



Number 25 of 2009

HEALTH (MISCELLANEOUS PROVISIONS) ACT 2009

ARRANGEMENT OF SECTIONS

PART 1

PRELIMINARY AND GENERAL

Section

1. Short title, citation, construction and commencement.
2. Definitions.
3. Expenses.

PART 2

DISSOLUTION OF NATIONAL COUNCIL ON AGEING AND OLDER PEOPLE

4. Definition.
5. Dissolution of Council.
6. Transfer of rights and liabilities.
7. Transfer of certain property.
8. Final accounts.
9. Final Report.
10. Pending legal proceedings.
11. Preservation of certain contracts and adaption of certain references to former Council.
12. Transfer of employees.
13. Records of Council.
14. Revocation.

PART 3

DISSOLUTION OF WOMEN'S HEALTH COUNCIL

15. Definition.
16. Dissolution of Council.
17. Transfer of rights and liabilities.
18. Transfer of certain property.
19. Final accounts.
20. Final Report.
21. Pending legal proceedings.
22. Preservation of certain contracts and adaption of certain references to former Council.
23. Transfer of officers.
24. Records of Council.
25. Revocation.

PART 4

DISSOLUTION OF NATIONAL CANCER SCREENING SERVICE BOARD

26. Definition.
27. Dissolution of Board.
28. Transfer of rights and liabilities.
29. Transfer of certain property.
30. Final accounts.
31. Final Report.
32. Pending legal proceedings.
33. Preservation of certain contracts and adaption of certain references to former Board.
34. Transfer of staff.
35. Records of Board.
36. Revocation.

PART 5

DISSOLUTION OF DRUG TREATMENT CENTRE BOARD

37. Definition.
38. Dissolution of Board.
39. Transfer of rights and liabilities.

[2009.] *Health (Miscellaneous Provisions) Act* [No. 25.]
2009.

40. Transfer of certain property.
41. Final accounts.
42. Final Report.
43. Pending legal proceedings.
44. Preservation of certain contracts and adaption of certain references to former Board.
45. Transfer of employees.
46. Records of Board.
47. Revocation.

PART 6

DISSOLUTION OF CRISIS PREGNANCY AGENCY

48. Definitions.
49. Dissolution of Agency.
50. Transfer of functions.
51. Transfer of rights and liabilities.
52. Transfer of certain property.
53. Final accounts.
54. Final Report.
55. Pending legal proceedings.
56. Preservation of certain contracts and adaption of certain references to former Agency.
57. Transfer of officers.
58. Records of Agency.
59. Revocation.

PART 7

EXERCISE OF CERTAIN FUNCTIONS RELATING TO SUPERANNUATION BY
MINISTER

60. Exercise of certain functions relating to superannuation by Minister.

PART 8

MISCELLANEOUS AMENDMENTS

61. Amendment of section 53 of the Health Act 1970.
62. Amendment of Hepatitis C Compensation Tribunal Act 1997.

[No. 25.] *Health (Miscellaneous Provisions) Act* [2009.]
2009.

63. Amendment of Mental Health Act 2001.
64. Amendment of Health Act 2007.
65. Amendment of National Cancer Registry Board
(Establishment) Order 1991.

ACTS REFERRED TO

Adoptive Leave Acts 1995 and 2005	
Carer's Leave Act 2001	2001, No. 19
Civil Service Regulation Acts 1956 to 2005	
Health Act 1970	1970, No. 1
Health Act 2004	2004, No. 42
Health Act 2007	2007, No. 23
Health Acts 1947 to 2008	
Hepatitis C Compensation Tribunal (Amendment) Act 2006	2006, No. 22
Hepatitis C Compensation Tribunal Act 1997	1997, No. 34
Local Government (Superannuation) Act 1980	1980, No. 8
Maternity Protection Acts 1994 and 2004	
Mental Health Act 2001	2001, No. 25
Mental Health Acts 2001 and 2008	
Minimum Notice and Terms of Employment Acts 1973 to 2005	
Nursing Homes Support Scheme Act 2009	2009, No. 15
Organisation of Working Time Act 1997	1997, No. 20
Parental Leave Acts 1998 and 2006	
Protection of Employees (Fixed-Term Work) Act 2003	2003, No. 29
Protection of Employees (Part-Time Work) Act 2001	2001, No. 45
Public Service Management (Recruitment and Appointments) Act 2004	2004, No. 33
Redundancy Payments Acts 1967 to 2007	
Terms of Employment (Information) Acts 1994 and 2001	
Unfair Dismissals Acts 1977 to 2007	



Number 25 of 2009

HEALTH (MISCELLANEOUS PROVISIONS) ACT 2009

AN ACT TO PROVIDE FOR THE DISSOLUTION OF THE NATIONAL COUNCIL ON AGEING AND OLDER PEOPLE, THE WOMEN'S HEALTH COUNCIL, THE NATIONAL CANCER SCREENING SERVICE BOARD, THE DRUG TREATMENT CENTRE BOARD AND THE CRISIS PREGNANCY AGENCY, TO PROVIDE FOR THE EXERCISE OF CERTAIN FUNCTIONS RELATING TO SUPERANNUATION BY THE MINISTER FOR HEALTH AND CHILDREN, TO PROVIDE FOR THE AMENDMENT OF THE HEALTH ACT 1970, THE HEPATITIS C COMPENSATION TRIBUNAL ACT 1997, THE MENTAL HEALTH ACT 2001, THE HEALTH ACT 2007 AND THE NATIONAL CANCER REGISTRY BOARD (ESTABLISHMENT) ORDER 1991 AND TO PROVIDE FOR RELATED MATTERS.

