - (b) makes a composition or arrangement with creditors,
  - (c) is convicted of an indictable offence,
  - (d) is convicted of an offence involving fraud or dishonesty, 15
  - (e) is the subject of an order under sections 839 to 842 of the Companies Act 2014, or
  - (f) is sentenced to a term of imprisonment by a court of competent jurisdiction.
- (3) A member of the Board who does not, for a consecutive period of 6 months, attend a meeting of the Board ceases at the end of that period to hold office unless the member demonstrates to the Minister’s satisfaction that the non-attendance was due to illness or other valid reason. 20

**Resignations and casual vacancies**

19. (1) A member of the Board may resign by letter to the Minister and the resignation takes effect on the later of— 25
- (a) the date specified in the letter, and
  - (b) the receipt of the letter by the Minister.
- (2) If a member of the Board dies, resigns, ceases to be qualified for office, ceases to hold office or is removed from office, the Minister may appoint a person to fill the casual vacancy so occasioned. 30
- (3) A person appointed to be a member of the Board under this section—
- (a) holds office for that period of the term of office of the member who occasioned the casual vacancy concerned that remains unexpired at the date of the appointment, and
  - (b) subject to *section 16(8)*, is eligible for reappointment as a member of the Board on the expiry of that period. 35

## Removal of members from office

20. (1) The Minister may remove all the members of the Board from office if the Board—
- (a) does not achieve a quorum for 3 consecutive meetings,
  - (b) does not comply with a judgment, order or decree of any court,
  - (c) does not comply with a direction of the Minister or any other requirement imposed on it by or under any enactment including this Act, or 5
  - (d) in the Minister’s opinion, is not performing its functions in an effective manner.
- (2) If, in the Minister’s opinion, the Board is not performing its functions in an effective manner, the Minister may appoint a person to—
- (a) conduct an independent review of any matter giving rise to that opinion, and 10
  - (b) submit a report to the Minister on the results of the review.
- (3) The Board shall co-operate with any such review and give the person conducting it all reasonable assistance, including access to premises, equipment and records as the person may require for the purposes of the review.
- (4) The removal of all the members of the Board does not revoke or otherwise affect any delegation of the Board’s functions to the chief executive officer under *section 17(2)*. 15

## Meetings and procedures of Board

21. (1) The Minister, in consultation with the chairperson of the Board, shall fix the date of the first meeting of the Board first constituted pursuant to *section 16* and shall specify the time and place at which the meeting shall take place. 20
- (2) The Board shall hold such meetings as are necessary for the performance of its functions but in each year shall meet at least once every 2 months.
- (3) At a meeting of the Board—
- (a) the chairperson of the Board, if present, shall be the chairperson of the meeting, or 25
  - (b) if and so long as the chairperson of the Board is not present, or if that office is vacant, the members of the Board who are present shall choose one of their number to be chairperson of the meeting.
- (4) Every question at a meeting shall be determined by a majority of the votes of the members of the Board present and voting on the question and, in the case of an equal division of votes, the chairperson of the meeting shall have a second or casting vote. 30
- (5) Subject to *subsection (8)*, the Board may act notwithstanding one or more vacancies among its members.
- (6) Subject to this Act, the Board shall regulate, by standing orders, the procedures and business of the Board. 35
- (7) Notwithstanding *subsection (6)*, non-compliance with the standing orders of the Board does not invalidate any decision of the Board.
- (8) The quorum for a meeting of the Board is 5 unless the Minister otherwise directs.

