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*Number 27 of 2018*

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**Children's Health Act 2018**

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**CHILDREN'S HEALTH ACT 2018**

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*Number 27 of 2018*

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## **CHILDREN'S HEALTH ACT 2018**

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An Act to provide for the enhancement of children's health services and for that purpose to establish a body to be known as Children's Health Ireland to plan and deliver paediatric services; to provide for the transfer of employees, land, property, rights and liabilities of Our Lady's Children's Hospital, Crumlin to Children's Health Ireland; to provide for the transfer of employees, property, rights and liabilities of the Children's University Hospital, Temple Street to Children's Health Ireland; to provide for the transfer of certain employees, property, rights and liabilities of the Adelaide and Meath Hospital, Dublin, incorporating the National Children's Hospital to Children's Health Ireland; to provide for the transfer of certain employees, property, rights and liabilities of the Health Service Executive to Children's Health Ireland; to provide for an additional function of the National Paediatric Hospital Development Board and to transfer certain property, rights and liabilities of that Board to Children's Health Ireland and to provide for the dissolution of that Board; and to provide for related matters.

[20th November, 2018]

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

### PART 1

#### PRELIMINARY AND GENERAL

##### **Short title and commencement**

1. (1) This Act may be cited as the Children's Health Act 2018.
- (2) This Act shall come into operation on such day or days as the Minister may by order or orders appoint either generally or with reference to any particular purpose or provision and different days may be so appointed for different purposes or provisions.

##### **Interpretation**

2. In this Act—
  - “Board”, other than in *Part 9*, means the Board referred to in *section 12*;
  - “company” has the meaning it has in the Companies Act 2014;
  - “Crumlin Hospital” means Our Lady's Children's Hospital, Crumlin;

“establishment day” means the day appointed under *section 4*;

“Executive” means the Health Service Executive;

“General Data Protection Regulation” means Regulation (EU) 2016/679 of the European Parliament and of the Council of 27 April 2016 on the protection of natural persons with regard to the processing of personal data and on the free movement of such data, and repealing Directive 95/46/EC (General Data Protection Regulation)<sup>1</sup>;

“hospital” means the premises and services under the governance of the body established under *section 5*;

“medical records” means records created, used and stored principally for the purposes of patient care and treatment containing data concerning health or genetic data within the meaning of the General Data Protection Regulation and any associated biological materials;

“Minister” means the Minister for Health;

“subsidiary” means a subsidiary within the meaning of section 7 of the Companies Act 2014;

“superannuation benefit” means a pension, gratuity or other allowance payable on resignation, retirement or death;

“Tallaght Hospital” means the Adelaide and Meath Hospital, Dublin, incorporating the National Children’s Hospital;

“Temple Street Hospital” means the Children’s University Hospital.

### **Expenses**

3. The expenses incurred by the Minister in the administration of this Act shall, to such extent as may be sanctioned by the Minister for Public Expenditure and Reform, be paid out of monies provided by the Oireachtas.

## **PART 2**

### **ESTABLISHMENT AND FUNCTIONS OF CHILDREN’S HEALTH IRELAND**

#### **Establishment day**

4. The Minister shall, by order, appoint a day to be the establishment day for the purposes of this Act.

#### **Establishment of Children’s Health Ireland**

5. (1) There shall stand established on the establishment day a body, which shall be known as Children’s Health Ireland, to perform the functions conferred on it by or under this Act.

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<sup>1</sup> OJ No. L 119.1, 4.5.2016, p.1-88

- (2) Children's Health Ireland shall be a body corporate with perpetual succession and an official seal and shall have the power to sue and may be sued in its corporate name.

### **Object and functions**

6. (1) The object of Children's Health Ireland is to improve, promote and protect the health, mental health and well-being of children in a manner that embodies the values of child-centred, compassionate and progressive care provided with respect, excellence and integrity and in doing so it shall have the right and responsibility to promote the culture and traditional principles of voluntarism in the conduct of its internal and external affairs.
- (2) Children's Health Ireland shall have the following functions:
- (a) to plan, conduct, maintain, manage, provide and develop paediatric services in the hospital;
  - (b) to provide for patient safety and quality of patient care in the hospital;
  - (c) to promote excellence in the practice and provision of paediatric services and provide leadership in the advancement, development, organisation and delivery of paediatric services in an integrated clinical network for paediatric services;
  - (d) to facilitate, foster and promote, through educational and other programmes, the personal and professional development of its employees and to provide paediatric medical, nursing and health and social care professional training and education;
  - (e) to facilitate, foster, promote and carry out research and innovation aimed at improving paediatric services and advancing medical and scientific knowledge relating to paediatric services through research and scientific investigation and inquiry;
  - (f) to provide information, advice, advocacy, and assistance in relation to paediatric services to the Minister, the Executive, the Health Information and Quality Authority, and such other persons as have involvement in the provision of paediatric services, as may be necessary;
  - (g) to advocate on behalf of children and young people about healthcare issues;
  - (h) to engage in or support fundraising and philanthropy in relation to Children's Health Ireland and the provision of paediatric services in the hospital in pursuit of the object of Children's Health Ireland;
  - (i) to carry out such other functions as are necessary to provide paediatric services in the hospital.
- (3) In the performance of its functions, Children's Health Ireland shall have regard to—
- (a) the objectives of the public health system and the role of Children's Health Ireland within that system,
  - (b) the promotion of equity of access to paediatric services and of improved patient outcomes in the hospital,

- (c) the need to secure the most beneficial, effective and efficient use of the resources available to it, and
  - (d) the views of children and young people in the development and delivery of services to them in hospital.
- (4) Children's Health Ireland shall have all such powers as are necessary or expedient for the performance of its functions.

#### **Policy directions and guidelines**

7. Children's Health Ireland shall have regard to Government policy to the extent that it may affect or relate to its functions and shall comply with any policy direction or guidelines that may from time to time be notified to it by the Minister.

#### **Subsidiaries, partnerships and other matters**

8. (1) Children's Health Ireland may, with the approval of the Minister given with the consent of the Minister for Public Expenditure and Reform, for the purposes of—
- (a) managing relationships with multiple academic partners,
  - (b) pursuing philanthropic activities,
  - (c) pursuing fund raising activities, and
  - (d) such other purposes, relating to the functions of Children's Health Ireland, as the Minister may approve,
- form and establish or acquire one or more subsidiaries, partnerships, joint ventures or other corporate vehicles.
- (2) Children's Health Ireland or a subsidiary may, either by itself or with another person, with the approval of the Minister given with the prior consent of the Minister for Public Expenditure and Reform, promote and take part in the formation or establishment of a company, or enter into a joint venture, partnership or other corporate vehicle, for the purposes referred to in *subsection (1)*.
- (3) Children's Health Ireland may, with the approval of the Minister given with the prior consent of the Minister for Public Expenditure and Reform, acquire, hold and dispose of shares or other interests in a company, or become a member of a company.
- (4) The constitution of a subsidiary shall be in such form consistent with this Act as may be determined by the Board with the approval of the Minister, given with the prior consent of the Minister for Public Expenditure and Reform.
- (5) (a) A subsidiary, partnership, joint venture or other such corporate vehicle, referred to in *subsection (1)*, shall make such reports to the Board in such manner as the Board may require.
- (b) The Board shall make such reports on the operation of any subsidiaries, partnerships, joint ventures or other corporate vehicles as the Minister may request in such form as the Minister may require.