[21st July, 2009]

BE IT ENACTED BY THE OIREACHTAS AS FOLLOWS:

PART 1

PRELIMINARY AND GENERAL

1.—(1) This Act may be cited as the Health (Miscellaneous Provisions) Act 2009.

Short title, citation, construction and commencement.

(2) The Mental Health Acts 2001 and 2008 and *section 63* may be cited together as the Mental Health Acts 2001 to 2009 and shall be construed together as one.

(3) The Health Acts 1947 to 2008 and *section 64* may be cited together as the Health Acts 1947 to 2009 and shall be construed together as one.

(4) This Act, other than *sections 60 to 64*, shall come into operation on such day or days as the Minister may appoint by order or orders either generally or with reference to any particular purpose or provision and different days may be so appointed for different purposes or different provisions.

Pr.1 [No. 25.] *Health (Miscellaneous Provisions) Act* [2009.]
2009.

Definitions. 2.—In this Act—

“Executive” means the Health Service Executive;

“Minister” means the Minister for Health and Children.

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 Finance, be paid out of moneys provided by the Oireachtas.

PART 2

DISSOLUTION OF NATIONAL COUNCIL ON AGEING AND OLDER PEOPLE

Definition. 4.—In this Part “Council” means the National Council on Ageing and Older People.

Dissolution of Council. 5.—The Council is dissolved.

Transfer of rights and liabilities. 6.—(1) All rights and liabilities of the Council arising by virtue of any contract or commitment (expressed or implied) entered into by the Council before the commencement of this Part shall, on such commencement, stand transferred to the Minister.

(2) Every right and liability transferred by *subsection (1)* may, on and after the transfer, be sued on, recovered or enforced by or against the Minister in his or her name and it shall not be necessary for the Minister to give notice to the person whose right or liability is transferred by that subsection of such transfer.

Transfer of certain property. 7.—(1) All land which, immediately before the commencement of this Part, was vested in the Council and all rights, powers and privileges relating to or connected with that land are, on such commencement, without any conveyance or assignment, transferred to and vested in the Minister.

(2) All property other than land (including choses-in-action), which, immediately before the commencement of this Part, was the property of the Council shall, on such commencement, stand transferred to the Minister without any assignment.

(3) Every chose-in-action transferred by *subsection (2)* may, on and after the commencement of this Part, be sued upon, recovered or enforced by the Minister in his or her name and it shall not be necessary for the Minister to give notice to any person bound by the chose-in-action of the transfer effected by that subsection.

(4) Any moneys, stocks, shares and securities transferred to the Minister by *subsection (2)* which, immediately before the commencement of this Part, are in the name of the Council shall, upon the request of the Minister, be transferred into his or her name.

Final accounts. 8.—(1) As soon as may be after the commencement of this Part, but not later than one year thereafter, the Minister shall cause to be prepared final accounts of the Council, in respect of the accounting

year or part of an accounting year of the Council ending immediately before the commencement of this Part.

(2) Accounts prepared pursuant to this section shall be submitted as soon as may be by the Minister to the Comptroller and Auditor General for audit, and, immediately after the audit, a copy of the accounts as audited and a copy of the Comptroller and Auditor General's report on the accounts shall be presented to the Minister who shall cause copies of those audited accounts and that report to be laid before each House of the Oireachtas.

9.—(1) As soon as may be after the commencement of this Part, but not later than one year thereafter, the Minister shall cause to be prepared a final report of the Council's activities in respect of such period as has not already been the subject of a report to the Minister and ending immediately before the commencement of this Part. Final Report.

(2) The Minister shall cause copies of the report referred to in *subsection (1)* to be laid before each House of the Oireachtas.

10.—Where, immediately before the commencement of this Part, any legal proceedings to which the Council is a party are pending, the name of the Minister shall be substituted in the proceedings for the name of the Council and the proceedings shall not abate by reason of such substitution. Pending legal proceedings.

11.—Every contract or agreement made between the Council or any trustee or agent thereof acting on its behalf, and any other person, which is in force immediately before the commencement of this Part, shall continue in force and shall be construed and have effect as if the Minister were substituted therein for the Council or, as the case may be, its trustee or agent acting on its behalf, and shall be enforceable against the Minister. Preservation of certain contracts and adaption of certain references to former Council.

12.—(1) Every person who, immediately before the commencement of this Part, is an employee of the Council shall, on such commencement, hold an unestablished position in the Civil Service. Transfer of employees.

(2) Save in accordance with a collective agreement negotiated with any recognised trade union or staff association concerned, a person referred to in *subsection (1)* shall not, on the commencement of this Part, be brought to less beneficial conditions of remuneration than the conditions of remuneration to which he or she was subject immediately before the commencement of this Part.

