



An Bille um Shláinte Leanaí 2018
Children's Health Bill 2018

Meabhrán Mínitheach agus Airgeadais
Explanatory and Financial Memorandum



AN BILLE UM SHLÁINTE LEANAÍ, 2018
CHILDREN'S HEALTH BILL 2018

EXPLANATORY AND FINANCIAL MEMORANDUM

Background and purpose of Bill

The primary purpose of the Bill is to establish a body corporate, Children's Health Ireland, to provide paediatric services, consolidating the paediatric services currently provided by the three children's hospitals, Our Lady's Children's Hospital, Crumlin; Temple Street Children's University Hospital, and the paediatric services provided at the Adelaide and Meath Hospital, Dublin, incorporating the National Children's Hospital, commonly known as Tallaght Hospital. Children's Health Ireland will become the single national tertiary/quaternary centre for highly specialised paediatric care for children from all over Ireland with the critical mass to deliver best outcomes. Together with its two paediatric outpatients and urgent care centres on the campuses of Tallaght Hospital and Connolly Hospital, it will provide all secondary, or less specialised, acute paediatric care for children from the Greater Dublin Area. As a body corporate established by an Act of the Oireachtas, Children's Health Ireland will have the necessary status in terms of giving national leadership on children's healthcare and in winning the support and engagement of paediatric units around the country.

Our Lady's Children's Hospital Crumlin, Temple Street Children's University Hospital, and the Adelaide and Meath Hospital, Dublin, incorporating the National Children's Hospital, have a long tradition and commitment to paediatric care and have been at the forefront of paediatric healthcare in Ireland for many years. They are agreed that the services they provide should be combined and carried on by a single body, firstly on their existing sites at Crumlin, Temple Street and Tallaght, and in due course at the new hospital under development on the campus of St James's hospital, and in the outpatient and urgent care centres. The Bill provides for the transfer to Children's Health Ireland of employees, land, property, rights and liabilities, and records from Our Lady's Children's Hospital, Crumlin; employees, property, rights and liabilities, and records from Temple Street Children's University Hospital, and for the transfer of certain employees, property, rights and liabilities and records from Tallaght Hospital and the Health Service Executive.

The establishment of Children's Health Ireland provides the strengthened governance structure required to implement service reorganisation, including staff deployment, run the hospital and outpatient and urgent care centres when they are built, and to oversee the complex work of integration and transition to the new facilities. As a State body, Children's Health Ireland will be subject to the high standards of corporate governance and accountability required of State bodies, while the Bill also provides that it will exercise its functions in a manner which reflects the values developed

with and by the three hospitals for the new body of providing child-centred, compassionate and progressive care, delivered with respect, excellence and integrity.

The Children's Hospital Group Board, a non-statutory administrative Board established in 2013, is currently overseeing the complex integration of the three hospitals and transition of existing services into one single entity. The Children's Hospital Group Board, whose membership includes representatives of the Boards of the three children's hospitals, a representative from Northern Ireland and international expertise, will become the first Board of Children's Health Ireland, thereby maintaining continuity, and with the required competencies to undertake the leadership role required over the next few years.

Finally, the Bill provides for certain amendments to the National Paediatric Hospital Development Board (Establishment) Order (SI 246 of 2007) and for the dissolution in time of that Board. The National Paediatric Hospital Development Board is a body corporate established in 2007 by Statutory Instrument under the Health (Corporate Bodies) Act, with responsibility for delivering the children's hospital capital project.

Provisions of Bill

The Bill is divided into 9 parts, the provisions of which are summarised below.

PART 1

Preliminary and general

Section 1 – Short title and commencement

This section deals with the short title and commencement arrangements, which shall be by means of Ministerial orders.

Section 2 – Interpretation

This section provides the interpretations in the Bill.

Section 3 – Expenses

This section is a standard provision with regards to expenses.

PART 2

Establishment and functions of Children's Health Ireland

Section 4 – Establishment day

This section provides that the Minister shall, by order, appoint a day to be the establishment day for the purposes of the Act.

Section 5 – Establishment of Children's Health Ireland

This section provides for the establishment of Children's Health Ireland on establishment day as a body corporate with the power to sue and be sued.

Section 6 – Object and functions

This section sets out the object and functions of Children's Health Ireland. The object of Children's Health Ireland recognises and reflects the tradition, commitment and values of the three hospitals coming together in providing child-centred, compassionate and progressive care with respect, excellence and integrity.