**Land, property, gifts and borrowing**

9. (1) Children's Health Ireland has power—
- (a) with the approval of the Executive, to acquire, hold and dispose of land or an interest in land,
  - (b) to acquire, hold and dispose of any other property,
  - (c) to borrow money for capital or current purposes, for the purpose of the performance of its functions, and with the prior approval of the Executive and the consent of the Minister, the Minister for Public Expenditure and Reform and the Minister for Finance, subject to such conditions, if any, as may be imposed by the Executive, the Minister and the Minister for Public Expenditure and Reform or the Minister for Finance, and
  - (d) to accept gifts of money, land or other property on such trusts or conditions as may be specified by the donor but may not accept such gifts if the conditions attaching to such gifts are inconsistent with its object or functions.
- (2) In relation to any gift made on or after the commencement of *Part 5, 6 or 7*, references in such a gift to Crumlin Hospital, Temple Street Hospital or in respect of the paediatric services provided at Tallaght Hospital, shall be construed as references to Children's Health Ireland.

**Accounts**

10. (1) The Board shall cause to be kept all proper and usual books or other records of account of—
- (a) all income and expenditure of Children's Health Ireland,
  - (b) the source of the income and the subject matter of the expenditure, and
  - (c) the property, assets and liabilities of Children's Health Ireland.
- (2) The Board shall, in respect of each financial year, cause to be prepared annual financial statements (including accounts of income and expenditure and of assets and liabilities of Children's Health Ireland).
- (3) The annual financial statements shall be presented in such form and for such financial years as the Minister may, with the consent of the Minister for Public Expenditure and Reform, specify.
- (4) Without prejudice to the generality of *subsection (1)*, the Board will also keep such special accounts as the Minister may direct.
- (5) The annual financial statements shall be submitted to the Comptroller and Auditor General for audit as soon as practicable and, in any event, not later than 3 months after the end of the financial year to which the accounts relate.
- (6) Not later than one month after the Comptroller and Auditor General issues an audit certificate for the accounts of Children's Health Ireland, 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.

- (7) If required by the Minister, Children's Health Ireland shall furnish to the Minister the information the Minister may require in respect of any balance sheet, account or report of Children's Health Ireland.
- (8) The Board, the Chief Executive Officer and other employees of Children's Health Ireland—
  - (a) shall, when requested to do so by the Minister, permit any person appointed by the Minister to examine the books or other records of account of Children's Health Ireland in respect of any financial year or other period, and
  - (b) shall facilitate the examination.
- (9) Children's Health Ireland shall pay such fee, if any, as may be fixed by the Minister for an examination referred to in *subsection (8)*.

### **Annual report**

11. (1) Children's Health Ireland shall, not later than—
  - (a) 31 May following the first complete calendar year after the establishment day, prepare and adopt a report (in this section referred to as the "annual report of Children's Health Ireland") in relation to the performance of its functions during the period since its establishment, and
  - (b) 31 May in each subsequent year, prepare and adopt a report (in this section also referred to as the "annual report of Children's Health Ireland") in relation to the performance of its functions during the preceding calendar year.
- (2) As soon as may be, but in any event not later than 21 days after adopting the annual report, Children's Health Ireland shall submit a copy of the annual report to the Minister.
- (3) The Minister shall cause a copy of the annual report to be laid before each House of the Oireachtas not later than 21 days after it has been submitted to him or her in accordance with this section.

## PART 3

### BOARD OF CHILDREN'S HEALTH IRELAND

#### **Board of Children's Health Ireland**

12. (1) Children's Health Ireland shall have a board consisting of 12 members of whom one shall be the chairperson.
- (2) The chairperson and ordinary members of the Board shall be appointed by the Minister.

- (3) Persons appointed to the Board shall be persons who have, in the opinion of the Minister, experience or expertise in matters connected to the functions of Children's Health Ireland or to corporate governance and management generally.
- (4) The Board shall—
  - (a) ensure that the object of Children's Health Ireland is fulfilled and that its functions are performed efficiently, effectively and to the highest standards,
  - (b) set the strategic objectives of Children's Health Ireland consistent with the object and functions of Children's Health Ireland,
  - (c) ensure that the appropriate systems and procedures are in place to achieve Children's Health Ireland's strategic objectives, fulfil its object and perform its functions.
- (5) In performing its functions, the Board shall act in utmost good faith with care, skill and diligence.
- (6) The Board may delegate to the Chief Executive Officer the day-to-day running of Children's Health Ireland and any of its functions which it considers should be carried out by the Chief Executive Officer and the Board shall be responsible for monitoring, approving or reviewing performance of such functions by the Chief Executive Officer.
- (7) Where a function of the Board is delegated to the Chief Executive Officer under *subsection (6)*, the delegation shall remain in force until revoked by the Board.
- (8) The Board shall provide such information relating to the performance of its functions as may be requested by the Minister.

### **Membership of Board on establishment day**

- 13.** (1) On the establishment day—
- (a) the chairperson and ordinary members of the Children's Hospital Group Board shall be appointed by the Minister to be the chairperson and ordinary members of the Board,
  - (b) where there are fewer than 11 ordinary members of the Children's Hospital Group Board or there is no chairperson of that Board, the Minister shall appoint a person to fill the vacancy on the Board on, or as soon as possible after, the establishment day.
- (2) Members of the Board appointed under *subsection (1)* shall hold office as follows:
- (a) the chairperson shall hold office for a term of 5 years from the date of his or her appointment;
  - (b) 5 ordinary members shall hold office for a term of 5 years from the date of appointment;
  - (c) 6 ordinary members shall hold office for a term of 3 years from the date of appointment.

- (3) It shall be determined by lot, drawn at the first meeting of the Board in such manner as the Board may determine, which ordinary members of the Board shall hold office for the period specified in *subsection (2)(b)* and which ordinary members of the Board shall hold office for the period specified in *subsection (2)(c)*.
- (4) The Minister shall fix the time, date and place of the first meeting of the Board to be held after the establishment day.
- (5) In this section "Children's Hospital Group Board" means the non-statutory board appointed by the Minister and in place immediately before the establishment day.

### **Subsequent Board**

14. (1) Appointments of members to the Board after the establishment day (other than appointments made in accordance with *sections 13* and *18*) shall be made by the Minister, after consultation with the chairperson of the Board as to the experience and expertise required by the Board, and such members shall hold office for a term not exceeding 4 years.
- (2) Where vacancies caused by the effluxion of time occur on the Board, the Minister shall appoint 6 persons to be members of the Board, 4 of whom shall be appointed on the nomination of the Board and 2 of whom shall be chosen by the Minister.
- (3) The members of the Board appointed by the Minister on the nomination of the Board shall not exceed 8 persons at any time.
- (4) Persons nominated by the Board to the Minister for appointment to be members of the Board shall be selected by a process approved by the Board with the consent of the Minister.
- (5) The members of the Board shall, where the office of chairperson is vacant, elect from among the members a person to be nominated for appointment by the Minister to be chairperson of the Board.
- (6) The Minister shall, where the Minister approves of a nomination made in accordance with *subsection (5)*, appoint the person nominated by the Board.
- (7) A person appointed in accordance with *subsection (6)* shall serve for the unexpired period of his or her term of office as a member of the Board or for such period, not exceeding 4 years, as the Minister considers appropriate.
- (8) The Board and the Minister shall, in so far as is practicable, endeavour to ensure that among the members of the Board there is an equitable balance between men and women.
- (9) A member of the Board whose term of office expires or is about to expire by the effluxion of time is, subject to *subsection (10)*, eligible for reappointment to the Board.
- (10) A person may not be a member of the Board for more than 2 consecutive terms but is otherwise eligible for reappointment.