- (9) The chairperson may call a meeting of the Board at any reasonable time.
- (10) If the chairperson refuses to call a meeting of the Board, after a requisition for that purpose, signed by not less than 3 members of the Board has been presented to the chairperson, any 3 members of the Board may call a meeting of the Board.
- (11) If the chairperson, without refusing to do so, does not, within 7 days after the presentation of a requisition for that purpose signed by not less than 3 members of the Board, call a meeting of the Board, any 3 members of the Board may call a meeting of the Board. 5

### **Committees of Board**

- 22. (1) The Board may— 10
  - (a) establish committees to provide assistance and advice to the Board in relation to the performance of its functions, and
  - (b) determine the membership and terms of reference of each committee.
- (2) The Board may appoint persons to a committee who are not members of the Board but have special knowledge and experience related to the purpose of the committee. 15
- (3) The appointment of a person to a committee is subject to the terms and conditions as may be determined—
  - (a) under *section 23*, to the extent that the terms and conditions relate to remuneration and allowances for expenses, and
  - (b) by the Board in any other case. 20
- (4) The Board shall specify in writing the purpose and terms of reference of each committee.
- (5) The acts of a committee are subject to confirmation by the Board, unless the Board dispenses with the necessity for confirmation.
- (6) The Board may regulate the procedure of a committee but, subject to any such regulation, a committee may regulate its own procedure. 25
- (7) The Board may at any time dissolve a committee established under this section.

### **Remuneration and expenses of members of Board and committees**

- 23. (1) The remuneration and allowances for expenses, if any, determined in accordance with *subsection (3)* are payable by the Agency out of funds at its disposal to— 30
  - (a) the members of the Board, and
  - (b) the members of a committee of the Board.
- (2) The remuneration and allowances for expenses, if any, determined in accordance with *subsection (3)* are payable by the Minister out of money provided by the Oireachtas to a person appointed under *section 20(2)* to conduct an independent review. 35
- (3) With the consent of the Minister for Finance, the Minister may determine the remuneration and allowances for expenses payable under this section.

## PART 4

### CHIEF EXECUTIVE OFFICER OF THE AGENCY

#### **Chief executive officer of Agency**

24. (1) The Board shall appoint a person recruited in accordance with the Public Service Management (Recruitment and Appointments) Act 2004 to be the chief executive officer of the Authority. 5
- (2) A person is not eligible for appointment as the chief executive officer if the person is—
- (a) a member of either House of the Oireachtas or of the European Parliament,
  - (b) regarded, pursuant to section 19 of the European Parliament Elections Act 1997, as having been elected to the European Parliament to fill a vacancy, or 10
  - (c) a member of a local authority.
- (3) Subject to *subsection (4)*, the chief executive officer shall hold office on the terms and conditions (including those relating to remuneration, allowances and superannuation) that shall be determined by the Board with the approval of the Minister given with the consent of the Minister for Finance. 15
- (4) (a) The chief executive officer shall hold office for up to a period of five years.
- (b) The period referred to in *paragraph (a)* may, at the sole discretion of the Minister, be extended by one further period of up to five years.
- (5) The chief executive officer shall be paid by the Agency, out of funds at its disposal, remuneration and allowances determined under *subsection (3)*. 20

#### **Functions of chief executive officer**

25. (1) The chief executive officer shall—
- (a) to execute policy decisions of the Board,
  - (b) carry on, manage and control generally, the effective administration and business of the Agency, 25
  - (c) perform such other functions as may be assigned to that officer by or under this Act or another enactment or as may be delegated to him or her by the Board, and
  - (d) supply the Board with information (including financial information) relating to the performance of the chief executive officer's functions as the Board may require. 30
- (2) The chief executive officer is responsible to the Board for the performance of the chief executive officer's functions and the implementation of the Board's policies.
- (3) If the chief executive officer is absent or the position of chief executive officer is vacant, the functions of the chief executive officer under this section may be performed by an employee of the Agency designated by the Agency. 35

