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**AN BILLE UM MÍCHUMAS, 2001**  
**DISABILITY BILL, 2001**

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*Mar a tionscnaíodh*  
*As initiated*

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AN BILLE UM MÍCHUMAS, 2001  
DISABILITY BILL, 2001

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# BILL

*entitled*

5 AN ACT TO MAKE FURTHER AND BETTER PROVISION  
FOR PERSONS WITH DISABILITIES IN RESPECT OF  
ACCESSIBILITY TO PUBLIC BUILDINGS, PUBLIC SER-  
VICES AND CERTAIN OTHER SERVICES AND TO  
10 EMPLOYMENT IN THE PUBLIC SERVICE; TO PROVIDE  
FOR THE ESTABLISHMENT BY COMHAIRLE, AS PART  
OF ITS ADVOCACY SERVICES, OF A PERSONAL  
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15 SEEKING ASSISTANCE FOR THEIR NEEDS FROM  
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TORING AND PROMOTING COMPLIANCE WITH THE  
20 PROVISIONS OF THE ACT BY PUBLIC BODIES AND  
CERTAIN OTHER SERVICE PROVIDERS; TO REGU-  
LATE GENETIC TESTING OF PERSONS; TO ESTABLISH  
A CENTRE FOR EXCELLENCE IN UNIVERSAL DESIGN;  
AND TO PROVIDE FOR RELATED MATTERS.

BE IT ENACTED BY THE OIREACHTAS AS FOLLOWS:

25

## PART 1

### PRELIMINARY AND GENERAL

1.—(1) This Act may be cited as the Disability Act, 2001.

Short title,  
commencement,  
collective citation  
and construction.

(2) Except where provided otherwise, this Act shall come into operation on 1 January 2003.

30 (3) The National Disability Authority Act, 1999, and this Act may be cited together as the Disability Acts, 1999 and 2001, and shall be construed as one.

35 (4) The Health Acts, 1947 to 2001, and *Part 4* may be cited together as the Health Acts, 1947 to 2001, and shall be construed as one.

(5) The Mental Treatment Acts, 1945 to 2001, and *Part 4* may be cited together as the Mental Treatment Acts, 1945 to 2001.

(6) The Comhairle Act, 2000, and *Part 5* may be cited together as the Comhairle Acts, 2000 and 2001.

2.—(1) In this Act, unless the context otherwise requires—

“Act of 1999” means the National Disability Authority Act, 1999;

“Authority” means the National Disability Authority;

“Director”, except in *Parts 5 and 11* and the *Schedule*, means the Director of the Authority; 5

“disability”, in relation to a person, means a substantial restriction in the capacity of the person to participate in economic, social or cultural life on account of an enduring physical, sensory, learning, mental health or emotional impairment;

“health board” includes the Eastern Regional Health Authority and an area health board; 10

“Minister”, except in *Parts 4 and 5*, means the Minister for Justice, Equality and Law Reform;

“public body” means—

(a) a Department of State, 15

(b) a local authority,

(c) a health board,

(d) a board or other body (but not including a company or the Defence Forces) established by or under statute,

(e) a company in which all the shares are held by, or on behalf of, or by directors appointed by, a Minister of the Government, or 20

(f) a company in which all the shares are held by a board, company or other body referred to in *paragraph (e)* or *(f)*;

“public building” means any building, office or other built facility which is or may be used by members of the public generally and is owned or operated by a public body and includes a museum, a library, an art gallery, an auditorium, or other such building, which is or may be so used and is so owned or operated; 25

“service” means a service or facility of any nature which is available or accessible to the public generally or a section of the public and, without prejudice to the generality of the foregoing, includes— 30

(a) the use of any place, amenity, information or information resource, scheme, allowance or other benefit owned or administered by a public body that is so available or accessible, 35

(b) any cultural or heritage services provided by such a body, and

(c) any service provided by a court or by any quasi-judicial or regulatory body, whether or not established by or under statute; 40

“statutory standards body” means a body established by law whose functions include the formulation of standard specifications in relation to any matter provided for under this Act.



(2) For the purposes of this Act—

- (a) a reference to a Part, section or Schedule is to a Part or section of, or Schedule to, this Act unless it is indicated that reference to some other provision is intended,
- 5 (b) subject to *paragraph (c)*, a reference to a subsection, paragraph or subparagraph is to the subsection, paragraph or subparagraph of the provision in which the reference occurs, unless it is indicated that reference to some other provision is intended,
- 10 (c) a reference in the Schedule to a paragraph is a reference to a paragraph of the Schedule unless it is indicated that reference to some other provision is intended, and
- (d) a reference to any other enactment shall, unless the context otherwise requires, be construed as a reference to that  
15 enactment as amended or extended by or under any other enactment, including this Act.

3.—(1) In this Act, unless the context otherwise requires, access Access.  
by persons with disabilities means—

- 20 (a) access which is common to persons with and without disabilities or similar to the access provided for persons without disabilities, or
- (b) separate and adequate access, where access in accordance with *paragraph (a)*—
  - (i) is not practicable,
  - 25 (ii) is not necessary for the benefit of persons with disabilities, or
  - (iii) would not be justified on ground of cost,or
- 30 (c) where any such access cannot be provided, as much access as is reasonable in the circumstances of the case having regard, where appropriate, to any restriction on the capacity of persons with a particular disability,

and cognate words shall be construed accordingly.

35 (2) Access to a scheme, allowance or other benefit administered by a public body is subject to compliance with the criteria for eligibility for or entitlement to it.

(3) This section does not apply in relation to a service which is available only to persons with disabilities.

- 40 (4) (a) The Authority, or a statutory standards body with the consent of the Authority, may specify in a code of practice what constitutes—
  - (i) separate and adequate access as referred to in *subsection (1)(b)*, and
  - (ii) access in respect of a particular disability,  
45 in particular circumstances.
- (b) Any such code of practice shall be deemed to be a draft code of practice within the meaning of section 10 of the

Regulations (general).

4.—(1) Regulations under this Act in relation to accessibility standards shall be made with due regard to international best practice, including any standards prescribed for particular services by competent standards bodies in other countries. 5

(2) Every regulation made by a Minister of the Government under this Act shall be laid before each House of the Oireachtas as soon as may be after it is made and, if a resolution annulling it is passed by either House within the next subsequent 21 days on which that House has sat after the regulation is laid before it, it shall be annulled accordingly, but without prejudice to the validity of anything previously done under it. 10

Expenses.

5.—The expenses incurred by a Minister of the Government 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. 15

## PART 2

### ACCESSIBILITY OF PUBLIC BUILDINGS AND SERVICES

Accessibility of public buildings and services.

6.—(1) Subject to this Act, a public body shall ensure that its— 20

(a) public buildings,

(b) services, and

(c) written or oral communications available to members of the public,

are, as far as practicable, accessible to persons with disabilities. 25

(2) Without prejudice to the generality of the foregoing, a public body shall ensure that as far as practicable—

(a) any information in written form in relation to its activities is available, on request, in a format which makes the information accessible to persons with a visual impairment, 30

(b) any such information in electronic form is accessible, using adaptive technology, to persons with a visual impairment,

(c) any information with important implications for persons with a hearing impairment or learning disability is accessible to them. 35

(3) For the purposes of giving full effect to *subsections (1) and (2)*, each public body shall, in relation to any service provided by it—

(a) integrate, so far as practicable and appropriate, access to the service by persons with and without disabilities, 40

(b) put in place arrangements to support, where necessary, persons with disabilities or with particular disabilities in accessing the service, as part of the integrated service provision or otherwise, and

(c) provide within the service, if appropriate, expertise and skills in relation to access to it by persons with disabilities.

(4) This section shall come into operation on 1 January 2006.

5 7.—(1) Without prejudice to *section 6*, a public body managing a heritage site shall take reasonable steps to ensure that—

Accessibility of heritage sites and protected structures.

(a) subject to *paragraph (b)*, access to the site by persons with disabilities is provided in a manner that enables them to travel independently and with ease and dignity round the site or that part of it to which they have access, and

10 (b) a fair balance is maintained between its obligation under *paragraph (a)* and that of—

(i) preserving the special qualities of the site and its heritage,

15 (ii) retaining the essential character and special interest of the site and its historic, natural, architectural or artistic quality,

(iii) minimising any adverse impact on the site, including any buildings on it, or on any rare habitat, and

20 (iv) not prejudicing the future integrity of such a site or habitat.

(2) Nothing in this section requires any adaptation or modification of any heritage site unless it has been permitted by the Minister for Arts, Heritage, Gaeltacht and the Islands or the relevant planning authority.

25 (3) In this section, “heritage site” includes—

(a) a national monument (within the meaning of the National Monuments Acts, 1930 to 1994),

(b) a heritage building or heritage garden and park (within the meaning of the Heritage Act, 1995), and

30 (c) a protected structure, an architectural conservation area and attendant grounds, as those expressions are defined in section 2 of the Planning and Development Act, 2000, and part of any such structure, area or grounds.

(4) This section shall come into operation on 1 January 2006.

35 8.—(1) Each local authority shall ensure that, as far as practicable, any new service provided by it shall be accessible to persons with disabilities.

Local authority services.