The functions include planning, delivering and developing acute paediatric services as part of an integrated clinical network of paediatric care. The functions also include providing for quality patient care, educational programmes for health and social care professionals, innovation of paediatric healthcare, promoting excellence in the practice of healthcare, providing information to the Minister for Health and the HSE, advocating on behalf of children, engaging in or supporting fundraising and philanthropy and carrying out such other functions as are necessary to provide paediatric healthcare.

Section 7 – Policy direction and guidelines

This section is a standard provision providing that Children’s Health Ireland will be subject to policy direction issued by the Minister for Health.

Section 8 – Subsidiaries, partnerships and other matters

This section allows Children’s Health Ireland to establish subsidiaries, partnerships, joint ventures or other appropriate corporate vehicle in exercising its functions under the Bill, particularly for the purpose of managing relationships with multiple academic partners, or pursuing philanthropic or fundraising activities, or such other activities as the Minister may approve. The consents of the Minister for Health, and the Minister for Public Expenditure and Reform are required for the establishment of such vehicles.

Section 9 – Land, property, gifts and borrowing

This section provides that Children’s Health Ireland may, with the approval of the HSE, acquire, hold and dispose of land. It may, subject to the consent of the Minister for Health, Minister for Public Expenditure and Reform, and Minister for Finance borrow money for capital or current purposes. It may accept gifts made to it so long as such conditions, if any, attaching to such gifts are consistent with its object or functions. Any gifts made to any of the three children’s hospitals, on or after the commencement of the relevant Parts, will be as if they were made to Children’s Health Ireland.

Section 10 – Accounts

This section is a standard provision requiring Children’s Health Ireland to keep accounts which must be submitted to the Comptroller and Auditor General for audit within 3 months of the end of the financial year. The audited accounts are to be laid before the Oireachtas.

Section 11 – Annual report

This section is a standard provision requiring Children’s Health Ireland to prepare an annual report.

PART 3

Board of Children’s Health Ireland

Section 12 – Board of Children’s Health Ireland

This section provides that Children’s Health Ireland will have a 12-person Board appointed by the Minister, with responsibility for Children’s Health Ireland’s strategic direction and annual work programme. In the interests of securing the necessary skills and experience on the Board, Board members will be appointed on the basis of competencies deemed relevant to the body’s functions. It is proposed that the specific skills should not be exhaustively identified in the legislation so as to allow the necessary

flexibility in identifying the need for specific competencies on the Board at different times.

The Board may delegate to the Chief Executive Officer the day-to-day running of Children's Health Ireland.

Section 13 – Membership of Board on establishment day

This section sets out the provisions regarding the Board of Children's Health Ireland on establishment day. The first Board will comprise the members of the Board of the Children's Hospital Group. The terms of office of members of the first Board will be staggered (3 and 5-year appointments) to ensure that there is continuity on the Board when subsequent members are appointed under section 14.

Section 14 – Subsequent Board

This section describes the appointment of members to the Board other than the Board on establishment day, or a Board appointed under section 18. As described above, the terms of the Board members will be staggered to ensure that there is continuity on the Board.

Under this section, Board members will be appointed for terms of 4 years, with the intention that every 2 years, the term of office of half of the 12-person Board comes to an end. These 6 persons will be reappointed or replaced by persons appointed by the Minister, on the basis of 2 persons selected by the Minister, and 4 nominated by the outgoing Board. This means that in the usual course of events, the 12 members on the Board will comprise 8 Board nominees and 4 selected by the Minister.

The practice among the existing children's hospitals of nominating Board members and electing the Chairperson from among the membership is reflected in the Bill. However, the Chairperson's appointment is conditional on the Minister's consent. In addition, the Minister has the power to approve the process for nominations by the Board and the power to remove Board members, thereby allowing for the essential ultimate accountability to the political system while respecting the integrity of the selection process.

The section also provides for the separation of Board and the executive by specifying that employees of Children's Health Ireland are not eligible to be members of the Board.

Section 15 – Casual vacancies

This section provides for filling casual vacancies on the Board using the same process as is provided for in the nomination and appointment of members in Section 14. However, where a casual vacancy is occasioned by a person appointed to a Board entirely nominated by the Minister, such as the first Board or a Board appointed on foot of the Minister exercising his powers under Section 18, such vacancy will be filled on nomination of the Board and selection by the Minister, alternating. A person who fills or occasions a casual vacancy will be deemed to have served a full term.