### **Delegation of functions of chief executive officer**

26. (1) Subject to the consent of the Chair of the Board, the chief executive officer may—
- (a) delegate any of the chief executive officer’s functions under *section 25* (including those relating to financial matters) to employees of the Agency specified by name, position or otherwise, and 5
  - (b) authorise the sub-delegation of any or all delegated functions to or by other such employees.
- (2) Any function delegated or sub-delegated under this section to an employee is to be performed by the employee under the general direction and control of the chief executive officer and in compliance with directions, limitations and guidelines as may be specified by— 10
- (a) in the case of a delegated function, the chief executive officer, or
  - (b) in the case of a sub-delegated function, the employee who sub-delegated that function.
- (3) The delegation or sub-delegation of a function does not preclude the person who for the time being holds the position of chief executive officer from performing the function. 15
- (4) The chief executive officer may—
- (a) vary any delegation or sub-delegation of a function under this section,
  - (b) revoke such delegation or sub-delegation, or 20
  - (c) without revoking the delegation, revoke any sub-delegation of the function.
- (5) On varying or revoking the delegation or sub-delegation of a function, the chief executive officer shall inform each employee to whom the function was delegated or sub-delegated of its variation or revocation.
- (6) An employee of the Agency who sub-delegates a function delegated or sub-delegated to the employee under this section— 25
- (a) may vary or revoke the sub-delegation, and
  - (b) is not precluded from performing the function.
- (7) On varying or revoking the sub-delegation of a function, the employee who sub-delegated the function shall inform each employee to whom the function was sub-delegated of its variation or revocation. 30

### **Accountability of chief executive officer and Board members to Committee of Public Accounts**

27. (1) The chief executive officer and each member of the Board of the Agency, whenever required in writing to do so by the Committee of Dáil Éireann established under the Standing Orders of Dáil Éireann to examine and report to Dáil Éireann on the appropriation accounts and reports of the Comptroller and Auditor General, shall give evidence to that Committee on— 35
- (a) the regularity and propriety of the transactions recorded or required to be

recorded in any book or other record of account subject to audit by the Comptroller and Auditor General that the Agency is required by this Act to prepare,

- (b) the economy and efficiency of the Agency in the use of its resources,
  - (c) the systems, procedures and practices employed by the Agency for the purpose of evaluating the effectiveness of its operations, and 5
  - (d) any matter affecting the Agency referred to in a special report of the Comptroller and Auditor General under section 11(2) of the Comptroller and Auditor General (Amendment) Act 1993 or in any other report of the Comptroller and Auditor General, in so far as it relates to a matter specified in *paragraph (a), (b) or (c)*, that is laid before Dáil Éireann. 10
- (2) In the performance of the duties of the chief executive officer under this section, the chief executive officer shall not question or express an opinion on the merits of any policy of the Government or a Minister of the Government or on the merits of the objectives of such a policy. 15

#### **Accountability of chief executive officer to other Oireachtas Committees**

28. (1) In this section “Committee” means a Committee appointed by either House of the Oireachtas or jointly by both Houses of the Oireachtas (other than the Committee referred to in *section 24* or the Committee on Members’ Interests of Dáil Éireann or the Committee on Members’ Interests of Seanad Éireann) or a subcommittee of such a Committee. 20
- (2) Subject to *subsection (3)*, the chief executive officer, at the request in writing of a Committee, shall attend before the Committee to give an account of the general administration of the Agency.
- (3) The chief executive officer shall not be required to give an account before a Committee of any matter which is or has been or may at a future time be the subject of proceedings before a court or tribunal in the State. 25
- (4) Where the chief executive officer is of the opinion that a matter in respect of which he or she is requested to give an account before a Committee is a matter to which *subsection (3)* applies, he or she shall inform the Committee of that opinion and the reasons for the opinion and, unless the information is conveyed to the Committee at a time when the chief executive officer is before it, the information shall be so conveyed in writing. 30
- (5) Where the chief executive officer has informed a Committee of the chief executive officer’s opinion in accordance with *subsection (4)* and the Committee does not withdraw the request referred to in *subsection (2)* in so far as it relates to a matter the subject of that opinion— 35
- (a) the chief executive officer, not later than 21 days after being informed by the Committee of its decision not to withdraw the request, may apply to the High Court in a summary manner for determination of the question whether the matter is one to which *subsection (3)* applies, or 40
  - (b) the chairperson of the Committee, on behalf of the Committee, may make such an

application,

and the High Court shall determine the matter.