- (11) A person shall not be eligible for membership of the Board if the person is an employee of Children's Health Ireland.

### **Casual vacancies**

15. (1) Subject to *subsection (3)*, where a member of the Board dies, resigns, or ceases to hold office for any reason, the Minister shall appoint a person to fill the resulting casual vacancy so occasioned in the same manner as the member who occasioned the casual vacancy was appointed.
- (2) A person who fills or occasions a casual vacancy shall be considered to have served a term as a member of a Board even though he or she will have served only part of a term.
- (3) A casual vacancy arising on the Board appointed under *section 13* or on a Board appointed under *section 18*, shall be filled on the nomination of the Board alternating with a person chosen by the Minister, beginning with a nomination of the Board and subject to there being no more than 4 persons chosen by the Minister on the Board.

### **Meetings of Board**

16. (1) The Board shall hold such and so many meetings as are necessary for the performance of its functions and shall hold no less than 6 meetings in each period of 12 months.
- (2) The chairperson may at any reasonable time call a meeting of the Board.
- (3) Where—
- (a) 6 ordinary members of the Board have presented the chairperson of the Board with a requisition to call a meeting of the Board signed by at least 6 ordinary members, and
- (b) the chairperson refuses to call a meeting or does not call a meeting within 7 days of being presented with such a requisition,
- 6 ordinary members of the Board may call a meeting of the Board.
- (4) At a meeting called under *subsection (3)*, or where the chairperson has called a meeting and cannot attend, or where the office of chairperson is vacant, the members present shall choose one of those present to chair the meeting.
- (5) The quorum for a meeting of the Board shall be 6 members.
- (6) The Board may act notwithstanding one or more vacancies among its members.
- (7) The chairperson shall chair all meetings of the Board at which he or she is present, with the exception of a meeting called in accordance with *subsection (3)*.
- (8) Every question at a meeting shall be determined by a majority of the votes of the members present and voting on the question.
- (9) Where there is an equal division of votes, the chairperson shall have a second or casting vote at a meeting at which he or she is present except where any such meeting has been called in accordance with *subsection (3)*, in which case the member chosen

in accordance with *subsection (4)* to chair that meeting shall have a second or casting vote.

- (10) The Board shall regulate, by standing orders or otherwise, the procedures and business of the Board.

#### **Conditions of office of members of Board**

17. (1) A person shall not be qualified for office and a member shall cease to be so qualified and shall cease to hold office if he or she—
- (a) is adjudicated bankrupt,
  - (b) is convicted of an indictable offence,
  - (c) is convicted of an offence involving fraud or dishonesty,
  - (d) is the subject of an order under section 160 of the Companies Act 1990 or a disqualification order within the meaning of Chapter 4 of Part 14 of the Companies Act 2014,
  - (e) is sentenced to a term of imprisonment by a court of competent jurisdiction,
  - (f) is removed by a competent authority for any reason (other than failure to pay a fee) from any register established for the purpose of registering members of a profession.
- (2) 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 failure to attend was due to illness or unless the absence was approved by the chairperson with the consent of the Minister.
- (3) (a) A member may resign from the Board by letter sent to the Minister and the resignation shall take effect from the date specified in the letter, or the date on which the Minister receives the notice, whichever is the later.
- (b) A member who resigns from the Board by letter sent to the Minister should, no later than at the time of notifying the Minister, notify the chairperson of his or her intention to resign.
- (4) The Minister may, at the request of the Board or following consultation with the chairperson, remove at any time a member from office if—
- (a) the member has become incapable through ill-health of performing his or her functions;
  - (b) the member has committed stated misbehaviour; or
  - (c) the removal of the member appears to the Minister to be necessary for the effective performance by the Board of its functions.

#### **Removal of all members of Board from office**

18. (1) The Minister may remove all the members of the Board from office where—

- (a) the Board fails to achieve a quorum for 3 consecutive meetings,
  - (b) the Board does not comply with a final judgment, order or decree of a court, or
  - (c) the Minister is satisfied, following an independent review under *subsection (2)*, that the Board's functions are not being performed in an effective manner.
- (2) The Minister may, if of the opinion that the Board's functions are not being performed in an effective manner, appoint a person to conduct an independent review of any matter giving rise to that opinion and submit a report to the Minister on the results of the review.
  - (3) The Board shall co-operate with such review and give the person conducting it all reasonable assistance, including access to such premises, equipment and records as the person may require for the purposes of the review.
  - (4) A copy of the report shall be submitted to the members of the Board within 21 days of the Minister's receipt of the report.
  - (5) Whenever the Minister removes all the members of a Board from office the Minister shall appoint persons of such experience or expertise to the Board as, in the Minister's opinion, the Board may require.
  - (6) A Board appointed under *subsection (5)* shall at the first meeting of the Board after such appointment—
    - (a) elect a member to be nominated to the Minister for appointment as chairperson of the Board, and where the Minister approves of the nomination, the member shall be appointed as chairperson for a term of 5 years, and
    - (b) select by lot to be drawn in such manner as the Board may determine 5 ordinary members who shall hold office for a term of 5 years and 6 ordinary members who shall hold office for a term 3 years.

### **Committees of Board**

19. (1) The Board may establish committees to assist and advise it on matters relating to its functions and may determine the membership and terms of reference of each committee.
- (2) The Board may appoint to a committee of the Board persons who are not members of the Board but have special knowledge and experience related to the purpose of the committee.
- (3) The Board shall specify in writing the purpose and terms of reference of each committee of the Board.
- (4) The acts of a committee of the Board are subject to confirmation in writing by the Board unless the Board dispenses with the necessity for confirmation.
- (5) The Board may regulate the procedures of a committee of the Board but, subject to any such regulation, a committee may regulate its own procedures.

- (6) The Board may at any time dissolve a committee of the Board established under this section.

### **Membership of either House of Oireachtas or European Parliament or local authority**

**20.** (1) Where a member of the Board or a committee of the Board is—

- (a) nominated as a member of Seanad Éireann,
- (b) elected as a member of either House of the Oireachtas, the European Parliament or a local authority, or
- (c) regarded pursuant to Part XIII of the Second Schedule to the Act of 1997 as having been elected to that Parliament,

he or she shall thereupon cease to be a member of the Board or of a committee of the Board.

(2) Where the Chief Executive Officer is—

- (a) nominated as a member of Seanad Éireann,
- (b) elected as a member of either House of the Oireachtas, the European Parliament or a local authority, or
- (c) regarded pursuant to Part XIII of the Second Schedule to the Act of 1997 as having been elected to that Parliament,

he or she shall thereupon cease to be Chief Executive Officer.

(3) A person who is for the time being entitled under the Standing Orders of either House of the Oireachtas to sit therein or who is a member of the European Parliament or a local authority shall, while he or she is so entitled or is such a member, be disqualified for membership of the Board or a committee of the Board.

