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**CIVIL DEFENCE ACT, 2002**

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**CIVIL DEFENCE ACT, 2002**

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AN ACT TO PROMOTE AND SUPPORT THE DEVELOPMENT OF CIVIL DEFENCE PLANNING AND MANAGEMENT AND TO FACILITATE THE IMPLEMENTATION OF CIVIL DEFENCE MEASURES; TO PROMOTE, DEVELOP AND MAINTAIN CIVIL DEFENCE AS AN EFFECTIVE SERVICE IN SUPPORT OF THE EMERGENCY SERVICES; TO PROVIDE FOR THE RECRUITMENT AND REGISTRATION OF CIVIL DEFENCE MEMBERS, AND FOR THOSE PURPOSES TO ESTABLISH A BODY TO BE KNOWN AS THE CIVIL DEFENCE BOARD OR, IN THE IRISH LANGUAGE, AN BORD COSANTA SIBHIALTA; TO TRANSFER FUNCTIONS FROM THE MINISTER FOR DEFENCE TO THAT BODY; TO AMEND THE AIR-RAID PRECAUTIONS ACT, 1939, AND TO PROVIDE FOR RELATED MATTERS. [10th April, 2002]

BE IT ENACTED BY THE OIREACHTAS AS FOLLOWS:

PART 1

PRELIMINARY AND GENERAL

1.—(1) This Act may be cited as the Civil Defence Act, 2002. Short title and commencement.

(2) This Act and the Air-Raid Precautions Acts, 1939 and 1946, may be cited together as the Civil Defence Acts, 1939 to 2002.

(3) This Act 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.

2.—(1) In this Act, except where the context otherwise requires— Interpretation.

“Act of 1939” means the Air-Raid Precautions Act, 1939;

“Act of 2001” means the Local Government Act, 2001;

“Board” means the Civil Defence Board established under *section 7*;

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“chairperson” means a member of the Board designated under *section 11(4)*;

“civil defence” has the same meaning as in the Protocol, additional to the Geneva Conventions of 12 August 1949, and relating to the Protection of Victims of International Armed Conflicts (Protocol I) adopted at Geneva on 8 June 1977—

- (a) the text of which Protocol is set out in the Fifth Schedule (inserted by the Geneva Conventions (Amendment) Act, 1998) to the Geneva Conventions Act, 1962, and
- (b) the definition of civil defence in that Protocol is set out for convenience of reference in *Schedule 1*;

“civil defence plan” means a civil defence plan prepared by a local authority under *section 31*;

“civil defence member” means a person who is registered in the Register of Civil Defence Members under *section 35*;

“committee” means a committee established under *section 28*;

“director general” means the chief executive officer of the Board appointed under *section 14*;

“emergency services” includes the Gardaí Síochána, the Irish Coast Guard, local authorities and the health services of the State;

“establishment day” means the day appointed by the Minister under *section 6* to be the establishment day for the purposes of this Act;

“equipment” means all or part of—

- (a) any ship, boat or other vessel,
- (b) stores, vehicles or appliances,
- (c) clothing, or
- (d) any material, constructed, designed or intended for use for the purposes of civil defence;

“local authority” means a county council or a city council which performs functions relating to civil defence;

“Minister” means the Minister for Defence;

“prescribed” means prescribed by regulations made by the Minister;

“register” means the Civil Defence Register established under *section 35*;

“strategic plan” means the strategic plan of the Board under *section 30*.

(2) The financial year of the Board shall be the period of 12 months ending on 31 December in any year and for the purposes of this Act the period commencing on the establishment day and ending on the following 31 December is deemed to be a financial year.

(3) In this Act—

- (a) a reference to a Chapter, section or Schedule is a reference to a Chapter or section of, or Schedule to, this Act, unless it is indicated that a reference to some other enactment is intended, Pr.1 S.2
- (b) a reference to a subsection, paragraph or subparagraph is a reference to the subsection, paragraph or subparagraph of the provision in which the reference occurs, unless it is indicated that a reference to some other provision is intended,
- (c) a reference to any enactment shall be construed as a reference to that enactment as amended by or under any other enactment, including this Act, and
- (d) a reference to the performance of functions includes, with respect to powers and duties, a reference to the exercise of powers and the carrying out of duties.

3.—The expenses incurred by the Minister in administering this Act, shall, to such extent as may be sanctioned by the Minister for Finance, be paid out of moneys provided by the Oireachtas. Expenses.

4.—(1) The Minister may make regulations— Regulations and orders.

- (a) prescribing any matter referred to in this Act as prescribed or to be prescribed or in relation to any matter referred to in this Act as the subject of regulations, and
- (b) for the purposes of, and for the purposes of giving full effect to, this Act.

(2) Regulations under this Act may—

- (a) include any incidental, supplementary and consequential provisions that appear to the Minister to be necessary or expedient,
- (b) apply either generally or to a specified class or classes of persons or to any other matter that the Minister may consider to be appropriate, or
- (c) include different provisions in relation to different classes of person.

(3) Every regulation made by the Minister under this Act shall be laid before each House of the Oireachtas as soon as practicable after it is made and, if a resolution annulling the regulation is passed by either House within the next 21 days on which that House has sat after the regulation is laid before it, the regulation shall be annulled accordingly, but without prejudice to the validity of anything previously done under the regulation.

(4) The Minister may by order amend or revoke an order made by him or her under this Act (other than an order under *section 1(3)* or *6*), including an order under this subsection.

(5) Where it is proposed to make an order under *section 8(4)* or *13(5)*, or an order amending or revoking such an order, a draft of the order shall be laid before each House of the Oireachtas and the

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Pt.1 S.4 order shall not be made unless a resolution approving of the draft order has been passed by each House.

Offences. **5.—(1)** A person guilty of an offence under *section 18* or *19* shall be liable on summary conviction to a fine not exceeding €1,900.

(2) Proceedings for an offence under *section 18* or *19* may be brought and prosecuted by the Minister.

(3) Where an offence under this Act is committed by a body corporate and is proved to have been committed with the consent, connivance or approval of, or to be attributable to any neglect on the part of any director, manager, secretary or other officer of the body corporate or any other person who was purporting to act in any such capacity, that officer or person as well as the body corporate shall be guilty of an offence and be liable to be proceeded against and punished as if he or she were guilty of the first-mentioned offence.