- (6) Pending the determination of an application under *subsection (5)*, the chief executive officer shall not attend before the Committee to give an account of the matter to which the application relates. 5
- (7) If the High Court determines that the matter concerned is one to which *subsection (3)* applies, the Committee shall withdraw the request referred to in *subsection (2)*, but if the High Court determines that *subsection (3)* does not apply, the chief executive officer shall attend before the Committee to give an account of the matter.
- (8) In the performance of the chief executive officer's duties under this section, the chief executive officer shall not question or express an opinion on the merits of any policy of the Government or a Minister of the Government or on the merits of the objectives of such a policy. 10

## PART 5

### EMPLOYEES AND ADVISERS

15

#### **Employees of Agency**

- 29.** (1) The Agency, subject to *subsection (2)* and *(4)*, may appoint persons to be its employees and may determine their duties.
- (2) Employees appointed under this section shall be recruited in accordance with the Public Service Management (Recruitment and Appointments) Act 2004. 20
- (3) *Subsection (2)* does not apply to employees appointed under this section during the 3 months beginning on the establishment day or during a shorter period that the Minister may specify.
- (4) The Agency, with the approval of the Minister given with the consent of the Minister for Finance, shall determine— 25
- (a) the terms and conditions of employment (including terms and conditions relating to remuneration and allowances) of employees appointed under this section, and
- (b) the grades of the employees of the Agency and the numbers of employees in each grade.
- (5) A person is not eligible for appointment as an employee of the Agency if the person is— 30
- (a) a member of either House of the Oireachtas or of the European Parliament, or
- (b) regarded, pursuant to section 19 of the European Parliament Elections Act 1997, as having been elected to the European Parliament to fill a vacancy.
- (6) The remuneration and allowances of the Agency's employees are payable by the Agency to the employees out of funds at the Agency's disposal. 35

## **Superannuation**

- 30.** (1) The Agency shall prepare and submit to the Minister a scheme or schemes for the granting of superannuation benefits to or in respect of such employees of the Agency as it may think fit.
- (2) Every such 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 terms may be fixed in respect of different classes of persons. 5
- (3) Every such scheme may be amended or revoked by a subsequent scheme prepared, submitted and approved under this section.
- (4) A scheme submitted by the Agency under this section, if approved by the Minister with the consent of the Minister for Finance, shall be carried out by the Agency in accordance with the terms of the scheme. 10
- (5) No superannuation benefit shall be granted by the Agency nor shall any other arrangements be entered into by the Agency for the provision of such a benefit, to or in respect of an employee otherwise than in accordance with a scheme under this section or with the consent of the Minister and the Minister for Finance. 15
- (6) Each scheme made under this section shall make provision for appeals.
- (7) A scheme under this section shall be laid before each House of the Oireachtas as soon as may be after it is made and, if a resolution annulling the scheme is passed by either such House within the next 21 days on which that House has sat after the scheme is laid before it, the scheme shall be annulled accordingly, but without prejudice to anything done previously. 20

## **Advisers**

- 31.** (1) The Agency, with the approval of the Minister, may engage such advisers as it considers necessary for the performance of its functions. 25
- (2) Any fees due to an adviser engaged under this section are payable by the Agency out of funds at the Agency's disposal.

## **PART 6**

### **ACCOUNTABILITY AND FUNDING OF AGENCY**

## **Directions to Agency**

- 32.** (1) The Minister may give general directions in writing to the Agency for any purpose in relation to the provisions of this Act, or any other enactment, and for any matter or thing referred to in this Act, as specified or to be specified, or as determined or to be determined, and the Agency shall comply with any such direction. 30
- (2) The Minister may direct the Agency to supply the Minister with information, reports or statistics, in the manner and within the period, both as the Minister may determine, in relation to the performance of the functions assigned by or under this Act to the Agency. 35

### Grants to Agency

33. The Minister may, with the consent of the Minister for Finance, advance to the Agency out of money provided by the Oireachtas such sum as the Minister may determine.