40 (2) (a) Within 6 months after the commencement of this section, each local authority shall prepare and publish a plan to make, as far as practicable, its existing services accessible to persons with disabilities within 5 years after publication of the plan.

(b) A local authority may from time to time, where it considers it necessary for stated reasons communicated to the

Department of the Environment and Local Government and the Authority, amend its plan but not so as to extend the period of 5 years specified in *paragraph (a)* beyond 1 January 2010.

(c) The amended plan shall be published. 5

(d) Each local authority shall ensure that its plan, or amended plan, is implemented within the period provided for in this subsection.

(3) In exercising powers given to them by section 95 (traffic signs) of the Road Traffic Act, 1961, or section 35 (regulations for general control of traffic and pedestrians) or 36 (parking of vehicles in parking places on public roads) of the Road Traffic Act, 1994, road authorities shall, as far as practicable, have regard in particular to the needs of persons with disabilities. 10

(4) This section is without prejudice to *section 6(1)(b)*. 15

(5) In this section—

“built facilities” includes toilets, telephone boxes and coin-operated pay systems;

“existing services” means services being provided immediately before the commencement of this section; 20

“new service” means a service provided for the first time after such commencement; and

“service” means streets, street furniture, built facilities, pavements, pedestrian zones, signage, public parks and open spaces provided by a local authority and terminal or route stops of any road or light rail passenger service for which a local authority is responsible. 25

Accessibility of goods and services supplied to public bodies.

**9.—(1)** Subject to *subsection (2)*, a public body shall ensure that goods or services supplied to it are accessible to persons with disabilities.

(2) *Subsection (1)* does not apply in relation to any such goods or services if— 30

(a) access to them by persons with disabilities is not practicable,

(b) the increase in cost attributable to the provision of such access would, in the opinion of the public body concerned, be disproportionate, or 35

(c) such provision would, in its opinion, cause unreasonable delay in making the goods or services concerned available to other persons.

(3) Where—

(a) *subsection (1)* applies in relation to any goods or services required by a public body, 40

(b) an invitation to tender for the supply of those goods or services has been issued by it, and

- (c) goods or services proposed to be supplied under a tender are not accessible to persons with disabilities,

the tender shall not be accepted unless *paragraph (c)* also applies in relation to the other tenders.

5 **10.**—Each public body shall—

- (a) not later than 30 June 2006, make a report to—

- (i) the Authority, and
- (ii) the Minister concerned,

10 in relation to the public body’s compliance, or the extent of its compliance, with this Part, and

- (b) supply to the Authority or that Minister, on request, any information necessary for determining whether it is complying with this Part.

15 (2) Without prejudice to *sections 51* and *52*, the Authority, if of opinion that a public body is not complying with this Part, may request it to implement measures specified by the Authority as being necessary to facilitate such compliance, and the public body shall comply with the request.

(3) In this section, “Minister concerned” means—

20 (a) in relation to a Department of State, the Minister in charge of the Department, and

(b) in relation to a public body (other than a Department of State) operating under the aegis of a Minister of the Government, that Minister.

25 **PART 3**

**TRANSPORT SERVICES**

**11.**—(1) In this Part—

Interpretation  
(*Part 3*).

“harbour authority” has the meaning given to it by section 2 (definitions) of the Harbours Act, 1946, and also includes—

30 (a) a company referred to in section 7 (formation of company in respect of harbour) of the Harbours Act, 1996, as amended by section 2(a) of the Harbours (Amendment) Act, 2000,

35 (b) in relation to a fishery harbour centre (within the meaning of the Fishery Harbour Centres Act, 1968), the Minister for the Marine and Natural Resources, and

(c) in relation to a harbour for whose management, control, operation and development a local authority is responsible, that local authority;

40 “railway” includes a light railway and an underground railway but does not include a heritage railway on which train services of historical interest are operated;

“vehicle”—

(a) does not include a veteran or vintage car or other such vehicle which is used occasionally for the transport of passengers, and

(b) in relation to a railway train, means at least one of the carriages on the train but does not include a carriage which is no longer in regular service. 5

(2) For the purposes of *sections 12 to 15* a vehicle is not accessible to persons with disabilities if—

(a) in the case of a wheelchair user, it cannot accommodate at least two such users, and 10

(b) in any other case, it cannot accommodate the minimum number of persons with disabilities specified in that respect in regulations made, as appropriate, by the Minister for Public Enterprise or the Minister for the Environment and Local Government. 15

*Road, Rail and Light Rail Services*

General.

**12.**—(1) Subject to *section 13*, operators of passenger services shall ensure that their vehicles are accessible to persons with disabilities—

(a) in relation to passenger road services, not later than 1 January 2010, and 20

(b) in relation to passenger railway trains or school bus services, not later than 1 January 2015.

(2) Without prejudice to *section 6(1)(a)*—

(a) bus and railway stations shall, subject to *paragraph (b)*, be accessible to persons with disabilities, 25

(b) regulations made by the Minister for Public Enterprise may exclude specified facilities in specified railway stations (including platforms) built before the commencement of this section from the application of *paragraph (a)*, and 30

(c) the facilities so excluded shall be made accessible to persons with disabilities not later than 1 January 2020.

(3) This Part does not apply to an operator of a passenger service whose principal place of business is outside the State. 35

(4) Sections 17 and 18 (regulations relating to vehicle equipment and station equipment) of the Equal Status Act, 2000, are repealed.

(5) In this section, “school bus service” means a service of transporting schoolchildren by bus to and from school or on any outing or journey organised for them by or on behalf of a school. 40

**13.—**(1) Without prejudice to *section 6(1)(b)*, operators of passenger services mentioned in *section 12* who are funded in whole or in part out of moneys provided by the Oireachtas shall ensure that—

Access to public transport.

(a) in relation to passenger road services—

- 5 (i) between 1 January 2003 and 31 December 2005, at least thirty per cent of their vehicles are accessible to persons with disabilities, and
- (ii) from 1 January 2006, at least sixty per cent of them are so accessible,

10 and

(b) in relation to passenger railway services—

- (i) between 1 January 2006 and 31 December 2009, at least thirty per cent of the trains include vehicles which are accessible to persons with disabilities, and
- 15 (ii) from 1 January 2010, at least sixty per cent of the trains include such vehicles.

(2) *Subsection (1)(a)* does not apply in relation to an operator by reason only of the receipt by the operator of moneys provided by the Oireachtas under a scheme administered by the Minister for Social, Community and Family Affairs.

20

**14.—**(1) Each vehicle which is licensed for use as a large public service vehicle for the first time after the commencement of this section shall be accessible to persons with disabilities.

Large public service vehicles.

(2) *Subsection (1)* applies only where more than 5 large public service vehicles are being used in the passenger road service concerned.

25

(3) The Road Traffic (Public Service Vehicles) Regulations, 1963 to 1978, shall have effect accordingly.

**15.—**(1) The Minister for Public Enterprise shall not issue passenger licences under Part II of the Road Transport Act, 1932, in respect of passenger road services—

30

Passenger road service licences.

(a) between 1 January 2006 and 31 December 2009, if less than sixty per cent of the vehicles used by the licensee are accessible to persons with disabilities, or

35 (b) from 1 January 2010, unless all of them are so accessible.

(2) *Subsection (1)(a)* applies only where more than 5 large public service vehicles are being used in the passenger road service concerned.

(3) Section 12 of the said Act of 1932 is amended by—

40 (a) the insertion of the following paragraph after paragraph (a):

“(aa) the accessibility of the terminal points to persons with disabilities;”, and

(b) the insertion of the following paragraph after paragraph (e):

“(ee) the accessibility of such vehicles to persons with disabilities;”.

Regulations  
(Part 3).

**16.—(1)** Regulations may be made—

(a) by the Minister for Public Enterprise specifying standards in respect of accessibility to railway stations, station facilities and carriages by persons with disabilities, and 5

(b) by the Minister for the Environment and Local Government specifying standards in respect of access to large public service vehicles. 10

(2) Without prejudice to the generality of *subsection (1)*, the regulations may—

(a) specify—

(i) the size, type and gradient of ramps and standards for installations used for wheelchair access to buses and railway trains, 15

(ii) the minimum number and the location and dimensions of wheelchair spaces on buses and railway trains,

(iii) any other matters relating to facilitating access to public transport vehicles by persons with disabilities, and 20

(iv) standards of accessibility for such persons to different classes of public transport vehicles,

(b) require the operator of a railway station to make the station and its facilities accessible to persons with disabilities at any time after 1 January 2006 and before 1 January 2020, and the operator shall comply with any such requirement. 25

(3) (a) Regulations under *subsection (1)(b)* may exclude from the application of any of *sections 12, 13, 14 or 15* any category of large public service vehicle if the Minister for the Environment and Local Government is satisfied that suitable such vehicles complying with those provisions are not available, despite reasonable efforts having been made to obtain them. 30 35

(b) Regulations under *paragraph (a)* shall cease to be in force on 1 January 2015.

Disability awareness  
training for  
passenger transport  
operators.

**17.—(1)** It shall be a condition of the grant of a road passenger transport operator’s licence under Regulation 3 of the European Communities (Road Passenger Transport) Regulations, 1991 (S.I. No. 59 of 1991)— 40

(a) in case the applicant for the licence is an individual, that he or she either—



(i) has completed a course of training in disability awareness and in dealing with and accommodating persons with disabilities, or

5 (ii) has otherwise acquired an adequate knowledge in respect of those matters,

or

(b) in any other case, that each person holding the relevant certificate of competence within the meaning of the Regulations has complied with either *subparagraph (i)* or *(ii)* of *paragraph (a)*.