(4) In this section “Act of 1997” means the European Parliament Elections Act 1997.

### **Expenses of members of Board and committees**

**21.** A member of the Board or committee of the Board shall be paid by Children's Health Ireland, out of moneys at its disposal, such allowances for expenses properly incurred in respect of the member's attendance at a meeting of the Board or of a committee, as the case may be, or otherwise in connection with the affairs of the Board as the Minister, with the consent of the Minister for Public Expenditure and Reform, may allow.

### **Seal of Children's Health Ireland**

**22.** (1) Children's Health Ireland shall as soon as possible after the establishment day provide itself with a seal.

(2) The seal of Children's Health Ireland shall be authenticated by the signatures of any two members of the Board or the signatures of a member of the Board and an employee of Children's Health Ireland authorised by the Board to authenticate the seal.

- (3) Judicial notice shall be taken of the seal of the Board and any document that is purporting to be an instrument made by Children's Health Ireland and sealed by the seal of Children's Health Ireland authenticated in accordance with this section, shall, unless the contrary is shown, be received in evidence and be deemed to be such instrument without further proof.

#### PART 4

##### CHIEF EXECUTIVE OFFICER AND EMPLOYEES OF CHILDREN'S HEALTH IRELAND

#### **Chief Executive Officer**

- 23.** (1) There shall be a chief executive officer of Children's Health Ireland (in this Act referred to as the "Chief Executive Officer").
- (2) The Chief Executive Officer (other than the Chief Executive Officer referred to in *subsection (4)*) shall be appointed by the Board, with the consent of the Minister, in accordance with such procedures as are determined by the Board.
- (3) The Chief Executive Officer shall hold office on such terms and conditions (including terms and conditions relating to remuneration, allowances for expenses and superannuation) as may be determined by the Board with the approval of the Executive given with the consent of the Minister and the approval of the Minister for Public Expenditure and Reform.
- (4) Notwithstanding *subsections (2) and (3)*, the person who is the Chief Executive Officer of the Children's Hospital Group immediately before the establishment day shall on the establishment day become the Chief Executive Officer for the unexpired period of his or her appointment as Chief Executive Officer of the Children's Hospital Group and shall hold office on such terms and conditions as are specified under that appointment.
- (5) The remuneration and allowances payable to the Chief Executive Officer shall be paid by Children's Health Ireland out of funds at its disposal.
- (6) The Chief Executive Officer shall not hold any other office or position without the consent of the Board.
- (7) The Chief Executive Officer may be removed from office by the Board for stated reasons.
- (8) The Chief Executive Officer may attend meetings of the Board and may make submissions, orally or in writing, to and otherwise advise the Board at such meetings in accordance with the procedures of the Board regulated under *section 16(10)*.
- (9) In this section "Children's Hospital Group" means the administrative group having responsibility for staff and budgetary matters relating to services in Crumlin Hospital and Temple Street Hospital and paediatric services in Tallaght Hospital.

**Functions of Chief Executive Officer**

- 24.** (1) The Chief Executive Officer shall—
- (a) carry on and manage, and control generally, the administration and business of Children's Health Ireland and such other functions as are conferred on him or her by or under this Act or any other enactment,
  - (b) perform such other functions as may be determined by the Board,
  - (c) provide the Board with such information (including financial information) relating to the performance of his or her functions as the Board may require.
- (2) The Chief Executive Officer shall be accountable to the Board for—
- (a) the performance of his or her functions, and
  - (b) the implementation of the Board's strategic plan in the most efficient and effective manner.
- (3) The Chief Executive Officer may make proposals to the Board on any matter relating to the functions of Children's Health Ireland.
- (4) 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 Children's Health Ireland designated by the Board.
- (5) The Chief Executive Officer, 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 annual financial statements and reports of the Comptroller and Auditor General, shall give evidence to that Committee on—
- (a) the general 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 Children's Health Ireland is required by this Act to prepare,
  - (b) the economy and efficiency of Children's Health Ireland in the use of its resources,
  - (c) the systems, procedures and practices employed by Children's Health Ireland for the purpose of evaluating the effectiveness of its operations, and
  - (d) any matter affecting Children's Health Ireland 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.
- (6) When appearing before a Committee referred to in *subsection (5)*, the Chief Executive Officer shall appear as an accountable person and not as an accounting officer.
- (7) In the performance of the duties of the Chief Executive Officer under *subsection (5)*, the Chief Executive Officer shall not question or express an opinion on the merits of—

- (a) any policy of the Government or of a Minister of the Government, or
- (b) the objectives of such a policy.

#### **Delegation of functions of Chief Executive Officer**

- 25.** (1) Subject to any directions that may be given by the Board in writing, the Chief Executive Officer may 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.
- (2) The Chief Executive Officer may revoke a delegation made in accordance with this section.

#### **Employees of Children's Health Ireland**

- 26.** (1) Children's Health Ireland shall appoint such and so many persons to be its employees using an appropriate and transparent recruitment and selection process approved by the Board.
- (2) Children's Health Ireland, with the approval of the Executive given with the consent of the Minister and the approval of the Minister for Public Expenditure and Reform, shall determine the terms and conditions of employment, including those relating to remuneration and allowances, of employees.
- (3) Remuneration and allowances of employees are payable by Children's Health Ireland out of funds at its disposal.

#### **Superannuation**

- 27.** (1) A person who immediately before his or her transfer to Children's Health Ireland under *section 28, 38 or 47* was a member of the relevant superannuation scheme or the Single Public Service Pension Scheme shall, on the transfer, continue to be a member of such scheme in accordance with its terms and conditions.
- (2) A person who immediately before his or her transfer to Children's Health Ireland under *section 55* was not a member of the relevant superannuation scheme or the Single Public Service Pension Scheme shall, on the transfer, become and be a member of the relevant superannuation scheme.
- (3) Subject to section 48 of the Public Service Pensions (Single Scheme and Other Provisions) Act 2012, a pensionable public servant who—
- (a) is not a member of the Single Public Service Pension Scheme, and
  - (b) is appointed under *section 26* to be an employee of Children's Health Ireland,
- shall, on his or her appointment to Children's Health Ireland, become and be a member of the relevant superannuation scheme in accordance with its terms and conditions.
- (4) Nothing in this section prevents the relevant superannuation scheme being varied in accordance with its terms and conditions.

(5) In this section—

“pensionable public servant” shall be construed in accordance with Part 2 of the Public Service Pensions (Single Scheme and Other Provisions) Act 2012;

“relevant superannuation scheme” means the Voluntary Hospitals’ Superannuation Schemes 1969 and 1985 as amended;

“Single Public Service Pension Scheme” means the scheme established under section 9 of the Public Service Pensions (Single Scheme and Other Provisions) Act 2012.