### Code of governance

34. (1) As soon as practicable after the Agency is established, it shall submit to the Minister for final approval a code of governance that includes an outline of the— 5
- (a) guiding principles applicable to the Agency as a public body having the functions described in *sections 10* and *11*, and
  - (b) structure of the Agency, including the role and responsibilities of the Board and the chief executive officer. 10
- (2) The Agency shall review the code of governance periodically at the times that may be specified by the Minister and shall revise the code as the Agency considers appropriate.
- (3) In preparing or making revisions to the code of governance, the Agency shall have regard to any direction given by the Minister under *section 32*. 15
- (4) Following the Minister's approval of the code of governance or of any revisions to it, the Agency shall arrange for the publication of the code or the revised code.
- (5) The Agency shall indicate in its annual report its arrangements for implementing and maintaining adherence to the code of governance.

### Accounts of Agency

35. (1) The Agency shall cause to be kept all proper and usual books or other records of account of— 20
- (a) all income and expenditure of the Agency,
  - (b) the source of the income and the subject matter of the expenditure, and
  - (c) the property, assets and liabilities of the Agency. 25
- (2) The books and records kept under this section shall be—
- (a) kept in the form, and
  - (b) for the accounting periods,
- as the Minister may specify, with the consent of the Minister for Finance.
- (3) The accounts of the Agency approved by the Board shall be submitted to the Comptroller and Auditor General for audit as soon as practicable and not later than 3 months after the end of the financial year to which the accounts relate. 30
- (4) Within one month after the Comptroller and Auditor General issues an audit certificate for the accounts of the Agency a copy of the accounts and of the report of the Comptroller and Auditor General on the accounts shall be presented to the Minister who, within 2 months after their receipt, shall cause copies to be laid before each House of the Oireachtas. 35

- (5) If required by the Minister, the Agency shall furnish to the Minister the information the Minister may require in respect of any balance sheet, account or report of the Agency.
- (6) The Agency, chief executive officer and other employees of the Agency—
- (a) whenever so requested by the Minister, shall permit any person appointed by the Minister to examine the books or other records of account of the Agency in respect of any financial year or other period, and 5
- (b) shall facilitate the examination,
- and the Agency shall pay such fee as may be fixed by the Minister for the examination. 10
- (7) In this section, “financial year” means a period of 12 months ending on 31 December in any year.

### **Gifts**

36. Subject to the approval of the Minister, the Agency may accept gifts of money, land or other property upon the trusts or conditions (if any) as may be specified by the donor provided that the conditions would not be inconsistent with the Agency’s functions or obligations under this Act or any other enactment. 15

### **Annual report**

37. (1) Not later than 30 April in each year, the Agency shall prepare and adopt an annual report in relation to the performance of the Agency’s functions during the immediately preceding calendar year. 20
- (2) An annual report shall include—
- (a) a statement of the activities undertaken by the Agency,
- (b) a report on the implementation of the Agency’s business plan,
- (c) a report on the Agency’s arrangements for implementing and maintaining adherence to its code of governance, and 25
- (d) other particulars that the Agency considers appropriate or as the Minister may specify.
- (3) As soon as may be but in any event not later than 21 days after adopting the annual report, the Agency shall submit a copy of the annual report to the Minister. 30
- (4) The Minister shall ensure that copies of the annual report are laid before each House of the Oireachtas within 21 days after the Minister receives the report.
- (5) The Agency shall ensure that the annual report is published on the Internet and in accordance with any other arrangements that the Minister may specify, as soon as practicable after copies of the report are laid before the Houses of the Oireachtas. 35

PART 7

STANDARDS, DISQUALIFICATIONS, ETC.

**Standards of integrity**

38. (1) In performing functions under this or any other enactment as—
- (a) a member of the Board or a committee of the Board, 5
  - (b) the chief executive officer or any other employee of the Agency,
  - (c) a person engaged by the Agency as an adviser under *section 31*, or
  - (d) an employee of a person referred to in *paragraph (c)*,
- a person shall maintain proper standards of integrity, conduct and concern for the public interest and shall carry out their duties in accordance with international best practice. 10
- (2) *Subsection (1)* applies to an employee of a person referred to in *subsection (1)(c)* in respect only of duties of employment relating to the purposes for which the Agency has engaged that person.