10 (2) Regulations made by the Minister for Public Enterprise may specify—

(a) courses of training for the purposes of compliance with *subsection (1)(a)(i)*, and

15 (b) the manner in which compliance with *subsection (1)(a)(ii)* is to be evidenced.

### *Taxis*

18.—(1) The Minister for the Environment and Local Government shall take all reasonable steps to ensure that, not later than 1 January 2010, vehicles in respect of which licences to operate as a taxi are granted under regulations made under section 82 of the Road Traffic Act, 1961, are accessible to persons with disabilities. Access to taxis.

(2) Action in pursuance of *subsection (1)* may include, in particular, the making of provision by regulations under the said section 82 in relation to the design of the vehicle so far as relates directly or indirectly to its accessibility to and suitability for persons with disabilities, including—

(a) height of floor above the road,

(b) width of doors and location and number of their hinges,

30 (c) internal distance from floor to roof,

(d) minimum size of space for each wheelchair user and number of such spaces,

35 (e) availability for use at all times of a ramp or other suitable device to facilitate the entry or egress of a person seated in a wheelchair,

(f) arrangements for the security of passengers or of any item or class of items (including a wheelchair) to be carried in the vehicle or boot compartment,

40 (g) where a passenger is in a wheelchair, the maximum number of other passengers.

19.—(1) It shall be a condition of the issue of a taxi licence or wheelchair accessible taxi licence that the applicant for the licence either— Disability awareness training for taxi drivers.

(a) has completed a course of training in disability awareness and in dealing with and accommodating persons with disabilities, or

(b) has otherwise acquired an adequate knowledge in respect of those matters. 5

(2) Regulations made by the Minister for the Environment and Local Government may specify—

(a) courses of training for the purposes of compliance with *subsection (1)(a)*, and

(b) the manner in which compliance with *subsection (1)(b)* is to be evidenced. 10

(3) This section shall come into operation on 1 January 2006.

### *Airports*

Airports.

**20.—(1)** (a) Without prejudice to *section 6*, a public body managing an airport providing air passenger services shall ensure that as far as practicable facilities are provided by the public body at the airport which are adequate for the comfortable and safe accommodation and transport of persons with disabilities— 15

(i) while in the terminal building and any building or other place within the airport which is open to members of the public, 20

(ii) while going to or coming from an aircraft, and

(iii) while embarking or disembarking.

(b) Those facilities shall include wheelchairs, boarding chairs, lifting devices or lifting vehicles, as appropriate. 25

(2) In this section, “airport” includes the terminal building, related buildings, roads and parking areas.

(3) This section shall come into operation on 1 January 2006. 30

### *Harbours*

Harbour authorities.

**21.—(1)** Without prejudice to *section 47* (general powers and duties of harbour authority) of the Harbours Act, 1946, *section 4* (operation and development of fishery harbour centres) of the Fishery Harbour Centres Act, 1968, *section 11* (objects of harbour or port company) of the Harbours Act, 1996, and *section 6*, and subject to *subsection (3)*, a harbour authority shall ensure that, as far as practicable, facilities are provided by the authority, at the harbour in connection with its use by a passenger ship service, which are adequate for the comfortable and safe accommodation and transport of persons with disabilities— 35 40

(i) while in the terminal building or any building or other place within the harbour area which is open to members of the public,

(ii) while going to or coming from a passenger ship, and

(iii) while embarking or disembarking.

(2) Those facilities shall include wheelchairs, boarding chairs, lifting devices or lifting vehicles, as appropriate.

5 (3) This section does not apply in relation to a harbour in respect  
of which the Minister concerned is of opinion, and so provides in  
regulations, that, having regard to the particular circumstances  
obtaining at the harbour, including the small volume of passengers  
10 using it, the cost of compliance with *subsection (1)* would be dispro-  
portionately high.

(4) In this section—

“harbour area” includes the terminal building, related buildings,  
roads and parking areas;

15 “Minister concerned” means, as appropriate, the Minister for the  
Marine and Natural Resources or the Minister for the Environment  
and Local Government.

(5) This section shall come into operation on 1 January 2006.

#### PART 4

#### 20 HEALTH AND PERSONAL SOCIAL SERVICES PROVIDED BY HEALTH BOARDS

22.—(1) In this Part—

Interpretation  
(Part 4).

“assessment of need” has the meaning given to it by *section 23(1)*;

“complaints officer” is to be construed in accordance with *section*  
*26*;

25 “deciding officer” has the meaning given to it by *section 25(1)*;

“health service” means a service provided by a health board under  
the Health Acts, 1947 to 2001, or the Mental Health Acts, 1945 to  
2001, and includes any personal social services so provided;

“Minister” means the Minister for Health and Children;

30 “prescribed” means prescribed by regulations made by the Minister.

(2) References in this Part to applications to health boards for  
health services include, as appropriate, references to applications for  
assessments of need.

35 **23.—(1)** Where a person with a disability has applied to a health  
board for a health service, the health board shall undertake or  
arrange for an assessment (in this Part referred to as an “assessment  
of need”) to be made of the person’s needs in that respect.

Assessment of  
need.

(2) The assessment of need shall be reviewed from time to time  
to take account of any change in the person’s circumstances.

40 (3) The health board shall ensure that, to the greatest practicable  
extent—

(a) the person is involved in the assessment of need and has access to information material to it, including any decision in respect of any treatment, therapy or other service to be provided, and

(b) where, by reason of age or disability, the person is unable to become involved, or fully involved, in the assessment, a representative of the person is involved in it and has access to such material information. 5

(4) A health board may dispense with an assessment of need if, in its opinion, the health service concerned is required urgently or such an assessment is otherwise inappropriate in the circumstances of the particular case. 10

Provision of health services after assessment of need.

**24.—**(1) (a) Subject to *subsections (2) and (3)*, where a person with a disability has been assessed under *section 23* as requiring a health service, the health board concerned shall take such steps as are reasonable to provide the service as soon as practicable and to the greatest practicable extent. 15

(b) The health board may provide the service either directly or by arranging with a voluntary body or other person to provide it on its behalf. 20

(2) Without prejudice to section 2 (health board to have regard to certain matters in performing functions) of the Health (Amendment) (No. 3) Act, 1996, a health board, in making a decision in relation to the provision of a health service under *subsection (1)*, shall have regard to— 25

(a) any regulations made by the Minister under *section 30*,

(b) the desirability of ensuring that the resources available to it for health services are used to provide the maximum benefit to persons within its functional area who are in need of those services, including persons with disabilities, and 30

(c) the service plan (within the meaning of the said Act of 1996) adopted by it.

(3) For the purposes of the Ombudsman Acts, 1980 and 1984, a service provided on behalf of a health board under this Part shall be deemed to be provided by the health board. 35

Deciding officers.

**25.—**(1) In this section, “deciding officer” means any member of the staff of a health board to whom has been delegated, by the chief executive officer of the health board under section 16 of the Health Act, 1970, the function of making decisions, after assessments of need have been made, in relation to the provision of health services to persons with disabilities. 40

(2) Subject to the Health Acts, 1947 to 2001, and the Mental Treatment Acts, 1945 to 2001, every question arising in connection with a function so delegated shall be decided by the deciding officer concerned. 45

5 (3) For the purposes of assisting another public body in providing a service, either directly or indirectly, to a person with a disability, a deciding officer shall, with the person's consent, send a copy of the assessment of need and any other relevant information to the public body concerned as soon as practicable after the assessment of need is made.

(4) A deciding officer may at any time—

10 (a) revise a decision made by him or her or by another deciding officer of the health board concerned if it appears to him or her that it should be revised in the light of—

(i) information coming to notice since the decision was made,

(ii) a mistake made in relation to the facts of the case or the law governing it, or

15 (iii) a change of circumstances.

(5) A revised decision made by a deciding officer shall take effect from a date considered appropriate by the officer having regard to the circumstances of the case.

20 **26.—(1)** The Minister for Health and Children shall designate persons to be complaints officers for the purposes of this Part. Investigation of complaints.

(2) Complaints officers may include officers of health boards.

(3) Complaints officers shall be independent in the performance of the functions given to them by this section.

25 (4) Any person in relation to whom an assessment of need has been made and who wishes to complain about any of the following matters, namely—

(a) the assessment itself,

(b) the way it was conducted,

30 (c) a decision of the deciding officer on any question arising in connection with it, or

(d) a failure to provide a health service as assessed or to provide it within a reasonable period,

may make the complaint to a complaints officer on giving notice in the prescribed form within the prescribed period.

35 (5) (a) (i) Subject to *paragraph (b)*, the complaints officer concerned shall investigate the complaint.

40 (ii) If in his or her opinion the complaint is capable of being informally resolved, the complaints officer may try to so resolve it and for that purpose may, where appropriate, exercise the power of revising decisions of deciding officers given by *subsections (4) and (5) of section 25*.

45 (iii) If the complaint is not so resolved, the complaints officer shall make a written recommendation to the chief executive officer of the health board concerned in relation to the complaint.