Section 16 – Meetings of the Board

This section sets out the procedures surrounding meetings of the Board, including the minimum number of board meetings, the quorum and how decisions will be reached.

Section 17 – Conditions of Office of members of the Board

This section sets out the conditions of office of membership of the Board, and how a member might be removed from office.

Section 18 – Removal of all members of Board from office

This section provides that the Minister may remove the entire Board for specific reasons, including confirmation following an independent review that the Board is not performing its functions in an effective manner. In that event, the section provides that the Minister will select and appoint a new Board.

Section 19 – Committee of Board

This section enables the Board to establish committees to give it expert advice and assistance in relation to its functions.

Section 20 – Membership of either House of the Oireachtas or European Parliament or Local Authority

This is a standard provision that provides a person may not be appointed to the Board or remain on the Board if s/he is or becomes a Member of the Oireachtas, European Parliament or local authority. It also provides that the CEO may not be a Member of the Oireachtas, European Parliament or local authority.

Section 21 – Expenses of members of Board and committees

This is a standard provision providing that Board and Committee members may be paid such expenses as the Minister, with the consent of the Minister for Public Expenditure and Reform may allow. However, the Bill does not provide for the payment of fees to Board and Committee members, reflecting the voluntary ethos and practice of the three children's hospitals coming together under this entity.

Section 22 – Seal of Children's Health Ireland

This section provides for the procedures surrounding the seal of Children's Health Ireland.

PART 4

Chief Executive Officer and employees of Children's Health Ireland

Section 23 – Chief Executive Officer

This section sets out the provisions in relation to the Chief Executive Officer including the appointment and terms and conditions. The first CEO will be the person who is CEO of the Children's Hospital Group immediately before establishment day. He or she may attend meetings of the Board and make submissions and advise the Board in accordance with the procedures of the Board.

Section 24 – Functions of Chief Executive Officer

This section sets out the functions and responsibility of the Chief Executive Officer. The section obliges the Chief Executive Officer to appear before the Public Accounts Committee.

Section 25 – Delegation of Functions of Chief Executive Officer

This section allows the Chief Executive Officer to delegate any of his or her functions to a specified employee of Children's Health Ireland, and that employee shall be accountable to the Chief Executive Officer for the performance of the functions so delegated.

Section 26 – Employees of Children’s Health Ireland

This section provides that Children’s Health Ireland may appoint employees, and with the approval of the HSE given with the consent of the Minister and the Minister for Public Expenditure and Reform determine the terms and conditions of service. Employees will be paid by the body out of funds at its disposal.

Section 27 – Superannuation

This section deals with the superannuation of staff, providing that employees eligible for the Single Public Service Pension Scheme will be members of that Scheme and all other employees will remain or become members of the Voluntary Hospital Superannuation Scheme.

PART 5

Transfer of employees, land, property, rights and liabilities of Crumlin Hospital to Children’s Health Ireland

Section 28 – Transfers of employees from Crumlin Hospital to Children’s Health Ireland

This section provides for the transfer of employees from Crumlin to Children’s Health Ireland on terms and conditions relating to remuneration, superannuation etc. which are no less favourable than those to which employees were subject before the transfer.

Section 29 – Transfer of land from Crumlin Hospital to Children’s Health Ireland

This section provides for the transfer of land from Crumlin Hospital to Children’s Health Ireland on commencement of the Part, without any conveyance or assignment. The reference to “land”, as per the Interpretation Act 2005, includes houses and buildings, and any estate, right or interest in or over land.

Section 30 – Transfer of property of Crumlin Hospital to Children’s Health Ireland

This section provides for the transfer of property, including choses in action, of Crumlin Hospital to Children’s Health Ireland.

Section 31 – Transfer of rights and Liabilities of Crumlin Hospital to Children’s Health Ireland

This section provides for the transfer of rights and liabilities of Crumlin Hospital to Children’s Health Ireland.

Section 32 – Liability for loss occurring before the commencement of this Part

This is a standard provision allowing liability for loss occurring before the transfer to Children’s Health Ireland to be continued following transfer.

Section 33 – Provisions consequent upon transfer of land, property, rights and liabilities to Children’s Health Ireland

This section provides that anything commenced by or under the authority of Crumlin Hospital and not completed before the commencement of this Part may be carried on or completed by Children’s Health Ireland.