(4) Notwithstanding section 10(4) of the Petty Sessions (Ireland) Act, 1851, summary proceedings for an offence under this Act may be instituted within 12 months from the date on which the offence was committed.

## PART 2

### CIVIL DEFENCE BOARD

#### CHAPTER 1

##### *The Board: General Provisions*

Establishment day. **6.—**The Minister shall by order appoint a day to be the establishment day for the purposes of this Act.

Establishment of Board. **7.—(1)** There shall stand established on the establishment day a body to be known as the Civil Defence Board or, in the Irish language, an Bord Cosanta Sibhialta, to perform the functions conferred on it by or under this Act.

(2) The Board shall be a body corporate with perpetual succession and an official seal and with power—

(a) to sue and be sued in its corporate name, and

(b) with the consent of the Minister, to hold and dispose of land or an interest in land, and to acquire, hold and dispose of any other property.

(3) *Schedule 2* applies to the Board.

Functions of Board. **8.—(1)** The functions of the Board are—

(a) to promote and support the development at national level of civil defence planning and management and, in co-operation with local authorities, to facilitate the implementation of civil defence measures for the purposes of emergency relief and support;



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- (b) to promote, develop and maintain civil defence as an effective voluntary service in support of the emergency services;
- (c) to promote the role of civil defence in providing services, in support of the emergency services, to the local community and, for that purpose, to develop programmes designed to enhance those services;
- (d) with regard to local authorities, to promote co-operation and the co-ordination of their activities with other local authorities, so as to ensure efficiency and economy in performing their functions relating to civil defence;
- (e) having regard to any plans, howsoever described, relating to the management of emergencies at national level that are prepared and adopted by any Minister of the Government, State agencies or other bodies whose activities relate to civil defence, to establish and promote the development, maintenance and improvement of standards of—
  - (i) programmes of civil defence education and training including programmes relating to health and safety,
  - (ii) knowledge, skill and competence of those participating in implementing civil defence measures, and
  - (iii) equipment used for civil defence;
- (f) to promote public awareness and the dissemination of coordinated information to the public in relation to civil defence and to conduct public information programmes relating to preventive measures aimed at alleviating the effects of emergencies on persons or property;
- (g) to prepare and adopt, in accordance with *section 30*, a strategic plan relating to the future development of civil defence and to monitor the implementation of the plan;
- (h) to advise the Minister in relation to all or any of the following:
  - (i) such policy matters relating to the operation and future development of civil defence as the Minister may request or as the Board considers appropriate;
  - (ii) the implementation of measures considered necessary for the effective operation of civil defence;
  - (iii) any other matter relating to the Board's functions as the Board considers appropriate or as requested by the Minister;
- (i) to conduct and commission research on matters relating to the functions of the Board and for this purpose—
  - (i) to foster and promote contacts and the exchange of information with educational and research establishments and other bodies involved in civil defence in and outside the State, and

- (ii) as it considers appropriate, to publish, in the form and manner that the Board thinks fit, results arising out of that research;
  - (j) in conjunction with Ministers of the Government, State agencies or other bodies whose activities relate to civil defence, having regard to any plans referred to in *paragraph (e)*, to contribute to the development, in co-operation with other states, of civil defence measures;
  - (k) in co-operation with local authorities, to promote the recruitment of persons to perform civil defence tasks and to establish procedures for the registration of those persons;
  - (l) to establish, review and maintain codes of professional conduct for civil defence members;
  - (m) to advise such persons as the Minister may from time to time specify on any matter relating to the Board's functions;
  - (n) to advise and assist the director general in performing his or her functions;
  - (o) to comply with any general policy directives that the Minister may, from time to time, give to the Board;
  - (p) to perform any additional functions conferred on the Board by order under *subsection (4)*.
- (2) The Board has all such powers as are necessary for or incidental to the performance of its functions.

(3) Without prejudice to the generality of *paragraph (c)* of *subsection (1)*, the programmes referred to in that paragraph may include the programmes specified in *Schedule 3*.

(4) The Minister may, with the consent of the Minister for Finance, and after consultation with such other Ministers of the Government (if any) as he or she considers appropriate, by order—

- (a) confer on the Board additional functions connected with the functions for the time being of the Board, as the Minister considers appropriate, subject to the conditions (if any) that may be specified in the order, and
- (b) make such provision as he or she considers necessary or expedient in relation to matters ancillary to or arising out of the conferral of those additional functions.

Transfer of functions.

9.—(1) The functions of the Minister under—

- (a) the provisions of sections 60 and 61 of the Act of 1939, and
- (b) the provisions of any scheme made by the Minister under section 64 of the Act of 1939 that is in force immediately before the coming into operation of this section,

are hereby transferred to the Board and references in those provisions to the Minister shall be read as references to the Board.

(2) Regulations shall not be made by the Board under section 61 of the Act of 1939 except with the consent of the Minister. Pr.2 S.9

- 10.—**(1) (a) The Government may by order transfer to the Minister a function or functions of the Board where, in the opinion of the Government, there is an emergency or apprehended emergency that involves a serious risk to persons or property of such a nature or magnitude that it is necessary and expedient that the function be performed by the Minister. Transfer of functions to Minister by Government order.
- (b) The Government may by order amend or revoke an order under this subsection (including an order under this paragraph).
- (c) If a provision of an order under this subsection that transfers a function is revoked, the function shall thereupon become and be vested in the Board.
- (2) (a) An order under this section may contain such ancillary, subsidiary and incidental provisions as the Government may determine, including provision for the transfer of property, rights and liabilities associated with a function or functions so transferred.
- (b) Without prejudice to the generality of *paragraph (a)*, an order under this section may—
- (i) specify terms, conditions and restrictions upon and subject to which a function transferred by the order is to be performed by the Minister,
  - (ii) provide for the use by the Minister of the services of the staff of the Board,
  - (iii) provide for such financial arrangements and adjustments between the Board and the Minister as are considered proper by the Government,
  - (iv) provide for such other matters as are considered by the Government to be necessary to enable the transfer of a function to which the order relates to have full effect and to enable the function to be performed by the Minister.

**11.—**(1) The Board shall consist of at least 8 but not more than 14 members who shall be appointed by the Minister. Membership of Board.