## PART 5

### TRANSFER OF EMPLOYEES, LAND, PROPERTY, RIGHTS AND LIABILITIES OF CRUMLIN HOSPITAL TO CHILDREN’S HEALTH IRELAND

#### **Transfer of employees from Crumlin Hospital to Children’s Health Ireland**

- 28.** (1) Every person who immediately before the commencement of this Part was an employee of Crumlin Hospital shall on the commencement of this Part be transferred to and become an employee of Children’s Health Ireland.
- (2) Except in accordance with a collective agreement negotiated with a recognised trade union or staff association, a person transferred under this section shall not, on the day of transfer, be subject to less beneficial terms and conditions of service, including those relating to tenure of office, or of remuneration, than those terms and conditions of service or of remuneration to which he or she was subject immediately before the day of transfer.
- (3) The previous service of a person transferred under *subsection (1)* shall be reckonable for the purposes of, but subject to any exceptions or exclusions in:
- (a) the Redundancy Payments Acts 1967 to 2014;
  - (b) the Protection of Employees (Part-Time Work) Act 2001;
  - (c) the Protection of Employees (Fixed-Term Work) Act 2003;
  - (d) the Organisation of Working Time Act 1997;
  - (e) the Terms of Employment (Information) Acts 1994 to 2014;
  - (f) the Minimum Notice and Terms of Employment Acts 1973 to 2005;
  - (g) the Unfair Dismissals Acts 1977 to 2015;
  - (h) the Maternity Protection Acts 1994 and 2004;
  - (i) the Parental Leave Acts 1998 and 2006;
  - (j) the Adoptive Leave Acts 1995 and 2005;
  - (k) the Carer’s Leave Act 2001.

**Transfer of land from Crumlin Hospital to Children's Health Ireland**

29. On the commencement of this Part all lands that, immediately before such commencement, were vested in Crumlin Hospital and all rights, powers and privileges relating to or connected with such lands shall, without any conveyance or assignment, stand vested in Children's Health Ireland for all the estate or interest therein that, immediately before the commencement of this Part, were vested in Crumlin Hospital, but subject to all trusts and equities affecting the lands continuing to subsist and being capable of being performed.

**Transfer of property of Crumlin Hospital to Children's Health Ireland**

30. (1) On the commencement of this Part all property, including choses-in-action, that immediately before that commencement, was vested in Crumlin Hospital shall stand vested in Children's Health Ireland without any assignment.
- (2) Every chose-in-action vested in Children's Health Ireland by virtue of *subsection (1)* may, on and from the commencement of this Part, be sued on, recovered or enforced by Children's Health Ireland in its own name, and it shall not be necessary for Children's Health Ireland or Crumlin Hospital to give notice to any person bound by the chose-in-action of the vesting effected by that subsection.

**Transfer of rights and liabilities of Crumlin Hospital to Children's Health Ireland**

31. (1) All rights and liabilities of Crumlin Hospital subsisting immediately before the commencement of this Part and arising by virtue of any contract or commitment (express or implied) shall on that commencement stand transferred to Children's Health Ireland.
- (2) Every right and liability transferred by *subsection (1)* to Children's Health Ireland may, on and after the commencement of this Part, be sued on, recovered or enforced by or against Children's Health Ireland in its own name, and it shall not be necessary for Children's Health Ireland or Crumlin Hospital to give notice to the person whose right or liability is transferred by that subsection of such transfer.

**Liability for loss occurring before the commencement of this Part**

32. (1) A claim in respect of any loss or injury alleged to have been suffered by any person arising out of the performance before the commencement of this Part of any of the functions of Crumlin Hospital shall on and after the commencement of this Part, lie against Children's Health Ireland and not against Crumlin Hospital.
- (2) Any legal proceedings pending immediately before the commencement of this Part to which Crumlin Hospital is a party, shall be continued, with the substitution in the proceedings of Children's Health Ireland for Crumlin Hospital.
- (3) Where, before the commencement of this Part, agreement has been reached between the parties concerned in settlement of a claim to which *subsection (1)* relates, the terms of which have not been implemented, or judgment in such a claim has been given in favour of a person but has not been enforced, the terms of the agreement or

judgment, as the case may be, shall, in so far as they are enforceable against Crumlin Hospital, be enforceable against Children's Health Ireland and not Crumlin Hospital.

- (4) Any claim made or proper to be made by Crumlin Hospital in respect of any loss or injury arising from the act or default of any person before the commencement of this Part shall be regarded as having been made by or proper to be made by Children's Health Ireland and may be pursued and sued for by Children's Health Ireland as if the loss or injury had been suffered by Children's Health Ireland.

### **Provisions consequent upon transfer of land, property, rights and liabilities to Children's Health Ireland**

33. (1) Anything commenced and not completed before the commencement of this Part by or under the authority of Crumlin Hospital may be carried on or completed by Children's Health Ireland.
- (2) Any money, stocks, shares or securities transferred in accordance with this Part that immediately before the commencement of this Part were standing in the name of Crumlin Hospital shall, on the request of Children's Health Ireland, be transferred into its name.

### **Preservation of contracts**

34. Every contract, agreement or arrangement to which Crumlin Hospital is a party and which is in force immediately before the commencement of this Part shall after that commencement—
- (a) continue in force,
  - (b) be enforceable by or against Children's Health Ireland, and
  - (c) be read and have effect as if the name of Children's Health Ireland were substituted in the contract, agreement or arrangement for that of Crumlin Hospital.

### **Records**

35. (1) Every record (except a record to which *subsection (2)* applies) held by Crumlin Hospital immediately before the commencement of this Part shall be transferred to Children's Health Ireland on commencement of this Part and thereafter shall be the property of Children's Health Ireland and be deemed to be held by Children's Health Ireland.
- (2) Every medical record held by Crumlin Hospital immediately before the commencement of this Part shall be transferred to Children's Health Ireland on commencement of this Part and thereafter shall be the property of Children's Health Ireland and be deemed to be held by Children's Health Ireland and the personal information in those records may be processed by Children's Health Ireland only for purposes compatible with the purposes for which the information was originally obtained.

**Indemnity for directors of Crumlin Hospital**

36. Where the Minister is satisfied that a director of Crumlin Hospital has discharged his or her duties in pursuance of the functions of that hospital in good faith, the Minister may, in the manner and to the extent and subject to the terms and conditions as the Minister may determine from time to time with the consent of the Minister for Public Expenditure and Reform, indemnify that person against all actions or claims however they arise in respect of the discharge by him or her of his or her duties as a director of Crumlin Hospital.

**Saving for certain acts**

37. Nothing in this Act affects the validity of any act done before the commencement of this Part by or under the authority of Crumlin Hospital and every such act shall, if and in so far as it was operative immediately before such commencement, have effect on or after that commencement 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****Transfer of employees from Temple Street Hospital to Children's Health Ireland**

38. (1) Every person who immediately before the commencement of this Part was an employee of Temple Street Hospital shall on the commencement of this Part be transferred to and become an employee of Children's Health Ireland.
- (2) Except in accordance with a collective agreement negotiated with a recognised trade union or staff association, a person transferred under this section shall not, on the day of transfer, be subject to less beneficial terms and conditions of service including those relating to tenure of office, or of remuneration, than those terms and conditions of service or of remuneration to which he or she was subject immediately before the day of transfer.
- (3) The previous service of a person transferred under *subsection (1)* shall be reckonable for the purposes of, but subject to any exemptions or exclusions in:
- (a) the Redundancy Payments Acts 1967 to 2014;
  - (b) the Protection of Employees (Part-Time Work) Act 2001;
  - (c) the Protection of Employees (Fixed-Term Work) Act 2003;
  - (d) the Organisation of Working Time Act 1997;
  - (e) the Terms of Employment (Information) Acts 1994 to 2014;
  - (f) the Minimum Notice and Terms of Employment Acts 1973 to 2005;
  - (g) the Unfair Dismissals Acts 1977 to 2015;
  - (h) the Maternity Protection Acts 1994 and 2004;

- (i) the Parental Leave Acts 1998 and 2006;
- (j) the Adoptive Leave Acts 1995 and 2005;
- (k) the Carer's Leave Act 2001.