(3) The previous service of a person referred to in *subsection (1)* shall be reckonable for the purposes of, but subject to any exceptions or exclusions in:

- (a) the Redundancy Payments Acts 1967 to 2007;
- (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;

[No. 25.] *Health (Miscellaneous Provisions) Act* [2009.]
2009.

- (e) the Terms of Employment (Information) Acts 1994 and 2001;
- (f) the Minimum Notice and Terms of Employment Acts 1973 to 2005;
- (g) the Unfair Dismissals Acts 1977 to 2007;
- (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.

(4) Any superannuation benefits 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.

(5) The pension payments and other superannuation liabilities of the Council in respect of its former employees become on the commencement of this Part the liabilities of the Minister for Finance.

(6) A person referred to in *subsection (1)* shall undertake such duties as the Minister may from time to time direct.

(7) A person referred to in *subsection (1)* shall be subject to and employed in accordance with the Civil Service Regulation Acts 1956 to 2005.

(8) In this section—

“Act of 2004” means the Public Service Management (Recruitment and Appointments) Act 2004;

“Civil Service” has the meaning assigned to it by the Act of 2004;

“recognised trade union or staff association” means a trade union or staff association recognised by the Minister for the purposes of negotiations which are concerned with the remuneration or conditions of employment, or the working conditions of the persons concerned;

“unestablished position” has the meaning assigned to it by the Act of 2004.

Records of Council. **13.**—Each record held by the Council immediately before the commencement of this Part shall, on such commencement, stand transferred to the Minister and shall, on and from that commencement, be deemed to be held by the Minister.

Revocation. **14.**—The National Council on Ageing and Older People (Establishment) Order 1997 (S.I. No. 120 of 1997) is revoked.

PART 3

DISSOLUTION OF WOMEN'S HEALTH COUNCIL

15.—In this Part “Council” means the Women’s Health Council. Definition.

16.—The Council is dissolved. Dissolution of Council.

17.—(1) All rights and liabilities of the Council arising by virtue of any contract or commitment (expressed or implied) entered into by the Council before the commencement of this Part shall, on such commencement, stand transferred to the Minister. Transfer of rights and liabilities.

(2) Every right and liability transferred by *subsection (1)* may, on and after the transfer, be sued on, recovered or enforced by or against the Minister in his or her name and it shall not be necessary for the Minister to give notice to the person whose right or liability is transferred by that subsection of such transfer.

18.—(1) All land which, immediately before the commencement of this Part, was vested in the Council and all rights, powers and privileges relating to or connected with that land are, on such commencement, without any conveyance or assignment, transferred to and vested in the Minister. Transfer of certain property.

(2) All property other than land (including choses-in-action), which, immediately before the commencement of this Part, was the property of the Council shall, on such commencement, stand transferred to the Minister without any assignment.

(3) Every chose-in-action transferred by *subsection (2)* may, on and after the commencement of this Part, be sued upon, recovered or enforced by the Minister in his or her name and it shall not be necessary for the Minister to give notice to any person bound by the chose-in-action of the transfer effected by that subsection.

(4) Any moneys, stocks, shares and securities transferred to the Minister by *subsection (2)* which, immediately before the commencement of this Part, are in the name of the Council shall, upon the request of the Minister, be transferred into his or her name.

19.—(1) As soon as may be after the commencement of this Part, but not later than one year thereafter, the Minister shall cause to be prepared final accounts of the Council, in respect of the accounting year or part of an accounting year of the Council ending immediately before the commencement of this Part. Final accounts.

(2) Accounts prepared pursuant to this section shall be submitted as soon as may be by the Minister to the Comptroller and Auditor General for audit, and, immediately after the audit, a copy of the accounts as audited and a copy of the Comptroller and Auditor General’s report on the accounts shall be presented to the Minister who shall cause copies of those audited accounts and that report to be laid before each House of the Oireachtas.

20.—(1) As soon as may be after the commencement of this Part, but not later than one year thereafter, the Minister shall cause to be Final Report.

prepared a final report of the Council's activities in respect of such period as has not already been the subject of a report to the Minister and ending immediately before the commencement of this Part.

(2) The Minister shall cause copies of the report referred to in *subsection (1)* to be laid before each House of the Oireachtas.

Pending legal proceedings.

21.—Where, immediately before the commencement of this Part, any legal proceedings to which the Council is a party are pending, the name of the Minister shall be substituted in the proceedings for the name of the Council and the proceedings shall not abate by reason of such substitution.

Preservation of certain contracts and adaption of certain references to former Council.

22.—Every contract or agreement made between the Council or any trustee or agent thereof acting on its behalf, and any other person, which is in force immediately before the commencement of this Part, shall continue in force and shall be construed and have effect as if the Minister were substituted therein for the Council or, as the case may be, its trustee or agent acting on its behalf, and shall be enforceable against the Minister.

Transfer of officers.

23.—(1) (a) Subject to *paragraph (b)*, every person who, immediately before the commencement of this Part, is an officer of the Council shall, on such commencement, hold an unestablished position in the Civil Service.

(b) Every person who, immediately before the commencement of this Part, is a fixed-term employee of the Council shall, on such commencement, hold an unestablished position as a fixed-term employee of the Minister for the duration of his or her contract of employment.