(b) A complaints officer shall not proceed with a complaint that in the officer's opinion is frivolous or vexatious and shall so inform the complainant and the chief executive officer.

(6) An investigation of a complaint by a complaints officer shall be conducted in private. 5

(7) A copy of the recommendation of the complaints officer shall be sent to the complainant.

(8) The chief executive officer shall give effect to any recommendation of the complaints officer for the provision of a health service to the person concerned if, in his or her opinion, the service is one which the health board concerned, having had regard to the matters mentioned in *section 24(2)*, is required to provide to that person. 10

Attendance before complaints officer.

**27.—**(1) A complaints officer may, by giving notice in that behalf in writing to any person, require the person to attend, at a time and place specified in the notice, to give information in relation to any matter referred to the complaints officer under this Part or to produce any documents which relate to any such matter and are in his or her possession or custody or under his or her control. 15

(2) The notice may be given either by delivering it to the person to whom it relates or by sending it by post in a prepaid registered letter to the person at the address at which he or she ordinarily resides or carries on business. 20

(3) A person to whom a notice under this section has been given and who— 25

(a) refuses or wilfully neglects to attend in accordance with it, or having so attended, refuses to give evidence, or

(b) refuses or wilfully fails to produce any document to which the notice relates,

is guilty of an offence and liable on summary conviction to a fine not exceeding €2,000. 30

(4) Where a person is required under this section to attend to give evidence or produce documents and fails to attend or to produce them, a complaints officer may, on notice to the person, apply to the Circuit Court for an order directing the person to attend or to produce the required documents, and the Court may make such an order. 35

(5) The jurisdiction given to the Circuit Court by *subsection (4)* shall be exercised by the judge for the time being assigned to the circuit within which the person referred to in that subsection resides. 40

Revision of complaints officer's recommendation.

**28.—**(1) A complaints officer may at any time revise any recommendation made by him or her or by any other complaints officer of the health board concerned if it appears to him or her that it should be revised in the light of—

(a) information coming to notice since the recommendation was made, 45

(b) a mistake made in relation to the facts of the case or the law governing it, or

(c) a change of circumstances.

5 (2) *Subsections (5)(a)(iii) and (6) to (8) of section 26* shall apply in relation to the revised recommendation as they apply in relation to the original recommendation, with any necessary modifications.

10 **29.—(1)** Any person who is dissatisfied with a recommendation of a complaints officer, or a decision of a chief executive officer on such a recommendation, may appeal the recommendation or decision to the Circuit Court on any question of law. Appeals.

(2) The jurisdiction conferred on the Circuit Court by this section shall be exercised by the judge for the time being assigned to the circuit within which the appellant resides.

15 **30.—(1)** The Minister may make regulations for the purpose of giving full effect to this Part. Regulations (Part 4).

(2) Without prejudice to the generality of the foregoing, the regulations may prescribe—

(a) the manner in which the obligations imposed on health boards by *section 23 or 24* are to be complied with,

20 (b) different periods within which an assessment of need is to be provided, or reviewed, in respect of different categories of disability,

25 (c) different such periods in respect of the period of 2 years from the commencement of this Part and of subsequent periods,

(d) the categories of persons who are to make an assessment of need,

(e) the form of application for a health service or assessment of need,

30 (f) the form of the assessment,

(g) any matter to be contained in it, including, where any health service assessed as being required cannot be provided immediately, an indication of when it is likely to be provided,

35 (h) the manner of determining the person (other than a personal advocate who is assigned under *Part 5*) to represent an applicant for a health service who, by reason of age or disability, is unable to become involved, or fully involved, in the assessment of need,

40 (i) the form of the notice to be given under *section 26(3)* to a complaints officer,

(j) the time within which it is to be so given, and

(k) any other procedural matter relating to the handling of a complaint.

PART 5

ADVOCACY SERVICES

Commencement  
(Part 5).

**31.**—This Part shall come into operation on a date appointed by order of the Minister, being a date not later than 1 January, 2006.

Interpretation  
(Part 5).

**32.**—(1) In this Part— 5

“advocacy”, in relation to persons with disabilities, includes—

(a) representing, supporting or training them for the purpose of helping them to promote their best interests in relation to matters affecting their welfare and quality of life,

(b) for that purpose, supporting or training— 10

(i) their families, carers or other persons, or

(ii) members of organisations or groups representing their interests,

and

(c) representing, helping or supporting qualifying persons to obtain access to a service provided by a statutory body or voluntary body, 15

but does not include representation in legal proceedings, and “advocacy service” shall be construed accordingly;

“assessment of need” has the meaning given to it by *section 23(1)*; 20

“health service” has the meaning given to it by *section 22(1)*;

“Minister” means the Minister for Social, Community and Family Affairs;

“minor” means a person who has not attained the age of 18 years;

“Personal Advocacy Service” and “personal advocate” shall be construed in accordance with *sections 34* and *36* respectively; and 25

“qualifying person” means—

(a) a person over 18 years of age who, by reason of a disability—

(i) would, in the opinion of the Personal Advocacy Service, be unable to obtain, or have difficulty in obtaining, access to a service provided by a statutory body or voluntary body in relation to the disability, without the help or support of a personal advocate, or 30  
35

(ii) is unable to represent himself or herself and, in the opinion of that Service, there are reasonable grounds for believing that there is a risk of harm to the person’s welfare, health or safety,

(b) a minor where— 40



- (i) the sole parent or guardian of the minor is himself or herself a qualifying person, or
- (ii) the minor has a disability, or, in the opinion of that Service, there are reasonable grounds for believing that he or she has a disability, and the issues involved are so complex that it would be unreasonable to expect that a parent or guardian could act on the minor's behalf in seeking to obtain access to a service provided by a public or voluntary body in relation to the disability without the help or support of a personal advocate.

5  
10  
**33.—**(1) Comhairle shall provide advocacy services for persons with disabilities. Advocacy services.

15 (2) Those services shall include a personal advocacy service to be known as the “Personal Advocacy Service”.

**34.—**(1) The Personal Advocacy Service (in this Part referred to as “the Service”) shall, subject to this Part, represent qualified persons (other than in legal proceedings) and provide help or support to them in relation to— Personal Advocacy Service.

- 20 (a) applying for an assessment of need,
- (b) obtaining a health service,
- (c) obtaining any other service to which the qualifying person is entitled from a statutory body or voluntary body or any person acting on its behalf,
- 25 (d) making a complaint under *section 26*.

(2) In performing its functions, the Service shall—

- 30 (a) report to Comhairle from time to time on any matter relating to the circumstances of persons with disabilities, or of any particular category of such persons, that in the opinion of the Director of the Service should be drawn to its attention, and
- (b) give effect to any policy directives of Comhairle.

35 (3) An application to the Service for assistance may be made by the person concerned or any person acting on behalf of such a person.

**35.—**(1) A Director of the Service shall be appointed by Comhairle with the approval of the Minister. Director of the Service.

40 (2) The terms and conditions of the Director's appointment shall be determined by the Minister, with the consent of the Minister for Finance.

(3) The Director shall, subject to any policy directives issued by Comhairle, be responsible to the Chief Executive of Comhairle for the management and control of the Service, including—

(a) the manner of dealing with applications to it for assistance by or on behalf of persons with disabilities,

(b) liaising with statutory authorities or voluntary bodies so as to maximise the provision to be made for qualifying persons, and

5

(c) training and guidance of personal advocates.

(4) The Director shall be independent in performing his or her functions under *subsection (3)*.

(5) The Director may from time to time issue guidelines, after consultation with Comhairle, relating to the operation of the Service, including guidelines in relation to—

(a) the range of circumstances in which a personal advocate may be assigned to an applicant for the service, and

(b) the procedures to be followed by a personal advocate in carrying out his or her functions both generally and in regard to different categories of persons with disabilities.

15

(6) The Director may appoint such and so many persons to be members of the staff of the Service as may be approved from time to time by the Minister with the approval of the Minister for Finance.

(7) The Director may delegate any of his or her functions under this section to a member or members of the staff of the Service.

20

Personal advocates.

**36.—(1)** A person who is assigned by the Director as personal advocate to a qualifying person shall represent, support and assist the qualifying person in relation to—

(a) promoting the best interests of a qualifying person in relation to matters affecting his or her welfare and quality of life,

25

(b) helping the person to understand—

(i) the options available to him or her as a result of an assessment of need, and

30

(ii) the nature and implications of any proposed treatment or therapy so that the person may give an informed consent to it to the maximum practicable extent,

(c) liaising with institutions providing residential care to persons with disabilities, and

35

(d) where services are being provided for a qualifying person by more than one public body or voluntary body, helping

to ensure any necessary co-ordination in the delivery of the services.

(2) On assignment to a qualifying person, a personal advocate shall—

5 (a) subject to the agreement of the person, seek to identify any family members, or other persons having care of or an interest in the person, who may be able to assist the person, and

10 (b) in the case of a qualifying person in relation to whom there is a risk of harm to his or her health, welfare or safety, seek to identify any family members, or other persons having the care of or an interest in the person, who might be assisted by the personal advocate in representing the interests of the person.