- (2) The members of the Board shall be—
- (a) the director general,
  - (b) a person nominated by the County and City Managers Association,
  - (c) 4 persons who, in the opinion of the Minister, have experience in business, industry, finance or administration relevant to the Board's functions,

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- (d) a person nominated by the Minister for the Environment and Local Government who, in the opinion of that Minister, has relevant experience or expertise relating to emergency planning,
- (e) a person nominated by the Radiological Protection Institute of Ireland,
- (f) a person nominated by the Environmental Protection Agency,
- (g) a member of the Civil Defence Officers Association nominated by it,
- (h) an officer of the Defence Forces nominated by the Chief of Staff of the Defence Forces,
- (i) a member of the Garda Síochána nominated by the Commissioner of the Garda Síochána, and
- (j) subject to *subsection (5)*—
  - (i) a volunteer member of civil defence, and
  - (ii) a member of the staff of the Board.

(3) In making appointments to the Board under this section, the Minister shall ensure that not less than 4 of the members of the Board shall be women and not less than 4 shall be men.

(4) The Minister shall designate one member of the Board as chairperson.

(5) In the case of the first Board, the Minister shall appoint the members referred to in *subsection (2)(j)* and in the case of each subsequent Board those members shall be appointed by the Minister after being elected in accordance with the procedures for election prescribed by the Board, with the consent of the Minister.

(6) The Board shall prescribe the procedures referred to in *subsection (5)* and when prescribing those procedures shall—

- (a) specify the class or classes of person entitled—
  - (i) to seek election to the Board, and
  - (ii) to nominate a candidate for election to the Board or to vote in an election,
- and
- (b) have regard to the desirability of an appropriate gender balance as the Board may determine, from time to time.

Chairperson.

**12.—(1)** The term of office of the chairperson shall be 3 years.

(2) A chairperson who ceases to hold office also ceases to be a member of the Board.

(3) The chairperson may resign by letter sent to the Minister and the resignation shall, unless previously withdrawn in writing, take effect at the commencement of the meeting of the Board held next after the Board has been informed by the Minister of the resignation.

(4) Unless he or she sooner dies or otherwise ceases to be chairperson under *subsection (2) or (3)*, the chairperson holds office until the end of his or her term of office and, if reappointed as a member of the Board, is eligible to be reappointed as chairperson. Pr.2 S.12

**13.—**(1) Where the Minister is of the opinion that the Board has failed, neglected or refused to perform a function conferred on it under this Act or has failed effectively to perform such function or otherwise has contravened this Act, the Minister, after first advising the Board of that opinion and considering any explanation given in response, may appoint a person to inquire into any matter giving rise to that opinion. Removal of members of Board from office.

(2) A person appointed under *subsection (1)* shall—

- (a) inquire into the matters giving rise to the Minister's opinion and any related matter and report to the Minister on the findings of the inquiry,
- (b) for the purposes of this section, be entitled at all reasonable times to enter the premises of the Board to inquire into the affairs of the Board or to conduct an inspection of the premises, equipment and records where the inspection is, in that person's opinion, relevant to the inquiry, and
- (c) be afforded all reasonable co-operation and assistance by the Board and its members of staff, including access to such premises, equipment and records as the person may require, to enable that person to perform his or her functions under this section.

(3) Where the Minister, after considering the report referred to in *subsection (2)(a)*, remains of the opinion that the Board has failed, neglected or refused to perform a function conferred on it under this Act or has failed effectively to perform such function or otherwise has contravened this Act, the Minister shall, by notice in writing, inform the director general, and give a copy of the report to the director general.

(4) The Board may make representations to the Minister in respect of the report within 14 days after the date of receipt of the report.

(5) After the end of the period referred to in *subsection (4)* and after considering the representations, if any, of the Board in respect of the report, the Minister may by order remove the members of the Board and terminate their membership if—

- (a) the Minister remains of the opinion that the Board has failed, neglected or refused to perform a function conferred on it under this Act or has failed effectively to perform such function or otherwise has contravened this Act, and
- (b) the Minister is of the opinion that the Board should be removed.

(6) Where an order is made under *subsection (5)*, the Minister shall appoint such person or body of persons as he or she thinks fit to perform the functions of the Board and that person or body shall perform those functions until the commencement of the first meeting of the Board after the appointment of its members under *subsection (8)*.

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(7) When performing a function conferred by this Act, a person or body of persons appointed under *subsection (6)* may deviate in matters of procedure and form under this Act as the person or body considers appropriate for the effective performance of that function.

(8) The Minister shall, as soon as practicable, but in any case not later than 12 months after the removal of the members of the Board, appoint a new Board in accordance with *section 11*.

(9) The remuneration, if any, of a person appointed under *subsection (1)* or of a person or member of a body appointed under *subsection (6)* shall be determined by the Minister with the consent of the Minister for Finance and paid out of moneys provided by the Oireachtas.

Director general.

**14.—(1)** There shall be a chief executive officer of the Board who shall be known and is referred to in this Act as the “director general”.

(2) The first director general shall be a civil servant appointed by the Minister and shall, upon such appointment, be a civil servant in the Civil Service of the State.

(3) Each subsequent director general shall be appointed by the Minister, with the agreement of the Board, on the recommendation of the Civil Service Commissioners and shall, upon such appointment, be a civil servant in the Civil Service of the State.

(4) The director general shall carry on and manage, and control generally, the administration and business of the Board and perform any other functions that may be conferred on him or her by or under this Act.

(5) *Schedule 4* applies to the director general.

Consultants and advisers.

**15.—(1)** Subject to the prior approval of, or at the request of, the Minister and subject to such terms and conditions as the Board may determine, the Board may, from time to time, engage any consultants or advisers that the Board or the Minister, as the case may be, consider necessary for the performance by the Board of its functions.

(2) Any fees payable to a consultant or adviser engaged under this section shall be paid by the Board out of moneys at its disposal, having regard to guidelines issued from time to time by the Minister or the Minister for Finance.

(3) The Board shall comply with any directions with regard to consultants or advisers engaged under this section that the Minister may give to the Board with the consent of the Minister for Finance.

Membership of Houses of Oireachtas or European Parliament.