(2) Save in accordance with a collective agreement negotiated with any recognised trade union or staff association concerned, a person referred to in *subsection (1)* shall not, on the commencement of this Part, be brought to less beneficial conditions of remuneration than the conditions of remuneration to which he or she was subject immediately before the commencement of this Part.

(3) The previous service of a person referred to in *subsection (1)* shall be reckonable for the purposes of, but subject to any exceptions or exclusions in:

- (a) the Redundancy Payments Acts 1967 to 2007;
- (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 2001;
- (f) the Minimum Notice and Terms of Employment Acts 1973 to 2005;
- (g) the Unfair Dismissals Acts 1977 to 2007;

(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.

(4) Any superannuation benefits 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.

(5) The pension payments and other superannuation liabilities of the Council in respect of its former officers become on the commencement of this Part the liabilities of the Minister for Finance.

(6) A person referred to in *subsection (1)* shall undertake such duties as the Minister may from time to time direct.

(7) A person referred to in *subsection (1)* shall be subject to and employed in accordance with the Civil Service Regulation Acts 1956 to 2005.

(8) In this section—

“Act of 2004” means the Public Service Management (Recruitment and Appointments) Act 2004;

“Civil Service” has the meaning assigned to it by the Act of 2004;

“contract of employment” has the meaning assigned to it by the Protection of Employees (Fixed-Term Work) Act 2003;

“fixed-term employee” has the meaning assigned to it by the Protection of Employees (Fixed-Term Work) Act 2003;

“recognised trade union or staff association” means a trade union or staff association recognised by the Minister for the purposes of negotiations which are concerned with the remuneration or conditions of employment, or the working conditions of the persons concerned;

“unestablished position” has the meaning assigned to it by the Act of 2004.

24.—Each record held by the Council immediately before the commencement of this Part shall, on such commencement, stand transferred to the Minister and shall, on and from that commencement, be deemed to be held by the Minister. Records of Council.

25.—The Women's Health Council (Establishment) Order 1997 (S.I. No. 278 of 1997) is revoked. Revocation.

[No. 25.] *Health (Miscellaneous Provisions) Act* [2009.]
2009.

PART 4

DISSOLUTION OF NATIONAL CANCER SCREENING SERVICE BOARD

- Definition. **26.**—In this Part “Board” means the National Cancer Screening Service Board.
- Dissolution of Board. **27.**—The Board is dissolved.
- Transfer of rights and liabilities. **28.**—(1) All rights and liabilities of the Board arising by virtue of any contract or commitment (expressed or implied) entered into by the Board before the commencement of this Part shall, on such commencement, stand transferred to the Executive.
- (2) Every right and liability transferred by *subsection (1)* may, on and after the transfer, be sued on, recovered or enforced by or against the Executive in its name and it shall not be necessary for the Executive to give notice to the person whose right or liability is transferred by that subsection of such transfer.
- Transfer of certain property. **29.**—(1) All land which, immediately before the commencement of this Part, was vested in the Board and all rights, powers and privileges relating to or connected with that land are, on such commencement, without any conveyance or assignment, transferred to and vested in the Executive.
- (2) All property other than land (including choses-in-action), which, immediately before the commencement of this Part, was the property of the Board shall, on such commencement, stand transferred to the Executive without any assignment.
- (3) Every chose-in-action transferred by *subsection (2)* may, on and after the commencement of this Part, be sued upon, recovered or enforced by the Executive in its name and it shall not be necessary for the Executive to give notice to any person bound by the chose-in-action of the transfer effected by that subsection.
- (4) Any moneys, stocks, shares and securities transferred to the Executive by *subsection (2)* which, immediately before the commencement of this Part, are in the name of the Board shall, upon the request of the Executive, be transferred into its name.
- Final accounts. **30.**—(1) As soon as may be after the commencement of this Part, but not later than one year thereafter, the Executive shall cause to be prepared final accounts of the Board, in respect of the accounting year or part of an accounting year of the Board ending immediately before the commencement of this Part.
- (2) Accounts prepared pursuant to this section shall be submitted as soon as may be by the Executive to the Comptroller and Auditor General for audit, and, immediately after the audit, a copy of the accounts as audited and a copy of the Comptroller and Auditor General’s report on the accounts shall be presented to the Minister who shall cause copies of those audited accounts and that report to be laid before each House of the Oireachtas.

31.—(1) As soon as may be after the commencement of this Part, but not later than one year thereafter, the Executive shall cause to be prepared a final report to the Minister of the Board's activities, including an account of its performance against the service plan produced under Article 12(3) of the National Cancer Screening Service Board (Establishment) Order 2006 (S.I. No. 632 of 2006), in respect of such period as has not already been the subject of a report to the Minister and ending immediately before the commencement of this Part. Final Report.

(2) The Minister shall cause copies of the report referred to in *subsection (1)* to be laid before each House of the Oireachtas.

32.—Where, immediately before the commencement of this Part, any legal proceedings to which the Board is a party are pending, the name of the Executive shall be substituted in the proceedings for the name of the Board and the proceedings shall not abate by reason of such substitution. Pending legal proceedings.