#### **Transfer of property of Temple Street Hospital to Children's Health Ireland**

- 39.** (1) On the commencement of this Part such property, including choses-in-action, as may be agreed between the Mater Misericordiae and the Children's University Hospitals Ltd and the Executive that immediately before that commencement was vested in Temple Street Hospital shall stand vested in Children's Health Ireland without any assignment.
- (2) Every chose-in-action vested in Children's Health Ireland by virtue of *subsection (1)* may, on and from the commencement of this Part, be sued on, recovered or enforced by Children's Health Ireland in its own name, and it shall not be necessary for Children's Health Ireland or Temple Street Hospital, to give notice to any person bound by the chose-in-action of the vesting effected by that subsection.

#### **Transfer of rights and liabilities of Temple Street Hospital to Children's Health Ireland**

- 40.** (1) Such rights and liabilities of Temple Street Hospital as may be agreed between the Mater Misericordiae and the Children's University Hospitals Ltd and the Executive subsisting immediately before the commencement of this Part and arising by virtue of any contract or commitment (express or implied) shall on that commencement stand transferred to Children's Health Ireland.
- (2) Every right and liability transferred by *subsection (1)* to Children's Health Ireland may, on and after the commencement of this Part, be sued on, recovered or enforced by or against Children's Health Ireland in its own name, and it shall not be necessary for Children's Health Ireland, or Temple Street Hospital, to give notice to the person whose right or liability is transferred by that subsection of such transfer.

#### **Liability for loss occurring before the commencement of this Part**

- 41.** (1) A claim in respect of any loss or injury alleged to have been suffered by any person arising out of the performance before the commencement of this Part of any of the functions of Temple Street Hospital shall on and after that commencement, lie against Children's Health Ireland and not against Temple Street Hospital.
- (2) Any legal proceedings pending immediately before the commencement of this Part to which Temple Street Hospital is a party, shall be continued, with the substitution in the proceedings of Children's Health Ireland in so far as they so relate, for Temple Street Hospital.
- (3) Where, before the commencement of this Part, agreement has been reached between the parties concerned in settlement of a claim to which *subsection (1)* relates, the terms of which have not been implemented, or judgment in such a claim has been given in favour of a person but has not been enforced, the terms of the agreement or judgment, as the case may be, shall, in so far as they are enforceable against Temple

Street Hospital, be enforceable against Children's Health Ireland and not Temple Street Hospital.

- (4) Any claim made or proper to be made by Temple Street Hospital in respect of any loss or injury arising from the act or default of any person before the commencement of this Part shall be regarded as having been made by or proper to be made by Children's Health Ireland and may be pursued and sued for by Children's Health Ireland as if the loss or injury had been suffered by Children's Health Ireland.

#### **Provisions consequent upon transfer of property, rights and liabilities to Children's Health Ireland**

42. (1) Anything commenced and not completed before the commencement of this Part by or under the authority of Temple Street Hospital may be carried on or completed by Children's Health Ireland.
- (2) Any money, stocks, shares or securities transferred in accordance with this Part that immediately before the commencement of this Part were standing in the name of Temple Street Hospital shall, on the request of Children's Health Ireland, be transferred into its name.

#### **Preservation of contracts**

43. Every contract, agreement or arrangement to which Temple Street Hospital is a party and which is in force immediately before the commencement of this Part shall after that commencement—
- (a) continue in force,
  - (b) be enforceable by or against Children's Health Ireland, and
  - (c) be read and have effect as if the name of Children's Health Ireland were substituted in the contract, agreement or arrangement for that of Temple Street Hospital.

#### **Records**

44. (1) Every record (except a record to which *subsection (2)* applies) held by Temple Street Hospital immediately before the commencement of this Part shall be transferred to Children's Health Ireland on the commencement of this Part and thereafter shall be the property of Children's Health Ireland and be deemed to be held by Children's Health Ireland.
- (2) Every medical record held by Temple Street Hospital immediately before the commencement of this Part shall be transferred to Children's Health Ireland on the commencement of this Part and thereafter shall be the property of Children's Health Ireland and be deemed to be held by Children's Health Ireland and the personal information in those records may be processed by Children's Health Ireland only for purposes compatible with the purposes for which the information was originally obtained.

**Indemnity for directors of Temple Street Hospital**

45. Where the Minister is satisfied that a director of Temple Street Hospital has discharged his or her duties in pursuance of the functions of that hospital in good faith, the Minister may, in the manner and to the extent and subject to the terms and conditions as the Minister may determine from time to time with the consent of the Minister for Public Expenditure and Reform, indemnify that person against all actions or claims however they arise in respect of the discharge by him or her of his or her duties as a director of Temple Street Hospital.

**Saving for certain acts**

46. Nothing in this Act affects the validity of any act done before the commencement of this Part by or under the authority of Temple Street Hospital and every such act shall, if and in so far as it was operative immediately before such commencement, have effect on or after that commencement 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****Transfer of certain employees from Tallaght Hospital to Children's Health Ireland**

47. (1) Such persons as are designated by the Minister, following agreement between Tallaght Hospital and the Executive and, after the establishment day, Children's Health Ireland, and who, immediately before the commencement of this Part, were employees of Tallaght Hospital, shall on such day or days as may be specified for the purpose by the Minister be transferred to and become employees of Children's Health Ireland.
- (2) Except in accordance with a collective agreement negotiated with a recognised trade union or staff association, a person transferred under this section shall not, on the day of transfer, be subject to less beneficial terms and conditions of service including those relating to tenure of office, or of remuneration, than those terms and conditions of service or of remuneration to which he or she was subject immediately before the day of transfer.
- (3) The previous service of a person transferred under *subsection (1)* shall be reckonable for the purposes of, but subject to any exemptions or exclusions in:
- (a) the Redundancy Payments Acts 1967 to 2014;
  - (b) the Protection of Employees (Part-Time Work) Act 2001;
  - (c) the Protection of Employees (Fixed-Term Work) Act 2003;
  - (d) the Organisation of Working Time Act 1997;
  - (e) the Terms of Employment (Information) Acts 1994 to 2012;
  - (f) the Minimum Notice and Terms of Employment Acts 1973 to 2005;

- (g) the Unfair Dismissals Acts 1977 to 2015;
- (h) the Maternity Protection Acts 1994 and 2004;
- (i) the Parental Leave Acts 1998 and 2006;
- (j) the Adoptive Leave Acts 1995 and 2005;
- (k) the Carer's Leave Act 2001.