**16.—(1)** A member of the Board who—

(a) is nominated as a member of Seanad Éireann,

(b) is elected as a member of either House of the Oireachtas or as a representative in the European Parliament, or

(c) is regarded pursuant to section 19 of the European Parliament Elections Act, 1997, as having been elected to that Parliament,

thereupon ceases to be a member of the Board.

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- (2) A member of the staff of the Board who—
- (a) is nominated as a member of Seanad Éireann,
  - (b) is elected as a member of either House of the Oireachtas or to be a representative in the European Parliament, or
  - (c) is regarded pursuant to section 19 of the European Parliament Elections Act, 1997, as having been elected to that Parliament,

stands seconded from employment by the Board and shall not be paid by, or be entitled to receive from, the Board remuneration, fees or allowances for expenses in respect of the period commencing on such nomination or election, or when he or she is so regarded as having been elected, as the case may be, and ending when he or she ceases to be a member of either House or that Parliament.

(3) A period referred to in *subsection (2)* shall not be reckoned as service with the Board for the purposes of any superannuation benefit, gratuities or other allowances payable on resignation, retirement or death.

(4) A person who is for the time being entitled under the Standing Orders of either House of the Oireachtas to sit in the House or who is a representative in the European Parliament is, while he or she is so entitled or is such a representative, disqualified from becoming a member of or from employment in any capacity by the Board.

(5) The Board shall not employ or otherwise retain in any capacity a person who would otherwise be disqualified under this section from becoming a member of the Board.

**17.—(1)** Where a matter is to be decided by the Board or a committee, as the case may be, at a meeting, any member of the Board or of the committee present at the meeting who has an interest in the matter, otherwise than as such a member, shall—

Disclosure of certain interests by members of Board.

- (a) at the meeting, in advance of any consideration of the matter, disclose to the Board or committee the fact of the interest and the nature of the interest,
- (b) neither influence nor seek to influence a decision relating to the matter,
- (c) absent himself or herself from any meeting or that part of the meeting during which the matter is discussed,
- (d) take no part in any deliberation of the Board or committee relating to the matter, and
- (e) not vote on a decision relating to the matter.

(2) Where a member discloses an interest in a matter under this section—

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(a) the disclosure shall be recorded in the minutes of the meeting, and

(b) for so long as the matter is being dealt with by the meeting, the member shall not be counted in the quorum for the meeting unless the Board or committee otherwise determines.

(3) Where, at a meeting of the Board or a committee, a question arises as to whether or not a course of conduct, if pursued by a member of the Board or committee, as the case may be, would be a failure by the member to comply with the requirements of *subsection (1)*—

(a) the question may be determined by the chairperson of the Board or of the committee, as the case may be, whose decision shall be final, and

(b) if the question is so determined, particulars of the determination shall be recorded in the minutes of the meeting concerned.

(4) If satisfied that a member of the Board or a committee has contravened *subsection (1)*, the Minister may, if he or she thinks fit, remove that member from office or take any other action that the Minister considers appropriate.

(5) A person who is removed from office under *subsection (4)* is disqualified from membership of the Board or of a committee.

Disclosure of certain interests by members of staff of Board.

**18.—**(1) Where a member of the staff (including the director general) of the Board or a consultant, adviser or other person engaged by the Board has an interest, otherwise than in his or her capacity as such a member or as such a consultant, adviser or other person engaged by the Board, in any contract, agreement or arrangement, or proposed contract, agreement or arrangement, to which the Board is a party, that person shall—

(a) disclose to the Board the fact of the interest and the nature of the interest,

(b) take no part in the negotiation of the contract, agreement or arrangement or in any deliberation of the Board or staff of the Board relating to the matter, and

(c) neither influence nor seek to influence a decision relating to the matter nor make any recommendation in relation to the contract, agreement or arrangement.

(2) *Subsection (1)* does not apply to a person as regards a contract or proposed contract of employment of that person as a member of the staff of the Board.

(3) A person who contravenes *subsection (1)* shall be guilty of an offence.

Unauthorised disclosure of confidential information.

**19.—**(1) Subject to *subsection (2)*, a person shall not, unless duly authorised by the Board, disclose confidential information obtained by the person while carrying out, or as a result of carrying out, duties as—



- (a) a member of the Board,
- (b) a member of the staff (including the director general) of the Board,
- (c) a member of a committee, or
- (d) any other person engaged by the Board, a consultant or adviser to the Board or a committee, or an employee of such person.

(2) *Subsection (1)* does not prohibit the disclosure of information by means of a report made—

- (a) to the Board, or
- (b) to the Minister, by or on behalf of the Board.

(3) A person who contravenes *subsection (1)* shall be guilty of an offence.

(4) In this section “confidential information” includes—

- (a) information that is expressed by the Board or a committee, as the case may be, to be confidential either as regards particular information or as regards information of a particular class or description, and
- (b) proposals of a commercial nature or tenders submitted to the Board by contractors, consultants or any other person.

**20.**—(1) There may be paid to the Board, from time to time, out of moneys provided by the Oireachtas a grant of such amount as the Minister, with the consent of the Minister for Finance, may determine for the purposes of expenditure by the Board in performing its functions. Grants paid by Minister to Board.

(2) The moneys paid to the Board under *subsection (1)* shall be expended solely for the purpose of performing the functions of the Board.

**21.**—(1) Subject to *subsection (2)*, the Board may make such charges as it considers appropriate in consideration of— Charges.

- (a) the performance by the Board of its functions,
- (b) the provision by it of services (other than a service consisting of the provision of advice for the Minister or another Minister of the Government), and
- (c) the carrying on by it of activities,

and shall record receipts from those charges as income.

(2) The determination of the amounts of charges referred to in *subsection (1)* shall be subject to the approval of the Minister following consultation with the Minister for Finance.

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(3) The Board may recover, as a simple contract debt in any court of competent jurisdiction, from the person by whom it is payable any amount due and owing to it under *subsection (1)*.

Gifts.

**22.—**(1) The Board may accept gifts of money, land (subject to the consent of the Minister) or other property, on the trusts and conditions (if any) that the donor may specify.

(2) The Board shall not accept a gift if the trusts or conditions attached to the gift would be inconsistent with or prejudice the functions of the Board.