33.—Every contract or agreement made between the Board or any trustee or agent thereof acting on its behalf, and any other person, which is in force immediately before the commencement of this Part, shall continue in force and shall be construed and have effect as if the Executive were substituted therein for the Board or, as the case may be, its trustee or agent on its behalf, and shall be enforceable against the Executive. Preservation of certain contracts and adaption of certain references to former Board.

34.—(1) Every person who, immediately before the commencement of this Part, is a member of the staff of the Board shall, on such commencement, be transferred to and become an employee of the Executive. Transfer of staff.

(2) Save in accordance with a collective agreement negotiated with any recognised trade union or staff association concerned, a person referred to in *subsection (1)* shall not, on the commencement of this Part, be brought to less beneficial conditions of service (including conditions in relation to tenure) or of remuneration than the conditions of service (including conditions in relation to tenure) or remuneration to which he or she was subject immediately before the commencement of this Part.

(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 2007;
- (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 2001;
- (f) the Minimum Notice and Terms of Employment Acts 1973 to 2005;

- (g) the Unfair Dismissals Acts 1977 to 2007;
- (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.

(4) Any superannuation benefits awarded to or in respect of a person transferred under *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.

(5) The pension payments and other superannuation liabilities of the Board in respect of its former members of staff become on the commencement of this Part the liabilities of the Executive.

(6) A person referred to in *subsection (1)* shall be subject to and employed in accordance with the Health Acts 1947 to 2008.

(7) In this section "recognised trade union or staff association" means a trade union or staff association recognised by the Executive for the purposes of negotiations which are concerned with the remuneration or conditions of employment, or the working conditions of the persons concerned.

Records of Board. **35.**—Each record held by the Board immediately before the commencement of this Part shall, on such commencement, stand transferred to the Executive and shall, on and from that commencement, be deemed to be held by the Executive.

Revocation. **36.**—The National Cancer Screening Service Board (Establishment) Order 2006 (S.I. No. 632 of 2006) is revoked.

PART 5

DISSOLUTION OF DRUG TREATMENT CENTRE BOARD

Definition. **37.**—In this Part "Board" means the Drug Treatment Centre Board.

Dissolution of Board. **38.**—The Board is dissolved.

Transfer of rights and liabilities. **39.**—(1) All rights and liabilities of the Board arising by virtue of any contract or commitment (expressed or implied) entered into by the Board before the commencement of this Part shall, on such commencement, stand transferred to the Executive.

(2) Every right and liability transferred by *subsection (1)* may, on and after the transfer, be sued on, recovered or enforced by or against the Executive in its name and it shall not be necessary for the Executive to give notice to the person whose right or liability is transferred by that subsection of such transfer.

40.—(1) All land which, immediately before the commencement of this Part, was vested in the Board and all rights, powers and privileges relating to or connected with that land are, on such commencement, without any conveyance or assignment, transferred to and vested in the Executive. Transfer of certain property.

(2) All property other than land (including choses-in-action), which, immediately before the commencement of this Part, was the property of the Board shall, on such commencement, stand transferred to the Executive without any assignment.

(3) Every chose-in-action transferred by *subsection (2)* may, on and after the commencement of this Part, be sued upon, recovered or enforced by the Executive in its name and it shall not be necessary for the Executive to give notice to any person bound by the chose-in-action of the transfer effected by that subsection.

(4) Any moneys, stocks, shares and securities transferred to the Executive by *subsection (2)* which, immediately before the commencement of this Part, are in the name of the Board shall, upon the request of the Executive, be transferred into its name.

41.—(1) As soon as may be after the commencement of this Part, but not later than one year thereafter, the Executive shall cause to be prepared final accounts of the Board, in respect of the accounting year or part of an accounting year of the Board ending immediately before the commencement of this Part. Final accounts.

(2) Accounts prepared pursuant to this section shall be submitted as soon as may be by the Executive to the Comptroller and Auditor General for audit, and, immediately after the audit, a copy of the accounts as audited and a copy of the Comptroller and Auditor General's report on the accounts shall be presented to the Minister who shall cause copies of those audited accounts and that report to be laid before each House of the Oireachtas.

42.—(1) As soon as may be after the commencement of this Part, but not later than one year thereafter, the Executive shall cause to be prepared a final report to the Minister of the Board's activities, in respect of such period as has not already been the subject of a report to the Minister and ending immediately before the commencement of this Part. Final Report.

(2) The Minister shall cause copies of the report referred to in *subsection (1)* to be laid before each House of the Oireachtas.

43.—Where, immediately before the commencement of this Part, any legal proceedings to which the Board is a party are pending, the name of the Executive shall be substituted in the proceedings for the name of the Board and the proceedings shall not abate by reason of such substitution. Pending legal proceedings.

44.—Every contract or agreement made between the Board or any trustee or agent thereof acting on its behalf, and any other person, which is in force immediately before the commencement of this Part, shall continue in force and shall be construed and have effect as if the Executive were substituted therein for the Board or, as the case Preservation of certain contracts and adaption of certain references to former Board.

may be, its trustee or agent acting on its behalf, and shall be enforceable against the Executive.

Transfer of employees.

45.—(1) Every person who, immediately before the commencement of this Part, is an employee of the Board shall, on such commencement, be transferred to and become an employee of the Executive.