**Codes of conduct**

15

39. (1) For the purposes of *section 38(1)*, the Agency shall issue codes of conduct for the guidance of persons who are—
- (a) members of a committee of the Board but are not members of the Board,
  - (b) employees of the Agency other than employees to whom a code of conduct under section 10(3) of the Standards in Public Office Act 2001 applies, 20
  - (c) engaged under *section 31* by the Agency as advisers, or
  - (d) employees of persons referred to in *paragraph (c)*.
- (2) A code of conduct issued under this section for the guidance of persons referred to in *subsection (1)* must indicate the standards of integrity and conduct to be maintained by them in performing their functions under this or any other enactment. 25
- (3) A person to whom the code of conduct relates shall have regard to and be guided by the code in performing functions under this or any other enactment.
- (4) The terms and conditions on which a person is employed by the Agency or by a person referred to in *subsection (1)(c)* or on which a person is engaged by the Agency as an adviser are deemed to include any requirements that apply to that person under *subsection (3)*. 30

**Confidential information**

40. (1) In this section “confidential information” includes information that is expressed by the Agency to be confidential either as regards particular information or as regards information of a particular class or description. 35
- (2) Except in the circumstances set out in *subsection (3)*, a person shall not disclose

confidential information obtained while performing functions as—

- (a) a member of the Board or a committee,
  - (b) the chief executive officer or any other employee of the Agency or other person contracted by the Agency,
  - (c) a person engaged by the Agency as an adviser, 5
  - (d) an employee of a person referred to in *paragraph (c)*, or
  - (e) a person appointed as an authorised person under *section 14*.
- (3) A person does not contravene *subsection (2)* by disclosing confidential information if the disclosure—
- (a) is authorised by the Agency, 10
  - (b) is made to the Board,
  - (c) is made to the Minister by or on behalf of the Agency or in compliance with this Act,
  - (d) is required by law, or
  - (e) is made in a protected disclosure within the meaning of the Protected Disclosures Act 2014. 15

#### **Disqualification of Board member**

- 41.** (1) A member of the Board of the Agency or a member of a committee of the Board of the Agency immediately ceases to hold office on—
- (a) being nominated as a member of Seanad Éireann, 20
  - (b) being elected as a member of either House of the Oireachtas or of the European Parliament,
  - (c) being regarded, pursuant to section 19 of the European Parliament Elections Act 1997, as having been elected to the European Parliament to fill a vacancy, or
  - (d) becoming a member of a local authority. 25
- (2) An employee of the Agency, including the chief executive officer, is immediately seconded from employment with the Agency on—
- (a) being nominated as a member of Seanad Éireann,
  - (b) being elected as a member of either House of the Oireachtas or of the European Parliament, or 30
  - (c) being regarded, pursuant to section 19 of the European Parliament Elections Act 1997, as having been elected to the European Parliament to fill a vacancy.
- (3) No remuneration or allowances are payable by the Agency for the secondment period to a person seconded under *subsection (2)* from employment and the secondment period is not to be counted as service with the Agency for the purposes of any superannuation benefit. 35
- (4) In relation to a person seconded under *subsection (2)* from employment, the

secondment period 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.

## PART 8

### SETTING OF STANDARDS FOR PUBLIC BODIES

5

#### Setting of standards for public bodies

42. (1) Each relevant Minister shall in respect of each public body within his or her remit set the service standards to be met by each such body in discharging its statutory functions.
- (2) Each relevant Minister shall submit to Cabinet in draft form each set of service standards which are proposed for adoption under *subsection (1)*. 10