(3) The Board shall publish in its annual report under *section 26* details of all gifts accepted by it during the period of the report.

(4) Any funds of the Board that are a gift or the proceeds of a gift to it may, subject to any terms or conditions of the gift, be invested by the Board in any manner in which a trustee is empowered by law to invest trust funds.

Accounts and audits.

**23.—**(1) Following the agreement of the Board, the director general shall—

- (a) submit estimates of income and expenditure, relating to the performance of its functions, to the Minister in the form, in respect of the periods and at the times that the Minister may require, and
- (b) furnish to the Minister any information that the Minister may require in relation to those estimates.

(2) The director general, under the direction of the Board, shall cause to be kept in respect of the accounting periods that may be approved of by the Minister with the consent of the Minister for Finance, all proper and usual books or other records of account of—

- (a) all income and expenditure of the Board,
- (b) the sources of the income and the subject matter of the expenditure, and
- (c) the property, assets and liabilities of the Board,

and shall keep, and account to the Board for, all such special accounts as the Minister or the Board, with the consent of the Minister, may from time to time direct to be kept.

(3) The accounts of the Board for each financial year shall—

- (a) be prepared in the form and manner that the Minister may specify, and
- (b) be prepared by the director general and approved by the Board as soon as practicable, but not later than 3 months after the end of the financial year to which they relate, for submission to the Comptroller and Auditor General for audit,

and a copy of the accounts and the auditor's report shall be presented to the Board and to the Minister as soon as practicable.

(4) The Minister shall cause a copy of the accounts and the auditor's report referred to in *subsection (3)* to be laid before each House of the Oireachtas. Pr.2 S.23

**24.—**(1) Whenever required by the Committee of Dáil Éireann established under the Standing Orders of Dáil Éireann to examine and report to Dáil Éireann on the appropriation accounts and reports of the Comptroller and Auditor General, the secretary general of the Department of Defence shall give evidence to that Committee on—

Accountability of secretary general to Public Accounts Committee.

- (a) the regularity and propriety of the transactions recorded or required to be recorded in any book or other record of account subject to audit by the Comptroller and Auditor General that the director general is required by this Act to prepare,
- (b) the economy and efficiency of the Board in the use of its resources,
- (c) the systems, procedures and practices employed by the Board for evaluating the effectiveness of its operations, and
- (d) any matter affecting the Board 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.

(2) When performing duties under this section, the secretary general referred to in *subsection (1)* shall not question or express an opinion on the merits of any policy of the Government or a Minister of the Government or on the merits of the objectives of such a policy.

**25.—**(1) In this section, “Committee” means a Committee appointed by either House of the Oireachtas or jointly by both Houses of the Oireachtas (other than the Committee referred to in *section 24* or the Committee on Members’ Interests of Dáil Éireann or the Committee on Members’ Interests of Seanad Éireann) or a subcommittee of such a committee.

Accountability of secretary general to other Oireachtas Committees.

(2) Subject to *subsection (3)*, at the written request of a Committee, the secretary general shall attend before it to give account for the general administration of the Board, including the strategic plan laid before the Houses of the Oireachtas under *section 30*, as may be required by the Committee.

(3) The secretary general shall not be required to give account before a Committee for any matter that is or has been the subject of proceedings before a court or tribunal in the State.

(4) Where the secretary general is of the opinion that a matter in respect of which the secretary general is requested to give an account before a Committee is a matter to which *subsection (3)* applies, he or she shall inform the Committee of that opinion and the reasons for the opinion and, unless the information is conveyed to the Committee at a time when the secretary general is before it, the information shall be conveyed in writing.

(5) Where the secretary general has informed a Committee of his or her opinion in accordance with *subsection (4)* and the Committee does not withdraw the request referred to in *subsection (2)* in so far as it relates to a matter the subject of that opinion—

- (a) the secretary general may, not later than 21 days after being informed by the Committee of its decision not to do so, apply to the High Court in a summary manner for determination of the question whether the matter is one to which *subsection (3)* applies, or
- (b) the chairperson of the Committee may on behalf of the Committee make such an application,

and the High Court may determine the matter.

(6) Pending the determination of an application under *subsection (5)*, the secretary general shall not attend before the Committee to give account for the matter the subject of the application.

- (7) (a) If the High Court determines that the matter concerned is one to which *subsection (3)* applies, the Committee shall withdraw the request referred to in *subsection (2)*.
- (b) If the High Court determines that *subsection (3)* does not apply, the secretary general shall attend before the Committee to give account for the matter.

Reports and  
information to  
Minister.

**26.—**(1) As soon as practicable, but in any case not later than 6 months after the end of each financial year, the Board shall make a written report (in this section referred to as the “annual report”) to the Minister, on the activities of the Board in respect of the financial year to which the report refers, and the Minister shall cause a copy of the annual report to be laid before each House of the Oireachtas.

(2) The annual report shall be in the form that the Minister may direct and shall include—

- (a) information on the performance of the Board’s functions during the financial year to which the report relates,
- (b) details of the expenditure incurred by the Board in performing its functions,
- (c) as the Board considers appropriate or as the Minister may require, copies of or extracts from annual reports of local authorities prepared and adopted under section 221 of the Act of 2001 in so far as those reports include particulars concerning civil defence, and
- (d) any other information that the Board considers appropriate or that the Minister may require.

(3) The director general shall furnish to the Minister any information that the Minister may request relating to—

- (a) any matter concerning the policy, functions and activities of the Board generally,
- (b) any specific matter or account prepared by it, or
- (c) its annual report.

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(4) The Board may from time to time, as it considers appropriate—

- (a) publish its annual report, and
- (b) make any other reports to the Minister relating to its functions and activities.

**27.—**(1) The Minister may, from time to time, if the Minister is of the opinion that it is necessary or expedient, give a direction in writing to the Board requiring it to use, provide or lend the equipment specified in the direction for such purposes and on the terms and conditions that the Minister directs.

Directions of Minister with regard to equipment.

- (2) The Board shall comply with a direction under this section.
- (3) The Minister may by direction amend or revoke a direction given under this section, including a direction under this subsection.
- (4) Where a direction under this section is revoked—
  - (a) the equipment specified in the direction shall be returned to the Board in good order as soon as practicable, and
  - (b) if the equipment is consumed, damaged or lost, the cost of replacing or repairing the equipment shall be paid out of moneys provided by the Oireachtas.
- (5) In this section, “equipment” includes air-raid precautions equipment within the meaning of the Act of 1939.