(2) Save in accordance with a collective agreement negotiated with any recognised trade union or staff association concerned, a person referred to in *subsection (1)* shall not, on the commencement of this Part, be brought to less beneficial conditions of service (including conditions in relation to tenure) or of remuneration than the conditions of service (including conditions in relation to tenure) or remuneration to which he or she was subject immediately before the commencement of this Part.

(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 2007;
- (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 2001;
- (f) the Minimum Notice and Terms of Employment Acts 1973 to 2005;
- (g) the Unfair Dismissals Acts 1977 to 2007;
- (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.

(4) Any superannuation benefits awarded to or in respect of a person transferred under *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.

(5) The pension payments and other superannuation liabilities of the Board in respect of its former employees become on the commencement of this Part the liabilities of the Executive.

(6) A person referred to in *subsection (1)* shall be subject to and employed in accordance with the Health Acts 1947 to 2008.

(7) In this section “recognised trade union or staff association” means a trade union or staff association recognised by the Executive

for the purposes of negotiations which are concerned with the remuneration or conditions of employment, or the working conditions of the persons concerned.

46.—Each record held by the Board immediately before the commencement of this Part shall, on such commencement, stand transferred to the Executive and shall, on and from that commencement, be deemed to be held by the Executive. Records of Board.

47.—The Drug Treatment Centre Board (Establishment) Order 1988 (S.I. No. 76 of 1988) is revoked. Revocation.

PART 6

DISSOLUTION OF CRISIS PREGNANCY AGENCY

48.—In this Part— Definitions.

“Agency” means the Crisis Pregnancy Agency;

“Order” means the Crisis Pregnancy Agency (Establishment) Order 2001 (S.I. No. 446 of 2001).

49.—The Agency is dissolved. Dissolution of Agency.

50.—(1) The administration and business in connection with the performance of any of the functions transferred by *subsection (2)* are transferred, on the commencement of this Part, to the Executive. Transfer of functions.

(2) The functions vested in the Agency by or under paragraphs (i), (ii), (v), (vi), (vii), (viii), (ix) and (x) of Article 4 of the Order are, on such commencement, transferred to the Executive.

51.—(1) All rights and liabilities of the Agency arising by virtue of any contract or commitment (expressed or implied) entered into by the Agency before the commencement of this Part shall, on such commencement, stand transferred to the Executive. Transfer of rights and liabilities.

(2) Every right and liability transferred by *subsection (1)* may, on and after the transfer, be sued on, recovered or enforced by or against the Executive in its name and it shall not be necessary for the Executive to give notice to the person whose right or liability is transferred by that subsection of such transfer.

52.—(1) All land which, immediately before the commencement of this Part, was vested in the Agency and all rights, powers and privileges relating to or connected with that land are, on such commencement, without any conveyance or assignment, transferred to and vested in the Executive. Transfer of certain property.

(2) All property other than land (including choses-in-action), which, immediately before the commencement of this Part, was the property of the Agency shall, on such commencement, stand transferred to the Executive without any assignment.

(3) Every chose-in-action transferred by *subsection (2)* may, on and after the commencement of this Part, be sued upon, recovered or enforced by the Executive in its name and it shall not be necessary for the Executive to give notice to any person bound by the chose-in-action of the transfer effected by that subsection.

(4) Any moneys, stocks, shares and securities transferred to the Executive by *subsection (2)* which, immediately before the commencement of this Part, are in the name of the Agency shall, upon the request of the Executive, be transferred into its name.

Final accounts.

53.—(1) As soon as may be after the commencement of this Part, but not later than one year thereafter, the Executive shall cause to be prepared final accounts of the Agency, in respect of the accounting year or part of an accounting year of the Agency ending immediately before the commencement of this Part.

(2) Accounts prepared pursuant to this section shall be submitted as soon as may be by the Executive to the Comptroller and Auditor General for audit, and, immediately after the audit, a copy of the accounts as audited and a copy of the Comptroller and Auditor General's report on the accounts shall be presented to the Minister who shall cause copies of those audited accounts and that report to be laid before each House of the Oireachtas.

Final Report.

54.—(1) As soon as may be after the commencement of this Part, but not later than one year thereafter, the Executive shall cause to be prepared a final report to the Minister of the Agency's activities, in respect of such period as has not already been the subject of a report to the Minister and ending immediately before the commencement of this Part.

(2) The Minister shall cause copies of the report referred to in *subsection (1)* to be laid before each House of the Oireachtas.

Pending legal proceedings.

55.—Where, immediately before the commencement of this Part, any legal proceedings to which the Agency is a party are pending, the name of the Executive shall be substituted in the proceedings for the name of the Agency and the proceedings shall not abate by reason of such substitution.

Preservation of certain contracts and adaption of certain references to former Agency.

56.—Every contract or agreement made between the Agency or any trustee or agent thereof acting on its behalf, and any other person, which is in force immediately before the commencement of this Part, shall continue in force and shall be construed and have effect as if the Executive were substituted therein for the Agency or, as the case may be, its trustee or agent acting on its behalf, and shall be enforceable against the Executive.

Transfer of officers.