Section 34 – Preservation of contracts

This section provides for the continuance in force by or against Children’s Health Ireland after the commencement of this Part of contracts, agreements or arrangements entered into by Crumlin Hospital in force immediately before the commencement of this Part.

Section 35 – Records

This is a standard provision providing for the transfer of records, including staff and medical records.

Section 36 – Indemnity for directors of Crumlin Hospital

This section enables the Minister for Health, with the consent of the Minister for Public Expenditure and Reform, to indemnify directors of Crumlin Hospital against actions or claims which may arise in respect of the *bona fide* discharge of their duties as directors of that hospital.

Section 37 – Savings for certain acts

This is a standard provision to ensure that nothing in this Act affects the validity of any act done before the commencement of this Part and every such act shall be as if it had been done by or on behalf of Children’s Health Ireland.

PART 6

Transfer of employees, property, rights and liabilities of Temple Street Hospital to Children’s Health Ireland

Section 38 – Transfer of employees from Temple Street Hospital to Children’s Health Ireland

This section provides for the transfer of employees from Temple Street Hospital to Children’s Health Ireland on such terms and conditions relating to remuneration, superannuation etc. as are no less favourable than those to which employees were subject before the transfer.

Section 39 – Transfer of property of Temple Street Hospital to Children’s Health Ireland

This section provides for the transfer of property, including choses in action, of Temple Street Hospital to Children’s Health Ireland.

Section 40 – Transfer of rights and liabilities of Temple Street Hospital to Children’s Health Ireland

This section provides for the transfer of rights and liabilities of Temple Street Hospital to Children’s Health Ireland.

Section 41 – Liabilities for loss occurring before the commencement of this Part

This is a standard provision concerning liability for loss occurring before the transfer to Children’s Health Ireland to be continued following transfer.

Section 42 – Provisions consequent upon transfer of property, rights and liabilities to Children’s Health Ireland

This section provides that anything commenced by or under the authority of Temple Street Hospital and not completed before the commencement of this Part may be carried on or completed by Children’s Health Ireland.

Section 43 – Preservation of contracts

This section provides for the continuance in force by or against Children’s Health Ireland after the commencement of this Part of contracts, agreements or arrangements entered into by Temple Street Hospital and in force immediately before the commencement of this Part.

Section 44 – Records

This is a standard provision concerning transfer of records, including medical and staff records.

Section 45 – Indemnity for directors of Temple Street Hospital

This section enables the Minister for Health, with the consent of the Minister for Public Expenditure and Reform, to indemnify directors of Temple Street Hospital against actions or claims which may arise in respect of the *bona fide* discharge of their duties as directors of that hospital.

Section 46 – Saving for certain acts

This is a standard provision to ensure that nothing in this Act affects the validity of any act done before the commencement of this Part and every such act shall be as if it had been done by or on behalf of Children's Health Ireland.

PART 7

Transfer of certain employees, property, rights and liabilities of Tallaght Hospital to Children's Health Ireland

Section 47 – Transfer of certain employees from Tallaght Hospital to Children's Health Ireland

This section provides for the transfer of designated employees from Tallaght Hospital to Children's Health Ireland on such terms and conditions, relating to remuneration, superannuation etc. as are no less favourable than those to which employees were subject before the transfer.

Section 48 – Transfer of certain property from Tallaght Hospital to Children's Health Ireland

This section provides for the transfer of such property of Tallaght Hospital to Children's Health Ireland as has been agreed by the Tallaght Board, the HSE and post establishment, Children's Health Ireland, as relevant to Children's Health Ireland.

Section 49 – Transfer of certain rights and liabilities of Tallaght Hospital to Children's Health Ireland

This section provides for the transfer of such rights and liabilities from Tallaght Hospital to Children's Health Ireland as have been agreed by the Tallaght Board, the HSE and post establishment, Children's Health Ireland, as relevant to Children's Health Ireland.

Section 50 – Liability for loss occurring before the commencement of this Part

This section provides that a claim by persons alleging to have suffered loss or personal injury in the receipt of paediatric services at Tallaght Hospital, shall after the commencement of this Part, lie against Children's Health Ireland. It also provides that such legal proceedings already in train which are agreed as being appropriate for transfer to Children's Health Ireland will continue with the substitution of that body for Tallaght Hospital.

