



**An Bille um Fheidhmeannacht na Seirbhíse Sláinte
(Rialachas), 2018**

Health Service Executive (Governance) Bill 2018

*Meabhrán Mínitheach agus Airgeadais
Explanatory and Financial Memorandum*



**AN BILLE UM FHEIDHMEANNACHT NA SEIRBHÍSE
SLÁINTE (RIALACHAS), 2018
HEALTH SERVICE EXECUTIVE (GOVERNANCE) BILL 2018**

EXPLANATORY AND FINANCIAL MEMORANDUM

Background

The Health Service Executive (HSE) was established under the Health Act 2004 as a new State agency, incorporating the then Health Boards, the Eastern Regional Health Authority and some other health bodies. A Directorate governance structure was put in place for the HSE in 2013. This was always intended as a temporary measure to continue only until HSE functions moved elsewhere under the health reform programme in the Programme for Government 2011-2016. However, because of the complexities of the health reform programme, the Directorate governance structure has continued for longer than originally planned and a new Board governance structure is therefore now required. In addition, an independent Board for the HSE was also recommended by the Oireachtas Committee on the Future of Healthcare (Sláintecare Report).

Purpose of the Bill

The Bill provides for the establishment of a 9 person Board for the HSE. The Board will be the governing body for the HSE, with authority to perform the HSE's functions. The Board will be accountable to the Minister for Health for the performance of its functions.

The Bill also provides for a Chief Executive Officer (CEO) for the HSE instead of the current Director General position and for the CEO to be accountable to the Board for the performance of his or her functions. The CEO will not be a member of the Board. Other than in the case of the first CEO, the appointment of the CEO will be a matter for the Board. The Bill provides that the first CEO under the new governance structure will be the person who is the Director General immediately before the repeal of the Health Act 2004 Directorate provisions. The position of Director General is vacant at present and the arrangements in the Bill for the first CEO will be kept under review to take account of progress in filling the Director General post.

Provisions of the Bill

The Bill divides into three Parts, the provisions of which are summarised below.

Part 1 Preliminary and General

Part 1 deals with the short title, collective citation and construction, definition and repeals.

Section 1 provides for the short title, collective citation and construction.

Section 2 is the definitions section. It defines “Principal Act” as meaning the Health Act 2004.

Section 3 provides for repeals.

Part 2 Amendment of Health Act 2004

Part 2 has sections 4 to 29, amending the Health Act 2004 and providing for savers. It substitutes references and makes other amendments to take account of the new Board governance structure.

Section 4 amends section 2 of the Health Act 2004 which is the interpretation section for that Act.

Section 5 amends section 10 of the Health Act 2004 (Directions from Minister).

Section 6 amends section 10B of the Health Act 2004 which provides that Ministerial directions, priorities and performance targets may not relate to individuals.

Section 7 inserts Part 3B in the Health Act 2004. This has provisions for the Board with new sections 16N to 16U.

Section 16N provides for Board membership and the appointment of members by the Minister. The Board will have nine members in total including a deputy chairperson and a chairperson. *Section 16O* provides for the filling of casual vacancies.

Section 16P provides for the role of the Board. The Board is the governing body of the HSE with authority, in the name of the HSE, to perform the HSE's functions and is accountable to the Minister for the performance of its functions. The Board may delegate HSE functions to the CEO and must inform the Minister of any delegations. The Board must also inform the Minister of any matter that it considers requires the Minister's attention.

Section 16Q has standard provisions relating to eligibility for Board membership.

Section 16R provides for removal of individual Board members and *section 16S* has provisions for removal of all Board members.

Section 16T provides for committees of the Board. (Provisions for an audit committee are in other sections). *Section 16U* provides for remuneration and expenses of Board members and Board committee members.

Section 8 inserts Part 4A in the Health Act 2004 to provide for the Chief Executive Officer. Part 4A has sections 21A to 21G.

Section 21A provides for the appointment of the CEO, including the appointment of the first CEO. *Section 21B* provides for the resignation, removal or disqualification of the CEO. *Section 21C* has the CEO's functions. Delegation of functions by the CEO to other HSE employees and subdelegations are provided for in *section 21D*.

Section 21E provides for the attendance by the CEO before certain Oireachtas Committees. Section 34B of the Health Act 2004 (amended by section 17 of the Bill) provides for the CEO's attendance before the Public Accounts Committee.

Section 21F has standard provisions on eligibility for appointment as CEO.

Section 21G provides for an acting CEO where the CEO is absent, the CEO has been suspended or the CEO post is vacant.

Sections 9 to 29 provide for other amendments to the Health Act 2004, mainly consequential to the new Board and CEO structure and also provide for the necessary savers needed for the new Board/CEO structures.

Section 9 amends section 22 of the Health Act 2004 (Employees of the Executive).

Section 10 amends section 23 of the Health Act 2004 (Superannuation).

Section 11 amends section 25 of the Health Act 2004 (Standards of integrity).

Section 12 amends section 26 of the Health Act 2004 (Unauthorised disclosure of confidential information). Unauthorised disclosure of information will be an offence and the section makes clear that protected disclosures are not unauthorised disclosures of information.

Section 13 amends section 27 of the Health Act 2004 (Disqualification resulting from membership of either House of Oireachtas, European Parliament or local authority).

Section 14 amends section 28 of the Health Act 2004 which is the interpretation section for Part 7 of the Act with accountability provisions.

Section 15 amends section 31 of the Health Act 2004 (Executive to prepare and submit service plan for Minister's approval).

Section 16 amends section 34A of the Health Act 2004 (Functions of Director General under this Part). These will now be functions of the CEO.

Section 17 amends section 34B of the Health Act 2004 (Appearance of Director General before Committee of Public Accounts). This will now refer to the CEO.

Section 18 amends section 35 of the Health Act 2004 (Code of governance).

Section 19 amends section 40G of the Health Act 2004.

Sections 20, 21 and 22 have provisions for an audit committee and take account of the new governance structure. The relevant sections of the Health Act 2004 are section 40H (Audit committee), a new section 40HA (Provisions supplementary to section 40H) which is included by this Bill and section 22 (Functions of audit committee).

Section 23 amends section 51 of the Health Act 2004 (Restriction on type of recommendations complaints officers may make and power to suspend implementation of recommendations).

Section 24 amends section 55S of the Health Act 2004 as some provisions in this section are now covered in section 82 of the Act.

Section 25 amends section 76 of the Health Act 2004 (Effect of delegation and subdelegation of functions).

Section 26 amends section 77 of the Health Act 2004 (Certificate evidence concerning delegation of functions).

Section 27 amends section 79 of the Health Act 2004 (Regulations relating to members of either House of Oireachtas). This is consequential to the amendment to section 26 of the Health Act 2004.

Section 28 inserts three new sections in the Health Act 2004, sections 81, 82 and 83. *Section 81* provides for savers, *section 82* provides for offences and *section 83* provides for references to the Board and the CEO.

Section 29 amends Schedule 2 of the Health Act 2004 and relates to Board meetings, a quorum and procedures.

Part 3 of the Bill - Miscellaneous

Part 3 has sections 30 to 34 and amends references to the Director General in primary and secondary legislation. *Section 30* amends the Health Act 1970. *Section 31* amends the Unfair Dismissals Act 1977. *Section 32* amends the Children First Act 2015. *Section 33* amends the European Union (Cosmetic Products) Regulations 2013. *Section 34* amends the European Union (Manufacture, Presentation and Sale of Tobacco and Related Products) Regulations 2016.

Financial Implications of the Bill

There are no significant financial implications for the Exchequer arising from this Bill.

An Roinn Sláinte

Iúil, 2018.