## CHAPTER 2

### *Committees of Board*

**28.—**(1) The Board may establish committees to assist and advise it in relation to the performance of any of its functions.

Committees of Board.

- (2) The Board may delegate to a committee any of its functions which, in its opinion, can be better or more conveniently exercised or performed by a committee.
- (3) A committee established under this section may include persons who are not members of the Board but who have relevant knowledge and experience relating to the functions of the committee.
- (4) Without prejudice to the generality of *subsection (1)*, the Board shall establish—
  - (a) the Planning, Development and Recruitment Committee,
  - (b) the Education and Training Committee, and
  - (c) the Health, Safety and Procurement Committee.
- (5) The acts of a committee and the exercise by a committee of functions delegated to it under this Chapter shall be subject to confirmation by the Board, unless the Board otherwise determines.
- (6) Members of a committee—
  - (a) shall be appointed subject to the terms and conditions, and

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(b) may be paid, by the Board, the allowances for expenses incurred by them in the discharge of their functions,

that the Board may determine, subject to the consent of the Minister given with the approval of the Minister for Finance.

(7) Subject to this Act, the Board may determine the terms of reference and regulate, by standing orders or otherwise, the procedures and business of a committee, including the filling of casual vacancies, but, subject to any such regulation, a committee may regulate its own procedures.

(8) Subject to *section 29(3)*, a committee shall appoint, from time to time, a chairperson from among its members.

(9) A member of a committee may be removed by the Board at any time for stated reasons.

(10) (a) Subject to *paragraph (b)*, the Board may at any time dissolve a committee established by it under this section.

(b) Where a committee specified in *subsection (4)* is dissolved under *paragraph (a)*, the committee shall be re-established as soon as practicable.

(11) When establishing a committee, the Board shall have regard to the desirability of an appropriate gender balance as may be determined, from time to time, by the Minister.

(12) A committee shall provide the Board with the information that the Board may from time to time require, in respect of the committee's activities and operation, for the purposes of the performance of the Board's functions.

Membership of committees specified in *section 28(4)*.

**29.—**(1) Each committee specified in *section 28(4)* shall consist of not more than 7 members who shall be appointed by the Board.

(2) Each committee specified in *section 28(4)* shall include—

(a) such other members of the Board as the Board considers appropriate,

(b) the chairperson of any other committee as the Board considers appropriate, and

(c) a person or persons who, in the opinion of the Board, have a special knowledge and experience relating to the functions of the committee.

(3) The Board shall designate one member of each committee specified in *section 28(4)* as chairperson of the committee concerned.

### CHAPTER 3

#### *Plan of Board*

Strategic plan of Board.

**30.—**(1) The Board shall, in accordance with *subsection (2)*, prepare and submit a strategic plan to the Minister for approval, in the case of the first strategic plan, not later than 9 months after the first meeting of the Board, and in the case of each subsequent plan, not later than the third anniversary of the date of submission of the preceding plan.

- (2) The strategic plan shall—
- (a) specify the key objectives and related strategies (including the use of resources) of the Board relating to the future development of civil defence,
  - (b) be prepared in the form and manner that the Minister may from time to time direct,
  - (c) have regard to the need to ensure the most beneficial, effective and efficient use of the Board's resources,
  - (d) except for the first strategic plan, include a review of the efficiency and effectiveness of the plan during the preceding 3 year period, and
  - (e) include any other matters that the Minister may from time to time specify when issuing directions or guidelines under *subsection (4)*.
- (3) When preparing the strategic plan, the Board shall—
- (a) except for the first strategic plan, have regard to the civil defence plans submitted by local authorities under *section 31*, and
  - (b) consult with local authorities, Ministers of the Government, State agencies and any other persons that it considers appropriate.
- (4) The Minister may issue directions or guidelines to the Board concerning the preparation of the strategic plan and the Board shall comply with those directions and prepare the plan in accordance with those guidelines.
- (5) As soon as practicable after a strategic plan has been approved, the Minister shall cause a copy of the plan to be laid before each House of the Oireachtas and the plan shall be published in the form and manner that the Board considers appropriate.

### PART 3

#### LOCAL AUTHORITIES

**31.**—(1) No later than 12 months after the establishment day, each local authority shall prepare and submit to the Board a civil defence plan. Civil defence plans.

- (2) A civil defence plan shall—
- (a) specify the key objectives and related strategies (including the use of resources) of a local authority with regard to—
    - (i) its functions relating to civil defence,
    - (ii) the recruitment of persons for the performance of civil defence tasks, and
    - (iii) the education and training of civil defence members,
  - (b) be prepared in the form and manner that the Board may determine,

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(c) have regard to the need to ensure the most beneficial, effective and efficient use of resources, and

(d) include any other matters that the Board may from time to time specify.

(3) Each local authority shall review and, if necessary, update its civil defence plan not later than 3 years after the date of the first plan and at least once in every 3 years after that.

Grants paid by Board to local authorities for civil defence purposes.

**32.—**(1) The Board may, from time to time, pay to each local authority a grant of an amount that the Board may determine for the purpose of expenditure by the local authority in performing its functions relating to civil defence.

(2) A grant paid to a local authority under this section shall not be used by the local authority for any purpose other than that specified in *subsection (1)*.

(3) In making a grant to a local authority under this section, the Board shall have regard to—

(a) its strategic plan,

(b) the civil defence plan of the local authority, in particular its plans for expenditure,

(c) the annual report of the local authority under section 221 of the Act of 2001,

(d) the implications for resources, including financial resources available to the Board, and

(e) any other matters that the Board considers appropriate.

Annual report of local authority.

**33.—**In its annual report under section 221 of the Act of 2001, each local authority shall include, having regard to its civil defence plan and its functions relating to civil defence—

(a) information on the performance of those functions during the period of the report,

(b) details of the expenditure incurred by the local authority in performing those functions, and

(c) details of gifts relating to civil defence accepted by the local authority during the reporting period.

## PART 4

### RECRUITMENT AND REGISTRATION

Recruitment of civil defence members.