Section 51 – Provisions consequent upon transfer of property, rights and liabilities to Children's Health Ireland

This section provides that anything transferred under this Part commenced by or under the authority of Tallaght Hospital and not completed before the commencement of this Part may be carried on or completed by Children's Health Ireland.

Section 52 – Preservation of contracts

This is a standard provision concerning the preservation of contracts following transfer to Children's Health Ireland.

Section 53 – Records

This is a standard provision concerning transfer of records, including medical and staff records.

Section 54 – Saving for certain acts

This is a standard provision to ensure that nothing in this Act affects the validity of any act done before the commencement of this Part and every such act shall be as if it had been done by or on behalf of Children's Health Ireland.

PART 8**Transfer of certain employees, property, rights and liabilities of Executive to Children's Health Ireland****Section 55 – Transfer of certain employees from Executive to Children's Health Ireland**

This section provides for the transfer of designated employees of the HSE to Children's Health Ireland on such terms and conditions relating to remuneration, superannuation etc. as are no less favourable than those to which employees were subject before the transfer.

Section 56 – Transfer of certain property, rights and liabilities of Executive to Children's Health Ireland

This is a standard provision providing that certain property, rights and liabilities of the HSE entered into by the HSE in relation to Children's Health Ireland shall be transferred to Children's Health Ireland.

Section 57 – Provisions consequent upon transfer of property, rights and liabilities to Children's Health Ireland

This is a standard provision concerning the continuation of actions commenced and not completed before the transfer to be continued following the transfer to Children's Health Ireland.

Section 58 – Preservation of contracts

This is a standard provision concerning the preservation of contracts, agreement or arrangements, following transfer to Children's Health Ireland.

Section 59 – Records

This is a standard provision concerning transfer of records, including staff records.

PART 9**National Paediatric Hospital Development Board****Section 60 – Definitions**

This is a standard provision providing definitions for certain words and terms used in Part 9, including that references to the National Paediatric Hospital Development Board in this Part will be designated as the Board.

Section 61 – Amendment of Order

This section provides for a number of amendments to the National Paediatric Hospital Development Board (Establishment) Order 2007. It substitutes Children’s Health Ireland for the three children’s hospitals in sections providing for consultation on the development of the new facilities. This section also amends the nomination process for membership of the Development Board to better reflect the primary role of the Board which is to deliver on the capital project, rather than its previous broader remit which also included operational planning for the new body. In addition, it provides that the Board may plan, equip and furnish the maternity hospital to be located on the St James’s Hospital campus next to the new children’s hospital, with the view that this function would only be commenced if a future decision is taken that the Board is the appropriate body to do this.

Section 62 – Transfer of certain property, rights and liabilities of Board to Children’s Health Ireland

This section allows for the transfer of certain property, rights and liabilities from the National Paediatric Hospital Development Board to the new entity. Given the functions of the Board in, for example, equipping the hospital, it is considered prudent to make provision for the transfer of contracts etc. relating to those matters to the new entity prior to dissolution, as and when appropriate, rather than to the HSE on dissolution.

Section 63 – Dissolution of Board

This section provides for the dissolution of the National Paediatric Hospital Development Board by order of the Minister. All property, rights and liabilities of the Board transfer on that day to the HSE.

Section 64 – Liability for loss occurring before dissolution day

This is a standard provision allowing liability for loss occurring before dissolution day and transferred to the HSE, to be continued following transfer.

Section 65 – Provisions consequent upon transfer of functions, property, rights and liabilities to Executive

This section provides that anything commenced by or under the authority of the Board and not completed before dissolution day may be carried on and completed by the HSE after dissolution day.

Section 66 – Final accounts and final annual report of Board

This section provides that the HSE will be responsible for completing the Board’s final accounts and final annual report within 6 months of the dissolution of the Board, and these shall be laid before each House of the Oireachtas.

Section 67 – Cessation of membership of Board

This section provides that the members of the Board who hold office immediately before the commencement of this section shall on such commencement cease to hold office.

Financial Implications

There are no costs arising directly from the legislation. Costs arising from the integration of three children’s hospitals, the extension of services to four sites on opening of the outpatient and urgent care centres, and the transfer of services to the new hospital on the St James’s Hospital campus and on the capital construction investment, will be addressed in the context of the normal estimates and capital costs process.

An Roinn Sláinte,

Iúil 2018.