#### **Transfer of certain property from Tallaght Hospital to Children's Health Ireland**

- 48.** (1) Such property, including choses-in-action, that, immediately before the commencement of this Part, was vested in Tallaght Hospital and associated with paediatric services in that hospital and appropriate for transfer to Children's Health Ireland, as may be agreed between Tallaght Hospital and the Executive and after the establishment day, Children's Health Ireland, shall, on such day or days as the Minister may specify, stand vested in Children's Health Ireland without any assignment.
- (2) Every chose-in-action vested in Children's Health Ireland by *subsection (1)* may, be sued on, recovered or enforced by Children's Health Ireland in its own name, and it shall not be necessary for Children's Health Ireland or Tallaght Hospital, to give notice to any person bound by the chose-in-action of the vesting effected by that subsection.

#### **Transfer of certain rights and liabilities of Tallaght Hospital to Children's Health Ireland**

- 49.** (1) Such rights and liabilities of Tallaght Hospital subsisting immediately before the commencement of this Part, associated with the provision of paediatric services in that hospital and agreed between Tallaght Hospital, the Executive and, after the establishment day, Children's Health Ireland and arising by virtue of any contract or commitment (express or implied), shall stand transferred to Children's Health Ireland on such day or days as the Minister may specify.
- (2) Every right and liability transferred by *subsection (1)* to Children's Health Ireland may be sued on, recovered or enforced by or against Children's Health Ireland in its own name, and it shall not be necessary for Children's Health Ireland, or Tallaght Hospital, to give notice to the person whose right or liability is transferred by that subsection of such transfer.

#### **Liability for loss occurring before commencement of this Part**

- 50.** (1) A claim in respect of any loss or personal injury alleged to have been suffered by any person arising as a result of receiving paediatric services at Tallaght Hospital before the commencement of this Part, shall on and after the commencement of this Part lie against Children's Health Ireland and not against Tallaght Hospital.
- (2) Such legal proceedings relating to paediatric services as may, with the consent of the Minister, be agreed between Tallaght Hospital and the Executive, pending immediately before the commencement of this Part to which Tallaght Hospital is a

party, shall be continued, with the substitution in the proceedings of Children's Health Ireland, in so far as they so relate, for Tallaght Hospital.

- (3) Where, before the commencement of this Part, agreement has been reached between the parties concerned in settlement of a claim to which *subsection (1)* relates, the terms of which have not been implemented, or judgment in such a claim has been given in favour of a person but has not been enforced, the terms of the agreement or judgment, as the case may be, shall, in so far as they are enforceable against Tallaght Hospital, be enforceable against Children's Health Ireland in so far as they so relate and not Tallaght Hospital.
- (4) Any claim made or proper to be made by Tallaght Hospital in respect of any loss or injury arising from the act or default of any person before the commencement of this Part, which is agreed, before the establishment day, between the Executive and Tallaght Hospital and, after the establishment day, between Children's Health Ireland and that hospital as relating to paediatric services, shall be regarded as having been made by or proper to be made by Children's Health Ireland and may be pursued and sued for by Children's Health Ireland as if the loss or injury had been suffered by Children's Health Ireland.

#### **Provisions consequent upon transfer of property, rights and liabilities to Children's Health Ireland**

51. (1) Anything commenced and not completed before the commencement of this Part by or under the authority of Tallaght Hospital and transferred under this Part may be carried on or completed on or after the commencement of this Part by Children's Health Ireland.
- (2) Any money, stocks, shares or securities transferred under this Part that immediately before the commencement of this Part were standing in the name of Tallaght Hospital shall, on the request of Children's Health Ireland, be transferred into its name.

#### **Preservation of contracts**

52. A contract, agreement or arrangement to which Tallaght Hospital is a party and which is transferred to Children's Health Ireland under this Part shall after the transfer to Children's Health Ireland—
  - (a) continue in force,
  - (b) be enforceable by or against Children's Health Ireland, and
  - (c) be read and have effect as if the name of Children's Health Ireland were substituted in the contract, agreement or arrangement for that of Tallaght Hospital.

#### **Records**

53. (1) Every record (other than a record to which *subsection (2)* applies) held by Tallaght Hospital before the transfer, agreed, before the establishment day, between Tallaght Hospital and the Executive and, after the establishment day, between Tallaght

Hospital, the Executive and Children's Health Ireland, as being relevant to paediatric services shall on or after commencement of this Part stand transferred to Children's Health Ireland and shall be the property of and be deemed to be held by Children's Health Ireland.

- (2) Every medical record held by Tallaght Hospital immediately before the commencement of this Part, agreed between Tallaght Hospital and the Executive and, after the establishment day, between Tallaght Hospital, the Executive and Children's Health Ireland, shall on or after commencement of this Part stand transferred to Children's Health Ireland and on or after the transfer shall be the property of Children's Health Ireland and be deemed to be held by Children's Health Ireland and the personal information in those records may be processed by Children's Health Ireland only for purposes compatible with the purposes for which the information was originally obtained.

### **Saving for certain acts**

54. Nothing in this Act affects the validity of any act, relating to paediatric services in Tallaght hospital, done before the commencement of this Part by or under the authority of Tallaght Hospital, and every such act shall, if and in so far as it was operative immediately before that commencement, have effect on or after that commencement as if it had been done by Children's Health Ireland.

## **PART 8**

### **TRANSFER OF CERTAIN EMPLOYEES, PROPERTY, RIGHTS AND LIABILITIES OF EXECUTIVE TO CHILDREN'S HEALTH IRELAND**

#### **Transfer of certain employees from Executive to Children's Health Ireland**

55. (1) Persons who immediately before the commencement of this Part were employees of the Executive may be designated by the Minister, with the consent of the Executive, to become employees of Children's Health Ireland, and shall on such commencement be transferred to and become employees of Children's Health Ireland.
- (2) Except in accordance with a collective agreement negotiated with a recognised trade union or staff association, a person who is transferred to Children's Health Ireland under *subsection (1)* shall not, on the day of transfer, be subject to less beneficial terms and conditions of service including those relating to tenure of office, or of remuneration, than those terms and conditions of service or of remuneration to which he or she was subject immediately before the day of transfer.
- (3) Any superannuation benefit awarded to or in respect of a person referred to in *subsection (1)*, and the terms relating to those benefits, shall be no less favourable than those applicable to or in respect of that person immediately before the commencement of this Part.
- (4) The previous service of a person transferred under *subsection (1)* shall be reckonable for the purposes of, but subject to any exemptions or exclusions in:

- (a) the Redundancy Payments Acts 1967 to 2014;
- (b) the Protection of Employees (Part-Time Work) Act 2001;
- (c) the Protection of Employees (Fixed-Term Work) Act 2003;
- (d) the Organisation of Working Time Act 1997;
- (e) the Terms of Employment (Information) Acts 1994 and 2012;
- (f) the Minimum Notice and Terms of Employment Acts 1973 to 2005;
- (g) the Unfair Dismissals Acts 1977 to 2015;
- (h) the Maternity Protection Acts 1994 and 2004;
- (i) the Parental Leave Acts 1998 and 2006;
- (j) the Adoptive Leave Acts 1995 and 2005;
- (k) the Carer's Leave Act 2001.