57.—(1) A person who, immediately before the commencement of this Part, is an officer of the Agency shall, on such commencement, be transferred to and become an employee of the Executive.

(2) Save in accordance with a collective agreement negotiated with any recognised trade union or staff association concerned, a person referred to in *subsection (1)* shall not, on the commencement of this Part, be brought to less beneficial conditions of service

(including conditions in relation to tenure) or of remuneration than the conditions of service (including conditions in relation to tenure) or remuneration to which he or she was subject immediately before the commencement of this Part.

(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 2007;
- (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 2001;
- (f) the Minimum Notice and Terms of Employment Acts 1973 to 2005;
- (g) the Unfair Dismissals Acts 1977 to 2007;
- (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.

(4) Any superannuation benefits awarded to or in respect of a person transferred under *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.

(5) The pension payments and other superannuation liabilities of the Agency in respect of its former officers become on the commencement of this Part the liabilities of the Executive.

(6) A person referred to in *subsection (1)* shall be subject to and employed in accordance with the Health Acts 1947 to 2008.

(7) In this section “recognised trade union or staff association” means a trade union or staff association recognised by the Executive for the purposes of negotiations which are concerned with the remuneration or conditions of employment, or the working conditions of the persons concerned.

58.—Each record held by the Agency immediately before the commencement of this Part shall, on such commencement, stand transferred to the Executive and shall, on and from that commencement, be deemed to be held by the Executive. Records of Agency.

59.—The Order is revoked. Revocation.

[No. 25.] *Health (Miscellaneous Provisions) Act* [2009.]
2009.

PART 7

EXERCISE OF CERTAIN FUNCTIONS RELATING TO SUPERANNUATION BY
MINISTER

Exercise of certain functions relating to superannuation by Minister.

60.—(1) The powers conferred on the Minister for the Environment, Heritage and Local Government by sections 2 and 4 of the Local Government (Superannuation) Act 1980 in so far as they relate to:

- (a) a health board;
- (b) an Area Health Board;
- (c) An Bord Altranais;
- (d) the Beaumont Hospital Board;
- (e) the Dental Council;
- (f) the Drug Treatment Centre Board;
- (g) the Dublin Dental Hospital Board;
- (h) the Eastern Regional Health Authority;
- (i) the General Medical Services (Payments) Board;
- (j) the Irish Medicines Board;
- (k) the Medical Council;
- (l) the Postgraduate Medical and Dental Board;
- (m) the Health Board Executive;
- (n) the Health Research Board;
- (o) the Health Services Employers Agency;
- (p) the Hospital Bodies Administrative Bureau;
- (q) the Leopardstown Park Hospital Board;
- (r) the National Council for the Professional Development of Nursing and Midwifery;
- (s) the National Breast Screening Board;
- (t) the Pre-Hospital Emergency Care Council;
- (u) the St. James' Hospital Board; and
- (v) the Women's Health Council,

are deemed to have also been exercisable by the Minister on and from 1 February 2001 and all powers so exercised by the Minister are confirmed.

(2) Subparagraphs (i) and (ii) of paragraph (c) of section 2(9) of the Local Government (Superannuation) Act 1980 do not apply to a body referred to in *subsection (1)*.

PART 8

MISCELLANEOUS AMENDMENTS

61.—(1) Section 53(1B) of the Health Act 1970 (inserted by section 34 of the Nursing Homes Support Scheme Act 2009) is amended by the substitution of “section 6(1)(c) of the Nursing Homes Support Scheme Act 2009” for “section 6(2)(c) of the Nursing Homes Support Scheme Act 2009”. Amendment of
section 53 of the
Health Act 1970.

(2) The amendment (effected by *subsection (1)*) to section 53(1B) of the Health Act 1970 is deemed to have been included in that provision with effect from the passing of the Nursing Homes Support Scheme Act 2009 and that provision (as amended by *subsection (1)*) shall come into operation in accordance with section 2 of the Nursing Homes Support Scheme Act 2009.

62.—Section 7(1A) (inserted by section 3 of the Hepatitis C Compensation Tribunal (Amendment) Act 2006) of the Hepatitis C Compensation Tribunal Act 1997 is amended by the substitution of the following for paragraphs (n) and (o): Amendment of
Hepatitis C
Compensation
Tribunal Act 1997.

“(n) to specify that the scheme administrator shall refuse an application for a benefit, other than a benefit provided under paragraph (i), under the scheme made—

(i) by a relevant claimant who is not less than 65 years of age, and

(ii) on or after the 1st anniversary of the relevant date,

(o) to specify that no benefit, other than a benefit provided under paragraph (i), under the scheme shall—

(i) be provided, or

(ii) continue to be provided,

to a relevant claimant who is not less than 75 years of age.”.

63.—(1) Section 2 of the Mental Health Act 2001 is amended in subsection (1) by the insertion of the following definition after the definition of “approved centre”:
Amendment of
Mental Health Act
2001.

“ ‘authorised person’—

(a) in relation to the removal pursuant to section 13 of a person to an approved centre, means a person who is for the time being authorised pursuant to section 71A(2) to provide services relating to such removal,

[No. 25.] *Health (Miscellaneous Provisions) Act* [2009.]
2009.