15 (3) A personal advocate shall have access to—

(a) any meetings, consultations or discussions to which the qualifying person, if he or she did not have the disability concerned, might reasonably expect to have access, and

20 (b) any information about the qualifying person that the personal advocate needs to have for the purpose of effectively representing the qualifying person.

**37.—**(1) The Director or a personal advocate may at any reasonable times— Access by personal advocates to clients.

25 (a) enter any place which provides day or residential care or training for persons with disabilities, and

(b) meet any person there for the purpose of representing, supporting or assisting him or her in relation to any of the matters specified in *section 36(1)*.

30 (2) Any person who obstructs or hinders the Director or personal advocate in carrying out his or her functions under *subsection (1)* is guilty of an offence.

(3) Summary proceedings for an offence under this section may be prosecuted by the Minister for Social, Community and Family Affairs.

35 **38.—**(1) It shall be deemed to be a condition of any contract made between a person and a public body for the provision of health services on behalf of the public body that the person shall co-operate fully with personal advocates in the performance of their functions. Service contractors to co-operate with personal advocates.

40 (2) Any such contracts concluded after the commencement of this Part shall include proportionate penalties for non-compliance or partial compliance with such a condition.

PART 6

OTHER SERVICES

Sign language interpretation service.

39.—(1) In this Part—

“sign language” means a sign language used for the purposes mentioned in subsection (2); 5

“universal service provider” means the person designated by the Director of Telecommunications Regulation under Regulation 3(2) of the European Community (Voice Telephony and Universal Service) Regulations, 1999 (S.I. No. 71 of 1999);

“videophone interpretation facilities” means facilities for transmitting and receiving contemporaneous sign language images by videophone. 10

(2) Comhairle shall provide, or arrange to provide, sign language interpreters or, as appropriate, videophone interpretation facilities for the purpose of facilitating communication between providers of services and persons who are deaf or have a hearing impairment. 15

(3) Comhairle shall liaise with the universal service provider in relation to delivery of the videophone interpretation facilities.

(4) The obligation imposed on Comhairle and the universal service provider under this Part is subject to the infrastructural, technological and other resources available at any particular time. 20

(5) The Minister for Social, Community and Family Affairs may by regulations specify—

(a) criteria for determining—

(i) eligibility for the sign language interpretation service, and 25

(ii) where necessary, priorities in the provision of the service,

(b) the sign language or languages to be used in the service, and

(c) any other related or ancillary matter relevant to its effective use and operation. 30

(6) This section shall come into operation on 1 January 2006.

Videophone facilities.

40.—(1) The universal service provider shall provide suitable videophone facilities for the effective use and operation of the videophone interpretation service by sign language users. 35

(2) The Director of Telecommunications Regulation may make regulations specifying—

(a) the nature and quality of the videophone facilities to be provided under subsection (1),

(b) the place at which a videophone may be installed, including the user’s home or place of work, 40

(c) the geographical or other limits on the provision of the service, having regard to the infrastructural and technological resources available, and

(d) any other related or ancillary matter.

5 (3) This section shall come into operation on a date appointed by order of the Minister with the consent of the Minister for Public Enterprise, being a date not later than 1 January 2006.

## PART 7

### PUBLIC SERVICE EMPLOYMENT

10 **41.—**(1) In this Part—

Interpretation  
(Part 7).

“Minister concerned” means—

(a) in relation to Departments of State or the aggregate of such Departments, the Minister for Finance, and

15 (b) in relation to a public body (other than a Department of State) operating under the aegis of a Minister of the Government or a sector of the public service operating under such an aegis, that Minister;

“sector of the public service” means the aggregate of—

(a) the Departments of State, or

20 (b) the public bodies (other than Departments of State) operating under the aegis of a Minister of the Government.

(2) This Part does not apply in relation to the Defence Forces, the Garda Síochána or the prisons service.

25 **42.—**(1) (a) Each public body shall endeavour to ensure that, as far as practicable, at least 3 per cent of the persons employed in it are persons with disabilities.

Employment in  
public service.

30 (b) Each sector of the public service shall ensure that, unless there is good reason to the contrary, at least 3 per cent of the persons employed in it are such persons.

35 (2) In this section, “persons with disabilities” means persons with disabilities whose employer has taken all reasonable steps to meet their needs in relation to their disabilities and who have been employed by the public body concerned for not less than 3 months ending on the date in respect of which the percentage referred to in *subsection (1)* is calculated.

(3) This section shall cease to be in force on 1 January 2010.

40 **43.—**(1) Each public body shall, not later than 31 March in each year, make a report to—

Monitoring of  
compliance with  
this Part.

(a) the Authority, and

(b) the committee established under *subsection (2)*,

in relation to the public body's compliance, or the extent of its compliance, with this Part during the preceding year.

(2) (a) A committee (to be known as a disability monitoring committee) shall be established by the Minister concerned in respect of each sector of the public service. 5

(b) Each committee shall monitor and, in consultation with the Authority, further compliance with this Part by each such sector.

(c) Each committee shall—

(i) consist of— 10

(I) 5 senior officials appointed by the Minister concerned,

(II) 2 persons appointed by the Minister concerned from organisations representing persons with disabilities, 15

(III) one person who, in the opinion of the Minister concerned, is representative of employers generally, and

(IV) one person who, in the opinion of the Minister concerned, is representative of employees 20 generally,

(ii) appoint its chairperson,

(iii) meet at least 4 times each year,

(iv) subject to *subparagraph (iii)*, determine its own procedures, and 25

(v) not later than 30 June in each year, make a report to the Authority and the Minister concerned in relation to the sector's compliance, or the extent of its compliance, with *section 42* during the preceding year.

(3) Each report referred to in *subsection (1)* or *(2)(c)(v)* shall be in such form, and contain such particulars, as the Authority may direct. 30

(4) For the purposes of *subsections (1)* and *(2)(c)(v)*, the period between the commencement of this section and the following 31 December shall be deemed to be the preceding year referred to in those subsections. 35

Action to achieve compliance.

**44.—**(1) Each public body shall, at the request of the Minister concerned or the Authority, supply to that Minister or the Authority any information necessary for determining whether it is complying with its obligations under this Part. 40

(2) Where—

(a) either—

(i) at the end of any two successive years after the commencement of this Part, a public body is, in the opinion of the Authority, not complying with its obligations under it, or 45

(ii) (I) a public body has not supplied to the Minister concerned information requested by that Minister under *subsection (1)* within 3 months after receipt of the request, and

5 (II) the Minister concerned is of opinion that it is not complying with those obligations,

and

10 (b) the Authority has requested the public body to implement measures specified by it as being necessary to facilitate such compliance,

the public body shall comply with the request.

(3) Measures so specified shall be prepared by the Authority in consultation with the public body concerned.

(4) The measures may include—

15 (a) sponsoring the training or education of persons with disabilities, either within or outside the public body concerned, with the intention of qualifying them for specific posts or employments therein,

20 (b) amending the specification for particular posts or employments so that work of equal value to the original posts or employments can be given to such persons on an individual basis,

25 (c) giving priority to suitably qualified such persons, either for a specified period or until the relevant provisions of this Part have been complied with, in the filling of vacancies or particular vacancies or of categories of vacancies,

(d) holding competitions for recruitment to specific posts or employments which are confined to such persons.

30 (5) (a) The Authority shall, not later than 30 September in each year, prepare a report based on the information reported to it under *subsections (1)(a)* and *(2)(c)(v)* of *section 43* and send a copy of it to the Minister and each other Minister of the Government concerned.

(b) The report shall include—

35 (i) an assessment of the extent to which each sector of the public service has endeavoured to comply with *section 42* and the extent to which any factors outside its control may have contributed to any non-compliance with the section, and

40 (ii) a recommendation that, where appropriate, any such sector, or any public body within it, should take specified steps for facilitating or achieving compliance with the section, including, if necessary, any consequential amendment of its functions or redirection of its resources.

45 (c) The Minister shall cause a copy of the report to be laid before each House of the Oireachtas.

Positive action measures.

**45.**—Nothing in this Part precludes the taking of measures specified in section 33 (positive action permitted) of the Employment Equality Act, 1998, and intended to reduce or eliminate the effects of discrimination against persons with disabilities or the provision of training or work experience for them in accordance with that section by or on behalf of the State. 5

## PART 8

### EXCLUSIONS

Exclusions.

**46.**—Nothing in this Act—

- (a) requires any public building, service, information or goods to be made accessible to persons with disabilities if the adaptation or modification involved, or the provision of auxiliary aids would— 10
  - (i) fundamentally alter their nature or the nature of the trade, profession or business of the person providing the service, information or goods; or 15
  - (ii) constitute a risk to the health, safety or welfare of any person,
- (b) affects any genetic testing or processing of genetic data that is carried out for the purposes of any criminal investigation or proceedings or in the interests of public health, or 20
- (c) limits the functions of the Authority under the Act of 1999, as amended by this Act.

Civil liability.

**47.**—(1) Nothing in this Act shall— 25

- (a) confer a right of action in any civil proceedings by reason only of a failure by a public body to comply with any duty imposed on it under this Act, or
- (b) affect the extent (if any) to which breach by a public body of an existing statutory duty is actionable. 30

(2) *Subsection (1)* is without prejudice to any right of action which exists apart from this Act.

Immunity of Authority, Director and staff.