## PART 9

### OFFENCES AND PENALTIES

#### Offence of non-cooperation or obstruction

43. (1) It shall be an offence for a person to— 15
- (a) fail or refuse to comply with a requirement of an authorised person pursuant to *section 13(3)*, or in purported compliance with such requirement gives information to the authorised person that he or she knows to be false or misleading in any material respect.
  - (b) fail to comply with a request which is made by an authorised person pursuant to *section 14(3)*, 20
  - (c) impede the exercise by an authorised person of a power conferred on him or her by this Act, or
  - (d) otherwise obstruct or interfere with an authorised person in the performance of his or her duties under this Act. 25
- (2) A person guilty of an offence under *subsection (1)* is liable—
- (a) on summary conviction to a class A fine or imprisonment for a term not exceeding 12 months or both, or
  - (b) on conviction on indictment to a fine not exceeding €70,000 or imprisonment for a term not exceeding 2 years or both. 30
- (3) Where an offence under this Act—
- (a) is committed by a body corporate, by a person purporting to act on behalf of a body corporate or by an individual or an unincorporated body of persons, and
  - (b) is proved to have been committed with the consent or approval of, or to have

been attributable to any neglect on the part of, any person who, when the offence was committed, was—

(i) a director, member of the committee of management or other controlling authority of the body concerned, or

(ii) the manager, secretary or other officer of the body concerned, 5

that person shall also be deemed to have committed the offence and may be proceeded against and punished accordingly.

## SCHEDULE

### PUBLIC BODIES

1. Adoption Authority of Ireland	
2. An Garda Síochána Ombudsman Commission	
3. An Garda Síochána Ombudsman Inspectorate	5
4. Appeals Commissioners	
5. Arts Council	
6. Heritage Council	
7. Bord Bia	
8. Bord Iascaigh Mhara	10
9. Bord Pleanála (Planning Board)	
10. Broadcasting Authority of Ireland	
11. Central Statistics Office	
12. Charities Regulatory Authority	
13. Chief State Solicitor's Office	15
14. Child and Family Agency	
15. Chomhairle um Oideachais Gaeltachta agus Gaelscolaíochta	
16. Citizens Information Board	
17. Commission for Aviation Regulation	
18. Commission for Communications Regulation	20
19. Commission for Energy Regulation	
20. Commission for Public Service Appointments	
21. Commissioner for Environmental Information	
22. Commissioners of Irish Lights	
23. Competition and Consumer Protection Commission	25
24. Courts Service	
25. Criminal Injuries Compensation Tribunal	
26. Dental Council	
27. Director of Public Prosecutions	
28. Enterprise Ireland	30
29. Environmental Protection Agency	
30. Fáilte Ireland	

31. Financial Services Ombudsman Bureau	
32. Food Safety Authority of Ireland	
33. Forensic Science Laboratory	
34. Garda Síochána	
35. Grangegorman Development Agency	5
36. Health and Safety Authority	
37. Health and Social Care Professionals Council	
38. Health Information and Quality Authority	
39. Health Insurance Authority	
40. Health Products Regulatory Authority	10
41. Health Research Board	
42. Health Service National Partnership Forum	
43. Health Services Executive	
44. Higher Education Authority	
45. Horse Racing Ireland	15
46. Horse Sport Ireland	
47. Housing and Sustainable Communities Agency	
48. Housing Finance Agency	
49. IDA Ireland	
50. Inland Fisheries Ireland	20
51. Insolvency Service Ireland	
52. Irish Auditing and Accounting Supervisory Authority	
53. Irish Blood Transfusion Service Board	
54. Institute of Public Health in Ireland	
55. Irish Film Board	25
56. Irish Film Classification Office	
57. Irish Financial Services Appeals Tribunal	
58. Irish Heritage Trust	
59. Irish Human Rights and Equality Commission	
60. Irish Prison Service	30
61. Irish Research Council	
62. Irish Sports Council	
63. Irish Water	