(b) in relation to the bringing back pursuant to section 27 of a patient to an approved centre, means a person who is for the time being authorised pursuant to section 71A(2) to provide services relating to such bringing back;”.

(2) Section 9 of the Mental Health Act 2001 is amended in subsection (2) by the insertion of the following paragraph after paragraph (c):

“(cc) an authorised person (but without prejudice to any capacity that the authorised person has to make such an application by virtue of paragraph (a), (b) or (c) of subsection (1)),”.

(3) Section 13 of the Mental Health Act 2001 is amended—

(a) in subsection (2), by the insertion of “or by authorised persons” after “staff of the approved centre”, and

(b) in subsection (3), by the substitution of “in such removal” for “the members of the staff of the approved centre in the removal by the staff”.

(4) Section 27 of the Mental Health Act 2001 is amended in subsection (1)—

(a) by the insertion of “or authorised persons” after “staff of the centre”,

(b) by the substitution of “patient” for “person concerned”,

(c) by the substitution of “to other persons” for “the other persons”, and

(d) by the substitution of “in such bringing back” for “the members of the staff of the approved centre in the removal by the staff”.

(5) The Mental Health Act 2001 is amended by the insertion of the following new section after section 71:

“Removal of persons and bringing back of patients to approved centres by authorised persons or by relevant persons.

71A.—(1) The registered proprietor of an approved centre may enter into an arrangement with a person for the purposes of arranging for persons who are members of the staff of that person to provide services relating to—

(a) the removal pursuant to section 13 of persons to that centre,

(b) the bringing back pursuant to section 27 of patients to that centre, or

(c) both such removal and bringing back.

(2) Where the registered proprietor of an approved centre has entered into an arrangement referred to in subsection (1) with a person, the clinical director of that centre may authorise, in writing and for a period not exceeding 12 months as is specified in the authorisation, such and so

many persons who are members of the staff of that person to provide the services referred to in that subsection which are the subject of that arrangement.

(3) Where, before the date of commencement of this section, a person was removed to an approved centre pursuant to and in accordance with section 13 except in so far as the removal was carried out (whether in whole or in part) by a relevant person, such removal shall, to the extent that it was carried out by the relevant person, be deemed to be and to always have been carried out by a member of the staff of that centre, save for the purposes of any proceedings commenced before such date.

(4) Where, before the date of commencement of this section, a person was brought back to an approved centre pursuant to and in accordance with section 27 except in so far as the bringing back was carried out (whether in whole or in part) by a relevant person, such bringing back shall, to the extent that it was carried out by the relevant person, be deemed to be and to always have been carried out by a member of the staff of that centre, save for the purposes of any proceedings commenced before such date.

(5) In this section—

‘relevant person’—

- (a) in relation to a removal referred to in subsection (3) of a person to an approved centre, means a person who carried out (whether in whole or in part) such removal pursuant to an arrangement entered into by the registered proprietor of that centre,
- (b) in relation to a bringing back referred to in subsection (4) of a patient to an approved centre, means a person who carried out (whether in whole or in part) such bringing back pursuant to an arrangement entered into by the registered proprietor of that centre.”.

64.—(1) Section 2 of the Health Act 2007 is amended by the substitution of “section 41(1)(b)” for “section 41(b)” in the definition of “register”. Amendment of
Health Act 2007.

(2) Section 8 of the Health Act 2007 is amended in subsection (1)(c) by the substitution of “section 41(1)(a)” for “section 41(a)”.

(3) Section 75 of the Health Act 2007 is amended—

- (a) in subsection 2(b)(ii), by the substitution of “section 41(1)(a)” for “section 41(a)” in both places where it occurs, and

[No. 25.] *Health (Miscellaneous Provisions) Act* [2009.]
2009.

(b) in subsection 2(b)(iii), by the substitution of “section 41(1)(c) or (d)” for “section 41(c) or (d)”.

(4) Section 101 of the Health Act 2007 is amended—

(a) in subsection (2)(j), by the substitution of “person in charge” for “manager” in both places where it occurs,

(b) in subsection (2)(k), by the substitution of “person in charge” for “manager”,

(c) in subsection (3), by the substitution of the following for paragraph (a):

“(a) may, subject to any regulations made under Part 9 of the Health Act 2004, require registered providers—

(i) to make adequate arrangements for dealing with complaints made by or on behalf of a person who is or was receiving any of the services provided through a designated centre or who is seeking or has sought any such service, and

(ii) to publicise the arrangements.”.

Amendment of
National Cancer
Registry Board
(Establishment)
Order 1991.

65.—Article 5 (as amended by Article 2 of the National Cancer Registry Board (Establishment) Order 1991 (Amendment) Order 1996 (S.I. No. 293 of 1996)) of the National Cancer Registry Board (Establishment) Order 1991 (S.I. No. 19 of 1991) is amended by the substitution of the following for paragraph (1):

“(1) The Board shall consist of 7 members.

(1A) In appointing members of the Board the Minister shall appoint persons who—

(a) have knowledge or experience of—

(i) the collection, recording and analysis of information, or

(ii) the use of such information in research projects and the management and planning of services,

or

(b) have any other relevant competency which would assist the Board in the performance of its functions.”.