**48.**—(1) No proceedings may be taken against the Authority for the recovery of damages in respect of any injury to persons, damage to property or other loss alleged to have been caused or contributed to by a failure by the Authority to perform or to comply with any of the functions conferred on it by the Act of 1999 or this Act. 35

(2) The Authority, the Director and any member of the Authority's staff shall not be liable in civil proceedings in respect of any act done or omitted to be done in good faith in the performance or supposed performance of functions given to them by the Act of 1999 or this Act. 40

Non-liability for information disclosed to Authority.

**49.**—(1) Where, in the course or for the purposes of any investigation by the Authority under this Act, any person discloses information to the Authority, the disclosure shall not give rise to any liability (in contract, tort or otherwise) on the part of the person making it. 45



(2) Information supplied to, or otherwise acquired by, the Authority in the course or for the purposes of any such investigation shall not be published or otherwise disclosed except—

(a) for those purposes,

5 (b) by order of a court,

(c) with the consent of the person furnishing the information and of any other person to whom the information may relate, or

10 (d) in a report which is made or published by the Authority in accordance with this Act and to which the disclosure of the information is relevant.

(3) In *subsection (1)*, references to the Authority include references to the Director or a member of its staff.

15 (4) In *subsection (2)*, references to information include references to any record, book, document or other thing in which the information is contained.

(5) Any person who discloses information in contravention of *subsection (2)* is guilty of an offence.

## PART 9

### 20 NATIONAL DISABILITY AUTHORITY: ADDITIONAL POWERS AND MEMBERSHIP

**50.**—(1) In this Part—

Interpretation  
(Part 9).

“disability access audit”, in relation to a person, means an investigation—

25 (a) to determine the extent to which the person is complying with a relevant provision of this Act, and

30 (b) which is conducted, either by the Authority or by the person in compliance with a requirement of the Authority, in accordance with terms of reference prepared under *section 51(3)*,

and includes the examination of any building, vehicle, system, facility, record, practice or procedure, or of any other thing, which is relevant to such a determination;

35 “disability access plan” shall be construed in accordance with *section 52*;

“person” includes a public body or group of public bodies and any other person who is required to comply with a relevant provision of this Act;

“relevant provision of this Act” means a provision of *Parts 2 to 7*.

40 (2) This Part is without prejudice to the powers given to the Authority elsewhere in this Act or in any enactment to ensure compliance with a relevant provision of this Act.

**51.**—(1) The Authority shall monitor the extent of compliance with the relevant provisions of this Act. Disability access audits.

(2) For the purposes of *subsection (1)* the Authority, where it considers it necessary for the performance of its functions to do so or in accordance with a direction of the Minister—

(a) may require any person who is required to comply with a relevant provision of this Act to conduct a disability access audit, or 5

(b) may, on notice to the person, itself conduct the audit,

and the person shall comply with the requirement or, as the case may be, co-operate with and assist the Authority when it is conducting the audit. 10

(3) The terms of reference of a disability access audit—

(a) shall be prepared by the Authority or, if the conduct of the disability access audit has been directed by the Minister, by the Minister after consultation with the Authority, and

(b) may include a requirement that an interim report, with or without a draft disability access plan, be made to the Authority within a specified period. 15

(4) Any person who obstructs or impedes the Authority or an authorised officer in the conduct of a disability access audit or in the preparation of a disability access plan under *section 52(1)(b)* is guilty of an offence. 20

(5) A copy of the report of a disability access audit shall be sent to the Minister by the Authority.

(6) The annual report of the Authority shall contain particulars of each disability access audit completed during the year to which the report relates. 25

Disability access plans.

**52.—(1)** The Authority, if of opinion that a person has not complied with a relevant provision of this Act—

(a) may—

(i) so inform the person concerned, 30

(ii) specify the respects in which the Authority considers that there has been such non-compliance, and

(iii) require that the person prepare and submit to the Authority within a specified period a draft disability access plan setting out the steps proposed to be taken by the person to secure compliance with the relevant provision, 35

or

(b) may, on notice to the person concerned, itself prepare a disability access plan, 40

and the person shall comply with the requirement or, as the case may be, co-operate with and assist the Authority in preparing the plan.

(2) A disability access plan shall require the person to whom it relates to report to the Authority at specified regular intervals on progress in implementing it.

(3) On receipt of a disability access plan the Authority may—

- 5       (a) approve of it, or
- (b) amend it after consultation with the person concerned,

and compliance with the plan or amended plan shall be deemed to be compliance with the relevant provision.

10       **53.**—For the purposes of assisting in the conduct of a disability access audit or disability access plan the Authority may, with the approval of the Minister, employ one or more persons having qualifications which in the opinion of the Director are relevant to the conduct of the disability access audit or disability access plan.

Assistance in  
conducting  
disability access  
audits or plans.

15       **54.**—(1) Where an approved code of practice (within the meaning of section 10 of the Act of 1999) is in force in relation to the obligations of a public body under this Act, compliance by the public body with any provision of the code of practice shall be deemed to be compliance with the relevant provision of this Act.

Codes of practice.

20       (2) Where such a code of practice relates to the obligations of public bodies regarding access to public buildings by persons with disabilities, the code shall require the public bodies concerned to comply with at least the standard of accessibility laid down in Part M of the Building Regulations, so far as regards public buildings whose construction began after 1 January 2001.

25       (3) In *subsection (2)*, the reference to Part M of the Building Regulations is a reference to Part M (as substituted by Regulation 6 of the Building Regulations (Amendment) Regulations, 2000 (S.I. No. 179 of 2000)) of the Second Schedule to the Building Regulations, 1997 (S.I. No. 497 of 1997).

30       **55.**—(1) The Authority may appoint the Director or a member of its staff or other person to be an authorised officer for the purposes of this Act.

Authorised officers.

35       (2) Each authorised officer shall be given a warrant of his or her appointment and, when exercising any power under this Act, shall, on request by any person affected, produce the warrant or a copy of it, together with a form of personal identification.

40       **56.**—(1) For the purposes of ascertaining whether any provision of this Act is being complied with or of otherwise enabling the Authority to perform its functions an authorised officer may—

Power of entry and  
inspection.

- 40       (a) at all reasonable times enter, inspect and examine any premises or other place,
- 45       (b) make such examination and enquiry as may be necessary to establish whether the relevant provision is being complied with, including an examination of any building, vehicle, equipment, device, facility, record, practice or procedure, or of any other thing,

- (c) operate or test, or require to be operated or tested, any such vehicle, equipment, device or facility or make a photographic or other record of it,
- (d) require the production of any records, books or accounts (whether kept in manual form or otherwise) or any other documents or information which it is necessary for the authorised officer to see for those purposes and inspect, examine and copy them or require that a copy of them or of any entries in them be provided in legible form to him or her,
- (e) inspect any work in progress at the premises or place,
- (f) require any person to give the authorised officer such facilities and assistance within the person's control and responsibilities as will enable him or her to exercise any of the powers conferred by the preceding paragraphs, and
- (g) take with him or her a member of the Garda Síochána if he or she has reasonable cause to apprehend any serious obstruction in the execution of his or her duty.

(2) An authorised officer shall not enter a private dwelling without the occupier's consent unless the officer has obtained a warrant under *subsection (3)* authorising the entry.

(3) A judge of the District Court, if satisfied on the sworn information of an authorised officer that—

- (a) there are reasonable grounds for suspecting that information required by an authorised officer under this section is held on any premises or other place or on any part thereof,
- (b) an authorised officer in the exercise of his or her powers under this section has been prevented from entering the premises or any part thereof,

may issue a warrant authorising the authorised officer, accompanied if necessary by other persons, at any time or times within one month from the date of issue of the warrant and on producing it if so requested, to enter, if need be by reasonable force, the premises or part of the premises concerned and exercise any of the powers given to an authorised officer by *subsection (1)*.

(4) A person who—

- (a) fails or refuses to comply with any requirement of an authorised officer under this section, or
- (b) otherwise obstructs or hinders the officer in the performance of his or her duties under this Act,

is guilty of an offence.

Power to require information.

**57.—(1)** The Director or an authorised officer may, for the purposes of enabling the Authority to perform its functions under this Act, require any person who in the opinion of the Director or authorised officer possesses or has under his or her control any information that is relevant to the performance of those functions—

- (a) to supply the information within a specified period, or
- (b) where appropriate, to attend before the Director or authorised officer for that purpose at a specified time or place or within a specified period,

5 and the person shall comply with the requirement.

(2) Any person who gives false or misleading information to the Director or authorised officer pursuant to a requirement under *subsection (1)* is guilty of an offence.

10 **58.—**(1) If it appears to the Director or an authorised officer that any person has failed to comply with a requirement under *section 56(1)*, the Director or authorised officer may apply to the Circuit Court for an order that the person comply with the requirement. Circuit Court.

15 (2) Subject to *subsection (3)*, if the Circuit Court is satisfied that the person concerned has failed, without reasonable excuse, to comply with the requirement, the Court may order that the person shall comply with it.

(3) If the Circuit Court is of opinion that the requirement purports to require the person concerned—

(a) to produce any record, book, document or other thing, or

20 (b) to furnish any information,

for which the person is entitled to claim legal privilege, the Court shall set aside the requirement.