64.	Irish Water Safety	
65.	Language Commissioner	
66.	Léargas	
67.	Legal Aid Board	
68.	Local Government Management Agency	5
69.	Marine Casualty Investigation Board	
70.	Marine Institute	
71.	Medical Bureau of Road Safety	
72.	Medical Council	
73.	Mental Health (Criminal Law) Review Board	10
74.	Mental Health Commission	
75.	Moorepark Technology Ltd	
76.	National Archives Ireland	
77.	National Asset Management Agency	
78.	National Cancer Registry Board	15
79.	National Centre for Guidance in Education	
80.	National Centre for Technology in Education	
81.	National Council for Curriculum & Assessment	
82.	National Council for Special Education	
83.	National Development Finance Agency	20
84.	National Disability Authority	
85.	National Economic and Social Council	
86.	National Economic and Social Development Office	
87.	National Fisheries Board	
88.	National Milk Agency	25
89.	National Property Services Regulatory Authority	
90.	National Sports Campus Development Authority	
91.	National Standards Authority of Ireland	
92.	National Transport Authority	
93.	National Treasury Management Agency	30
94.	National Treatment Purchase Fund Board	
95.	NewEra	
96.	Nursing and Midwifery Board of Ireland	

97.	Office of Ombudsman for Children	
98.	Office of the Data Protection Commissioner	
99.	Office of the Information Commissioner	
100.	Office of the National Lottery Regulator	
101.	Office of the Ombudsman	5
102.	Office of the Refugee Appeals Tribunal	
103.	Office of the Refugee Applications Commissioner	
104.	Office of the State Pathologist	
105.	Opticians Board	
106.	Ordnance Survey Ireland	10
107.	Parole Board	
108.	Pensions Authority	
109.	Pensions Council	
110.	Pensions Ombudsman	
111.	Pharmaceutical Society of Ireland	15
112.	Pobal	
113.	Pre-Hospital Emergency Care Council	
114.	Private Residential Tenancies Board	
115.	Private Security Authority	
116.	Property Registration Authority	20
117.	Public Appointments Service	
118.	Quality and Qualifications Ireland	
119.	Railway Safety Commission	
120.	Revenue Commissioners	
121.	Road Safety Authority	25
122.	Scéim Aoisliúntas Fhoireann (Udarás na Gaeltachta/Bhord na Gaeilge)	
123.	Science Foundation Ireland	
124.	Sea Fisheries Protection Agency	
125.	Skillnets	
126.	Solas	30
127.	Standards in Public Office Commission	
128.	State Examinations Commission	
129.	State Laboratory	

130.	Strategic Banking Corporation of Ireland	
131.	Sustainable Energy Authority of Ireland	
132.	Office of Ombudsman for the Defence Forces	
133.	Teaching Council	
134.	Teagasc	5
135.	Tourism Ireland	
136.	Transport Infrastructure Ireland	
137.	Údarás na Gaeltachta	
138.	Valuation Office	
139.	Western Development Commission	10
140.	Workplace Relations Commission	

An Bille um an nGníomhaireacht  
Athbhreithnithe Comhlachtaí Poiblí, 2016

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# BILLE

(mar a tionscnaíodh)

dá ngairtear

Acht do bhunú comhlacht ar a dtabharfar an Gníomhaireacht Athbhreithnithe Comhlachtaí Poiblí nó, sa Bhéarla, *the Public Bodies Review Agency*, dá dtugtar na cumhachtaí agus na feidhmeanna is gá agus do dhéanamh socrú i dtaobh nithe gaolmhara.

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*Na Seanadóirí Pádraig Ó Céidigh, Gearóid Ó Creachmhaoil agus Rónán Mullen a thug isteach,*

1 Nollaig, 2016

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Public Bodies Review Agency Bill 2016

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# BILL

(as initiated)

entitled

An Act to establish a body to be known as *An Gníomhaireacht Athbhreithnithe Comhlachtaí Poiblí*, or in the English language as the Public Bodies Review Agency, conferred with the necessary powers and functions and to provide for related matters.

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*Introduced by Senators Pádraig Ó Céidigh, Gerard P. Craughwell and Rónán Mullen,*

1st December, 2016

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BAILE ÁTHA CLIATH  
ARNA FHOILSIÚ AG OIFIG AN tSOLÁTHAIR  
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