**34.—**(1) The Board may, subject to the consent of the Minister, make regulations establishing procedures for the recruitment of persons as civil defence members.

(2) Without prejudice to the generality of *subsection (1)*, regulations may include all or any of the following:

(a) eligibility criteria;



- (b) the form and manner in which an application for registration as a civil defence member shall be made; Pr.4 S.34
- (c) the conditions for retaining registration as a civil defence member, including conditions relating to relevant minimum standards of training.

**35.—**(1) As soon as practicable after the establishment day, each local authority shall establish and maintain, in the manner that the Board may determine, a register which shall be known as the Register of Civil Defence Members. The register.

(2) The register may be kept in any form subject to its being capable of being converted into a legible form and being used to make a legible copy or reproduction of any entry in the register.

(3) The Board may determine the information to be entered in the register which shall include:

- (a) in the case of a person who becomes a civil defence member after the coming into operation of this section—
- (i) name, address and telephone number;
  - (ii) date of birth;
  - (iii) qualifications and experience relevant to civil defence;
  - (iv) date of registration;
  - (v) registration number;
  - (vi) any other information that the Board considers appropriate,

and

- (b) in the case of a person who is a civil defence member before the coming into operation of this section—
- (i) name, address and telephone number;
  - (ii) date of birth;
  - (iii) registration number.

(4) The register shall be kept at the offices of each local authority and shall be made available for inspection by the following persons only:

- (i) the county or city manager or any person to whom he or she has, by order, delegated his or her functions relating to civil defence;
- (ii) the Board;
- (iii) a civil defence member insofar as there is information entered in the register relating to that member.

(5) For the purpose of ensuring the accuracy of the register, a local authority shall—

- (a) correct errors in the register, and
  - (b) enter in the register every change which comes to its knowledge in respect of the information entered in the register relating to a civil defence member whose name is entered in the register.
- (6) A civil defence member whose name is entered in the register shall, as soon as practicable, inform the Board, in writing, of—
- (a) any errors in the register of which the member is aware in relation to his or her registration, and
  - (b) any change in the information entered in the register in relation to that member.

## PART 5

### STAFF OF BOARD

**36.—**(1) The Minister may, as he or she from time to time determines, with the consent of the Minister for Finance, appoint such number of persons who, immediately before the date of their appointment, are officers of the Minister for Defence to be members of the staff of the Board.

(2) Members of the staff of the Board appointed under *subsection (1)* shall be civil servants in the Civil Service of the State (within the meaning of the Civil Service Regulation Act, 1956).

(3) The Minister shall be the appropriate authority for the purposes of the Civil Service Commissioners Act, 1956, and the Civil Service Regulation Acts, 1956 to 1996, in relation to members of the staff of the Board who are appointed under *subsection (1)*.

(4) The Minister may delegate to the director general the powers exercisable by him or her under the Civil Service Commissioners Act, 1956, and the Civil Service Regulation Acts, 1956 to 1996, as the appropriate authority in relation to members of the staff of the Board appointed under *subsection (1)* and, if the Minister does so, then, so long as the delegation remains in force—

- (a) those powers shall, in lieu of being exercisable by the Minister, be exercisable by the director general, and
- (b) the director general shall, in lieu of the Minister, be for the purposes of this Act the appropriate authority in relation to those members of the staff of the Board.

(5) The Board shall appoint a person who shall be a uniformed officer to be known as the “Chief Civil Defence Officer” to perform such ceremonial or related functions as the Board may determine and who shall hold office on the terms and conditions (including terms and conditions relating to remuneration and allowances for expenses) that the Minister, with the consent of the Minister for Finance, may determine.

## PART 6

## TRANSITIONAL PROVISIONS

**37.—**(1) Any legal proceedings relating to a matter to which a function conferred on the Board by this Act relates and pending immediately before the establishment day to which the Minister, any other State authority or the State is a party shall be continued with the substitution in the proceedings, in so far as they so relate, for any such party of the Board.

Continuance of pending legal proceedings.

(2) The Minister shall, out of moneys provided by the Oireachtas, indemnify the Board against all costs incurred by it in or in connection with legal proceedings referred to in *subsection (1)*.

**38.—**(1) On the establishment day all property, other than land but including choses-in-action, which immediately before that day was the property of the Minister and was used in connection with a function of the Minister corresponding to a function conferred on the Board by this Act shall stand vested in the Board without any assignment.

Transfer of property other than land.

(2) The Minister may on his or her own initiative and shall, on the application of the Board, issue a certificate in respect of specified property stating, as the Minister thinks proper, that the property vested in the Board under this section or did not so vest and the certificate shall be conclusive evidence of the facts so stated.

(3) Every chose-in-action transferred by *subsection (1)* to the Board may, after the establishment day, be sued on, recovered or enforced by the Board in its own name and it shall not be necessary for the Board or the Minister to give notice to a person bound by the chose-in-action of the transfer effected by that subsection.

**39.—**(1) All rights and liabilities of the Minister arising by virtue of any contract or commitment (expressed or implied) entered into by him or her before the establishment day in relation to a function of the Minister corresponding to a function conferred on the Board by this Act shall, on that day, be transferred to the Board.

Transfer of rights and liabilities.

(2) The Minister may on his or her own initiative, and shall on the application of the Board, issue a certificate in respect of a specified contract or commitment stating, as the Minister thinks proper, that the rights and liabilities of the Minister under such contract or commitment were transferred on the establishment day to the Board under this section or were not so transferred, and the certificate shall be conclusive evidence of the facts so stated.

(3) Every right and liability transferred by *subsection (1)* to the Board may, on and after the establishment day, be sued on, recovered or enforced by or against the Board in its own name and it shall not be necessary for the Board or the Minister to give notice to the person whose right or liability is transferred by this section of such transfer.

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[2002.]

PART 7

AMENDMENTS TO ACT OF 1939

Amendments to  
Act of 1939.

**40.**—The Act of 1939 is amended—

- (a) in sections 61(2) and 62(1), by substituting “€1,900” for “five pounds” in each place that it occurs, and
- (b) in section 63, by substituting “€1,900” for “fifty pounds”.