25 (4) The jurisdiction conferred on the Circuit Court by this section shall be exercised by the judge for the time being assigned to the circuit where the respondent ordinarily resides or carries on any profession, business or occupation.

**59.—**(1) (a) The Authority shall consist of 12 members of whom at least 5 shall be male and 5 female. Membership of Authority.

30 (b) Subject to *paragraph (d)*, members of the Authority shall be appointed by the Minister, who shall designate one of them as chairperson.

(c) The members of the Authority (other than the chairperson) shall include—

(i) an officer of the Minister,

35 (ii) at least 5 persons from organisations representative of persons with disabilities, their families or carers,

(iii) at least 3 persons from organisations of service providers, and

40 (iv) subject to *paragraph (d)*, a member of the staff of the Authority who shall be elected by secret ballot of its staff in such manner as the Authority, with the agreement of the Minister, may determine.

(d) The member of the Authority elected by its staff shall continue to be such a member, unless the member sooner resigns or is removed from office under section 21 of the Act of 1999.

(2) The chairperson shall be paid such remuneration as the Minister, with the consent of the Minister for Finance, may determine. 5

(3) Where the chairperson is reappointed as a member of the Authority, he or she shall be eligible for reappointment as chairperson.

(4) In appointing persons to be members of the Authority, the Minister shall have regard to the knowledge or experience, either directly or indirectly, of such persons in relation to matters pertaining to disabilities or to any other matter which in the opinion of the Minister would be of assistance to the Authority in performing its functions. 10 15

(5) Section 20 (membership of Authority) of the Act of 1999 is repealed.

(6) This section shall come into operation on 12 June 2004.

Advisory committees.

**60.**—(1) The Authority may from time to time appoint such and so many advisory committees as it thinks fit to advise it on matters relating to its functions, for such period and subject to such terms of reference as it thinks appropriate. 20

(2) Where the Authority has appointed an advisory committee, it shall appoint one of the members of the committee as chairperson and another as a vice-chairperson, who shall act in the absence of the chairperson. 25

(3) Subject to *subsection (2)*, an advisory committee shall regulate its own procedure and business.

(4) The chairperson of an advisory committee shall be paid out of moneys at the disposal of the Authority such fee for attendance at meetings of the committee as the Minister, with the consent of the Minister for Finance, may sanction. 30

(5) Each member of an advisory committee shall be paid out of moneys at the disposal of the Authority such allowance for expenses incurred by the member as the Minister, with the consent of the Minister for Finance, may sanction. 35

(6) Section 11 (consultants, advisers and advisory committees) of the Act of 1999 shall cease to apply in relation to advisory committees.

Amendment of Act the of 1999.

**61.**—Section 23 (meetings of Authority) of the Act of 1999 is amended by the substitution of the following subsection for subsection (3): 40

“(3) The quorum for a meeting of the Authority shall be 7.”.

PART 10

GENETIC TESTING

5 **62.—**(1) In this Part, “genetic testing” means obtaining information from a person’s deoxyribonucleic or ribonucleic acid by chromosomal analysis or any other means for the purposes of— Interpretation and cessation of certain provisions (*Part 10*).

- (a) confirming the nature of an existing symptomatic disease,
- (b) if the person is asymptomatic at the time of the test, determining—
  - 10 (i) whether the person has a genetic predisposition or susceptibility to disease, or
  - (ii) whether a particular disease will develop in the person,
- or
- (c) identifying a carrier of any disease.

15 (2) *Sections 64 to 67* shall cease to be in force on 1 January 2010.

**63.—**Genetic testing of a person may be carried out only with the person’s free and informed consent and only if the following conditions are complied with— Restriction of genetic testing.

- 20 (a) the test is for medical purposes or for scientific research related to those purposes,
- (b) the person is given adequate information about its purpose and possible outcome,
- (c) it is followed by counselling, and
- 25 (d) if the person is a minor, the free and informed consent of the person’s parent or guardian has been given.

**64.—**(1) Subject to *subsection (2)*, the result of a genetic test of a person shall not be disclosed without his or her consent. Non-disclosure of genetic testing.

30 (2) Such a result may be disclosed if the disclosure is necessary in the interests of preventing the serious illness or death of another person or persons.

35 (3) A person who proposes to disclose the result of a genetic test pursuant to *subsection (2)* shall take such steps as are reasonable and appropriate in the circumstances of the particular case to obtain consent to the making of the disclosure from the person to whom the result relates.

(4) A person who contravenes *subsection (1)* is guilty of an offence.

**65.—**(1) A person shall not request, obtain, accept or make use of the results of a genetic test of— Prohibition on use of genetic test results in certain cases.

40 (a) any applicant for employment, insurance or a mortgage, or

(b) any employee, insured person or mortgagor.

(2) A person who contravenes *subsection (1)* is guilty of an offence.

Use of family history by insurers, etc.

**66.—(1)** Information about the family history of an applicant for insurance may be sought and used by the insurer— 5

(a) if the sum to be assured is above a sum to be determined from time to time—

(i) in the case of life insurance, by the Minister for Enterprise, Trade and Employment in consultation with the Minister for Social, Community and Family Affairs, or 10

(ii) in the case of health or health-related insurance, by the Minister for Health and Children,

or

(b) if the application relates to an occupational pension, a retirement annuity contract or other such pension arrangement as may be prescribed by regulations made by the Minister for Social, Community and Family Affairs, an income continuance provision or an annuity. 15

(2) Information about the family history of an applicant for a mortgage may be sought and used by the person to whom the application is made if the sum to be borrowed under the mortgage is above the average price of houses, in the county in which is situated the house for which the mortgage is sought, for the year preceding the application, as compiled and published by the Central Statistics Office. 20 25

(3) Information about the family history of a person in relation to an application under *subsection (1)(b)* may be sought and used by the person to whom the application is made for the purposes of processing the application. 30

(4) In this section—

“family history” means the health-related history of the family of the applicant concerned; and

“information” does not include information derived from genetic testing. 35

Genetic testing of employees.

**67.—(1)** Where—

(a) a specific health risk exists to employees in an undertaking, and

(b) reliable genetic tests are available to identify persons—

(i) with a genetic predisposition or susceptibility to disease from the risk, or 40

(ii) whose genetic predisposition or susceptibility to disease from it makes their employment in the undertaking a risk to the health of other persons,

the employer may offer to those employed in the undertaking a test to be taken in accordance with the provisions of *sections 63 to 65*. 45



**68.**—In this Part and the *Schedule*—

Interpretation  
(*Part 11*).

5 “Centre” means the Centre for Excellence in Universal Design established by *section 69*;

“environment” means, in relation to any area, the buildings and public places in the area and the products used, services provided and systems (including electronic systems) available for operation within it;

10 “public place” includes any space accessible to members of the public and any facilities for traffic regulation therein;

“telecommunications” includes mobile telephone communication and digital television and internet technologies;

“universal design” means—

15 (a) the design and composition of an environment so that it may be accessed, understood and used by everyone to the greatest practicable extent in the most independent and natural manner possible and in the widest possible range of situations, without the need for adaptation, modification, assistive devices or specialised solutions to provide for persons of a particular age or size or persons having any other particular physical or mental feature, ability or disability, and

20 (b) with particular reference to electronic systems, includes any electronics-based process of creating products, services or systems that may be so used by everyone.

**69.**—(1) There shall stand established a body to be known as the Centre for Excellence in Universal Design or, in the Irish language An Lárionad Foirfeachta i nDearadh Uilíoch, to perform the functions given to it by this Part.

Centre for  
Excellence in  
Universal Design.

(2) The members of the Centre shall be appointed by the Minister, who shall designate one of them as chairperson and one other as the Director of the Centre.

(3) The Centre shall consist of 10 members.

35 (4) The membership shall include an officer of—

(a) the Department of the Taoiseach, nominated by the Taoiseach,

(b) the Department of Justice, Equality and Law Reform, nominated by the Minister,

40 (c) the Authority, nominated by its Director, and

(d) Comhairle, nominated by its Director.

(5) Two members shall be representative of persons with disabilities who have experience or knowledge of any of the matters specified in *section 70(2)*.

(6) Of the other members, at least one shall have experience of information technology or telecommunications, with particular reference to accessibility design or techniques, at least one shall have experience of architectural design and at least one shall be representative of a third-level educational establishment. 5

(7) The members referred to in *subsections* (5) and (6) shall be appointed on the results of a competitive selection procedure conducted on behalf of the Minister.

(8) It shall be a condition of membership of the Centre that each member shall devote such time to the management and development of the Centre as is specified by the Minister in this behalf in relation to him or her. 10

(9) Subject to this Part and the *Schedule*, the Centre shall regulate its own procedure and business.

(10) The *Schedule* shall have effect in relation to the Centre. 15

Functions of Centre.

**70.—**(1) The Centre shall facilitate the achievement of excellence in universal design by the development and promulgation of standards in that regard.