**Transfer of certain property, rights and liabilities from Executive to Children's Health Ireland**

- 56.** (1) Such property, rights and liabilities (including choses-in-action) of the Executive subsisting immediately before the commencement of this Part and arising by virtue of any contract or commitment (express or implied) entered into by the Executive and relating to Children's Health Ireland as may—
- (a) before the commencement of this Part, be designated by the Executive, or
  - (b) after the commencement of this Part, be agreed between the Executive and Children's Health Ireland,
- shall, on such day or days as the Minister may specify, stand transferred to Children's Health Ireland.
- (2) Every right and liability transferred by *subsection (1)* to Children's Health Ireland may, on and after the commencement of this Part, be sued on, recovered or enforced by or against Children's Health Ireland in its own name, and it shall not be necessary for Children's Health Ireland, or the Executive, to give notice to the person whose right or liability is transferred by that subsection of such transfer.

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

- 57.** Anything commenced and not completed before the commencement of this Part by or under the authority of the Executive and transferred under this Part, may, in so far as it so relates, be carried on or completed by Children's Health Ireland after that transfer.

**Preservation of contracts**

- 58.** A contract, agreement or arrangement to which the Executive is a party and which is transferred to Children's Health Ireland under this Part shall after that transfer—

- (a) continue in force,
- (b) be enforceable by or against Children's Health Ireland, and
- (c) be read and have effect as if the name of Children's Health Ireland were substituted in the contract, agreement or arrangement for that of the Executive.

### Records

59. Such records pertaining to matters relevant to Children's Health Ireland, held by the Executive and identified by the Executive as appropriate for transfer to Children's Health Ireland, shall on or after commencement of this Part stand transferred to Children's Health Ireland and, on or after the transfer, shall be the property of Children's Health Ireland and be deemed to be held by Children's Health Ireland.

## PART 9

### NATIONAL PAEDIATRIC HOSPITAL DEVELOPMENT BOARD

### Definitions

60. In this Part—

“Board” means the National Paediatric Hospital Development Board;

“dissolution day” means the day appointed under *section 63*;

“Order” means the National Paediatric Hospital Development Board (Establishment) Order 2007 (S.I. No. 246 of 2007), confirmed under section 5 of the Health (Miscellaneous Provisions) Act 2007.

### Amendment of Order

61. The Order is amended—

(a) in Article 3, by the deletion of the definition of “relevant hospitals”,

(b) in Article 5—

(i) in paragraph (1)—

(I) by the insertion of the following subparagraph after subparagraph (d):

“(da) to plan, design, build, furnish and equip a maternity hospital in accordance with a brief approved by the Executive with the prior consent of the Minister, and subject to any subsequent variations to this brief as may be determined by the Executive in consultation with the Board, and with the prior consent of the Minister;”,

and

(II) the deletion of subparagraphs (b), (c) and (d),

and

- (ii) in paragraph (2), by the substitution of “Children’s Health Ireland” for “relevant hospitals”, in each place where it occurs,
- (c) in Article 6 by the substitution of “Children’s Health Ireland” for “relevant hospitals”, and
- (d) in Article 9—
  - (i) by the substitution of the following paragraph for paragraph (2):

“(2) The ordinary members of the Board shall be appointed from among persons who, in the opinion of the Minister, have experience and expertise in relation to matters connected to the functions of the Board such as would enable such persons to make a substantial contribution to the performance by the Board of its functions.”,
  - (ii) in paragraph (3), by the substitution of “for such period, not exceeding five years from the date of appointment to office, as the Minister may determine” for “five years”, and
  - (iii) by the substitution of the following paragraph for paragraph (6):

“(6) In the event of a casual vacancy arising through the death, resignation or cessation of membership under this Article of a member of the Board, including the Chairperson, the vacancy may be filled by appointment by the Minister and the person so appointed shall hold office as a member of the Board for the unexpired term of office of the said member.”.

#### **Transfer of certain property, rights and liabilities of Board to Children’s Health Ireland**

- 62.** (1) Such property, rights and liabilities (including choses-in-action, contractual obligations and other commitments, express or implied) of the Board, as may be agreed between the Board, the Executive and Children’s Health Ireland, shall, with the consent of the Minister, stand transferred to Children’s Health Ireland on such day or days as the Minister may specify.
- (2) Every right and liability transferred by *subsection (1)* to Children’s Health Ireland may, on and after the commencement of this Part, be sued on, recovered or enforced by or against Children’s Health Ireland in its own name, and it shall not be necessary for Children’s Health Ireland or the Board to give notice to the person whose right or liability is transferred by that subsection of such transfer.

#### **Dissolution of Board**

- 63.** (1) The Minister shall by order appoint a day to be the dissolution day of the Board.
- (2) The Board and any committee established by the Board shall stand dissolved on and from the dissolution day.

- (3) All property, rights and liabilities of the Board, arising by virtue of any contract or commitment (expressed or implied) entered into by it before the dissolution day shall on that day stand transferred to the Executive.
- (4) Every right and liability transferred to the Executive on the dissolution day may be sued upon, recovered or enforced by or against the Executive in its own name and it shall not be necessary for the Executive to give notice to the person whose right or liability is transferred by this section of such transfer.
- (5) Every lease entered into by the Board in relation to land or other property and in force immediately before the dissolution day, shall continue in force as if granted by the Executive.

#### **Liability for loss occurring before dissolution day**

- 64.** (1) A claim in respect of any loss or injury alleged to have been suffered by any person arising out of the performance before the dissolution day of any of the functions of the Board shall on and after that day, lie against the Executive and not against the Board.
- (2) Any legal proceedings pending immediately before the dissolution day to which the Board is a party, shall be continued, with the substitution in the proceedings of the Executive for the Board.
- (3) Where, before the dissolution day, agreement has been reached between the parties concerned in settlement of a claim to which *subsection (1)* relates, the terms of which have not been implemented, or judgment in such a claim has been given in favour of a person but has not been enforced, the terms of the agreement or judgment, as the case may be, shall, in so far as they are enforceable against the Board, be enforceable against the Executive and not the Board.
- (4) Any claim made or proper to be made by the Board in respect of any loss or injury arising from the act or default of any person before the dissolution day shall on and after that day be regarded as having been made by or proper to be made by the Executive and may be pursued and sued for by the Executive as if the loss or injury had been suffered by the Executive.

#### **Provisions consequent upon transfer of functions, property, rights and liabilities to Executive**

- 65.** (1) Anything commenced and not completed before the dissolution day by or under the authority of the Board may be carried on or completed on or after that day by the Executive.
- (2) Every instrument made under an enactment and every document (including any certificate) granted or made by the Board in the performance of its functions, shall, if and in so far as it was operative immediately before the dissolution day, have effect on and after that day as if it had been granted or made by the Executive.
- (3) References to the Board in the constitution of any company shall, on and after the dissolution day, be construed as references to the Executive.

**Final accounts and final annual report of Board**

66. (1) The Executive shall, in respect of the period up to and including the dissolution day, prepare final accounts of the Board.
- (2) The Executive shall submit the final accounts to the Minister not later than 6 months after the dissolution day.
- (3) For the purposes of *subsection (1)*, the Minister may specify a period that is longer or shorter than a financial year of the Board.
- (4) The Executive shall prepare the final annual report of the Board and submit the report to the Minister not later than 6 months after the dissolution day.
- (5) The Minister shall, as soon as practicable, after the accounts referred to in *subsection (1)* and the report referred to in *subsection (4)* are submitted to him or her, cause a copy of the documents concerned to be laid before each House of the Oireachtas.

**Cessation of membership of Board**

67. The members of the Board who hold office immediately before the commencement of this section shall on the commencement of this section cease to hold office.