DEFINITION OF CIVIL DEFENCE

“CHAPTER VI – CIVIL DEFENCE

*Article 61 - Definitions and scope*

For the purposes of this Protocol:

- (a) ‘civil defence’ means the performance of some or all of the undermentioned humanitarian tasks intended to protect the civilian population against the dangers, and to help it to recover from the immediate effects, of hostilities or disasters and also to provide the conditions necessary for its survival. These tasks are:
- (i) warning;
  - (ii) evacuation;
  - (iii) management of shelters;
  - (iv) management of blackout measures;
  - (v) rescue;
  - (vi) medical services, including first-aid, and religious assistance;
  - (vii) fire-fighting;
  - (viii) detection and marking of danger areas;
  - (ix) decontamination and similar protective measures;
  - (x) provision of emergency accommodation and supplies;
  - (xi) emergency assistance in the restoration and maintenance of order in distressed areas;
  - (xii) emergency repair of indispensable public utilities;
  - (xiii) emergency disposal of the dead;
  - (xiv) assistance in the preservation of objects essential for survival;
  - (xv) complementary activities necessary to carry out any of the tasks mentioned above, including, but not limited to, planning and organisation.”.

SCHEDULE 2

Section 7.

THE BOARD

1. In this Schedule, except where the context otherwise requires, “member” means a member of the Board, including the chairperson.
2. (1) The Board shall, as soon as practicable after its establishment, provide itself with and retain in its possession, a seal.

(2) The seal of the Board shall be authenticated by the signature of—

(a) the chairperson or other member authorised by the Board to act in that behalf, and

(b) an officer of the Board designated for that purpose by the Board.

3. Judicial notice shall be taken of the seal of the Board and an instrument purporting to be an instrument made by the Board and to be sealed with its seal (purporting to be authenticated in accordance with *paragraph 2(2)(b)*) shall be received in evidence and be deemed to be such instrument without further proof unless the contrary is shown.

4. Subject to *paragraph 10*, the Minister, when appointing members under *section 11* (other than the chairperson) shall specify each member's term of office which shall not exceed 3 years and, subject to this Schedule, membership shall be on the terms that the Minister may determine.

5. A member whose term of office expires or is about to expire with the passage of time is eligible for re-appointment to the Board at the Minister's discretion.

6. A member (other than the chairperson) may resign by letter sent to the Minister and the resignation shall take effect from the date specified in the letter or on receipt of the letter by the Minister, whichever is the later.

7. A member may at any time be removed from membership of the Board by the Minister if, in the Minister's opinion, the member has become incapable through ill-health of performing his or her functions, or has committed stated misbehaviour, or his or her removal appears to the Minister to be necessary for the effective performance by the Board of its functions.

8. A member shall cease to be and shall be disqualified from being a member where the member—

(a) is adjudicated bankrupt,

(b) makes a composition or arrangement with creditors,

(c) on conviction on indictment by a court of competent jurisdiction is sentenced to a term of imprisonment, or

(d) is disqualified or restricted from being a director of any company (within the meaning of the Companies Acts, 1963 to 2001).

9. Subject to this Act, a member shall hold office on the terms and conditions (including terms and conditions relating to remuneration and allowances for expenses) that may be determined by the Minister, with the consent of the Minister for Finance.

10. (1) If a member dies, resigns, becomes disqualified or is removed from office, or for any other reason (other than *paragraph 4* or *5*) ceases to be a member, the Minister may appoint a person to be a member to fill the casual vacancy so occasioned and the person appointed shall be appointed in the same manner as the member who occasioned the casual vacancy.

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(2) A person appointed to be a member under this paragraph shall hold office for the remainder of the term of office of the member who occasioned the casual vacancy. SCH.2

11. The Board shall hold such and so many meetings as may be necessary for performing its functions but in any case shall meet not less than once in every 3 months.

12. The first meeting of the Board shall be held within one month after the establishment day.

13. At a meeting of the Board—

(a) the chairperson shall, if present, be the chairperson of the meeting, or

(b) if and so long as the chairperson is not present or if the office of chairperson is vacant, the members of the Board who are present shall choose one of their number to be chairperson of the meeting.

14. Every question that is to be decided at a meeting of the Board shall be determined by a majority of the votes of the members of the Board present and voting on the question and, in the case of an equal division of votes, the chairperson of the meeting shall have a second or casting vote.

15. Subject to *paragraph 16*, the Board may act notwithstanding one or more than one vacancy among its membership or any deficiency in the appointment of a member that may subsequently be discovered.

16. The quorum for a meeting of the Board shall be 5 or such greater number of members as the Board may from time to time determine.

17. Subject to this Act, the Board shall regulate its procedure by rules or otherwise.

### SCHEDULE 3

*Section 8(3).*

#### PROGRAMMES

Programmes relating to the following:

(a) the provision of emergency assistance to persons as a consequence of weather-related flooding and other adverse weather conditions;

(b) in respect of environmental matters, the dissemination of information to the public with regard to pollution, in particular, of public water supplies, and the undertaking of conservation projects;

(c) the further development, improvement and maintenance of expertise in river, lake and coastal area search and recovery of persons;

(d) the development of a response capability in respect of accidents involving nuclear plants or material or other chemical, biological or radiological emergency and the relevant education, training and skills;

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- (e) the training and skills required for the rescue of persons;
- (f) the development of a response capability to forest-fires and the relevant education, training and skills;
- (g) the provision of assistance at public events and the training and equipment required.

Section 14.

#### SCHEDULE 4

##### THE DIRECTOR GENERAL

1. The director general shall perform his or her functions subject to any policies that the Board may determine from time to time and shall be accountable to the Board for the efficient and effective management of the Board and for the due performance of his or her functions.

2. The director general may, with the consent of the Board, delegate any of his or her functions to a member of the staff of the Board, except a function that has been delegated to the director general subject to the condition that it shall not be sub-delegated and—

- (a) that member of the staff shall be accountable to the director general for the performance of the functions, and
- (b) where a function is delegated to a member of the staff of the Board under this paragraph, notwithstanding the delegation, the director general at all times remains accountable to the Board for the performance of the functions so delegated.

3. The director general shall provide to the Board any information (including financial information) in relation to the performance of his or her functions that the Board may from time to time require.

4. The functions of the director general may be performed during his or her absence, or when the position of director general is vacant, by a member of the staff of the Board who may from time to time be designated for that purpose by the Board.