(2) Without prejudice to the generality of the foregoing, the Centre shall— 20

(a) in relation to the universal design of electronic systems—

(i) develop standards of excellence,  
(ii) recommend those standards for adoption by bodies operating in the field of information technology and telecommunications, 25

(iii) encourage compliance by those bodies with international best practice in universal design,

(iv) undertake multidisciplinary research and development studies, and

(v) provide a practical and theoretical basis for assistive technologies, 30

(b) further the introduction of the principles of universal design to courses of training at all levels for persons preparing to do work affecting the environment or having responsibilities in that regard by— 35

(i) ensuring as far as practicable that professional examinations in such courses include material relating to those principles,

(ii) ensuring as far as practicable that courses of training in those principles are provided for persons actively engaged in such work, including architects, engineers, town planners, system analysts, software designers, transport providers and designers of passenger transport vehicles and vessels, 40

(iii) training persons providing those courses, 45

(iv) raising general awareness of the difficulties encountered by persons with disabilities in relation to the environment, and

5 (v) providing persons actively engaged in work affecting the environment with the necessary knowledge, skills and values to instil in them new attitudes and behaviour towards achieving an environment that is universally designed,

and

10 (c) engage in such practical or theoretical work in respect of such matters relating to universal design as the Minister may specify from time to time.

(3) The Centre—

15 (a) may attend (by its members or members of its staff) and, unless the Minister otherwise directs, represent the State, whether alone or with others, at meetings with, or arranged or organised by, international organisations or governments of other states in so far as the meetings are concerned with matters related to its functions, and

20 (b) shall exchange information, and cooperate in research and other matters, with corresponding bodies in other states.

(4) In performing its functions, the Centre shall consult with, as appropriate—

25 (a) bodies or persons representative of users of relevant interests, including those of persons with disabilities, elderly people, consumers and industrial and commercial bodies, and

(b) any educational or professional bodies concerned.

30 **71.**—(1) The Centre may prepare and publish guidance documents in respect of any matter relating to excellence in universal design and send them to the Authority. Guidance documents.

(2) On receipt of any such document the Authority may, where it considers it appropriate, and shall if requested by the Minister, adopt the document with or without amendment as a draft code of practice for submission to the Minister under section 10(3) of the Act of 1999.

**72.**—(1) The Centre may enter into an arrangement (in this section referred to as “public private partnership arrangement”) with a person (in this section referred to as a “partner”) for the performance of specified functions of the Centre. Public private partnership arrangements.

40 (2) The Centre may—

(a) arrange or provide for payment to a partner,

(b) enter into an agreement with a person who has arranged or provided funding for the partner in relation to carrying out the public private partnership arrangement.

(3) Such an arrangement may include such terms and conditions in relation to the performance by the partner concerned of the partner's obligations under the arrangement as may be specified by the Centre.

(4) For so long as it continues in force, a public private partnership arrangement shall operate to confer on the partner concerned the functions of the Centre specified in the arrangement, subject to any terms and conditions so specified. 5

(5) A function conferred on a partner by a public private partnership arrangement— 10

(a) shall, notwithstanding the arrangement, continue to be vested in the Centre concurrently with the partner,

(b) may be performed by either or both of them, and

(c) may be performed by the partner in the partner's own name, subject to the general superintendence and control of the Centre. 15

(6) Any arrangement under this section shall be subject to the prior approval of the Minister, following consultation with the Minister for Finance.

Strategic plans.

**73.—**(1) As soon as practicable after its establishment, and thereafter within 6 months before each third anniversary thereof, the Centre shall prepare and submit a strategic plan for the following 3-year period to the Minister for approval by him or her with or without amendment. 20

(2) A strategic plan shall— 25

(a) comprise the key objectives, outputs and related strategies, including the use of resources, of the Centre,

(b) be prepared in a form and manner in accordance with any directions issued from time to time by the Minister, and

(c) have regard to the need to ensure the most beneficial, effective and efficient use of the Centre's resources. 30

(3) The Minister shall, as soon as practicable after the strategic plan has been approved, cause a copy of it to be laid before each House of the Oireachtas.

Reports to Minister.

**74.—**(1) The Centre shall, not later than 30 September in each year, make a report to the Minister on the performance of its functions and on its activities during the preceding year. 35

(2) The Minister shall cause a copy of the report to be laid before each House of the Oireachtas.

(3) The report shall be in such form as the Minister may approve and include information in such form and regarding such matters as he or she may direct. 40

(4) The Centre may from time to time make such other reports to the Minister on the performance of its functions as it thinks fit.

(5) The Centre shall give to the Minister such other information regarding such performance as he or she may from time to time require.

5 (6) For the purposes of *subsection (1)*, the period between the date of the establishment of the Centre and the following 31 December shall be deemed to be the preceding year referred to in that subsection.

10 **75.**—The Minister may from time to time, with the consent of the Minister for Finance, advance to the Centre out of moneys provided by the Oireachtas such sums as the Minister may determine towards the expenditure incurred by the Centre in the performance of its functions. Grants to Centre.

## PART 12

### MISCELLANEOUS

15 **76.**—(1) Where— Covenants in leases.

(a) premises are occupied under a lease,

(b) the occupier proposes to make an alteration to the premises to comply with an obligation of the occupier under this Act, and

20 (c) under the lease the making of the alteration is prohibited or restricted or is, or may be made, subject to conditions,

the lease shall have effect as if—

(i) it prohibited or restricted the making of the alteration without the consent of the lessor, and

25 (ii) it provided—

(I) that the lessor's consent shall not be unreasonably withheld, and

30 (II) that no fine or other sum of money (other than a reasonable sum in respect of legal and other expenses incurred by the lessor in connection with the consent) or any increase in rent under the lease shall be payable by the lessee for or in respect of the consent.

**77.**—(1) Where—

Offences by bodies corporate, etc.

35 (a) an offence under this Act is committed by a body corporate, and

40 (b) the offence is proved to have been committed with the consent, connivance or approval of, or to have been attributable to any neglect on the part of, a person who was either—

(i) a director, manager, secretary or other similar officer of the body corporate, or

(ii) a person purporting to act in any such capacity,

that person is also guilty of an offence and liable to be proceeded against and punished as if he or she were guilty of the first-mentioned offence. 5

(2) Where the affairs of a body corporate are managed by its members, *subsection (1)* shall apply in relation to the acts or defaults of a member in connection with the member's functions of management as if he or she were a director or manager of the body corporate. 10

(3) *Subsections (1) and (2)* shall apply, with the necessary modifications, in relation to offences under this Act committed by an unincorporated body.

Offences.

**78.—(1)** A person who is guilty of an offence under this Act for which no penalty is provided is liable, on summary conviction, to a fine not exceeding €3,000 or imprisonment for a term not exceeding twelve months or both. 15

(2) If the contravention in respect of which a person is convicted of an offence under any provision of this Act is continued after the conviction, the person is guilty of a further offence on every day on which the contravention continues and for each such further offence is liable, on summary conviction, to a fine not exceeding €350. 20

(3) Summary proceedings for an offence under this Act (other than *section 37*) may be brought and prosecuted by the Authority. 25

(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 of the offence.

## CENTRE FOR EXCELLENCE IN UNIVERSAL DESIGN

*Tenure of office of members (other than the Director)*

- 5           1. (1) (a) The term of office of a member (other than the Director) of the Centre shall not be more than 4 years.
- (b) A member shall be eligible for reappointment.
- (c) A member may resign from the Centre by letter addressed to the Minister, and the resignation shall take effect on the date of receipt of the letter.
- 10           (d) A member shall, unless he or she sooner dies, resigns, is removed from office or otherwise ceases to be a member, hold office as such member until the expiration of his or her term of office.
- 15       (2) The Minister may at any time remove a member from office for stated misbehaviour or where the Minister considers that either—
- (a) the member has become incapable through ill health of effectively performing his or her functions as a member, or
- 20           (b) the member's removal is necessary for the effective performance by the Centre of its functions.
- (3) (a) If a member of the Centre dies, resigns, is removed from office or otherwise ceases to hold office, the Minister may, subject to *section 69*, appoint a person to fill the vacancy.
- 25           (b) a person so appointed shall hold office for the remainder of the term of office of the member whom he or she replaces and be eligible for reappointment.
- (c) The chairperson shall hold office as such chairperson until his or her term of office as a member of the Centre expires, unless he or she sooner dies, resigns, is removed from office or otherwise ceases to be a member, but, if reappointed as a member, he or she shall be eligible to be designated as chairperson.
- 30           (4) In making appointments to the Centre, the Minister shall have regard to the extent to which each sex is represented in its membership and shall ensure that an appropriate balance in this respect is maintained.
- 35           (5) Each member of the Centre shall be paid such remuneration (if any) and allowances for expenses as the Minister, with the consent of the Minister for Finance, may determine.
- 40

*Vacancies in membership*

2. (1) The Centre may act notwithstanding a vacancy or vacancies in its membership.
- 45       (2) Where a vacancy occurs, the Minister, subject to *paragraph 1.(3)(a)*, shall take steps to fill it as soon as practicable.

*Director*

3. (1) The Director shall manage and control generally the staff, administration and business of the Centre and perform such other functions as may be conferred on him or her by or under this Act or by the Centre. 5
- (2) The Director shall be responsible to the Centre for the performance of his or her functions and the implementation of the Centre's functions.
- (3) Such of the functions of the Director as he or she may specify from time to time may, with the consent of the Centre, be performed by such member of the staff of the Centre as the Director may authorise in that behalf. 10
- (4) The functions of the Director may be performed during his or her absence or when the post of Director is vacant by such member or members of the staff of the Centre as it may from time to time designate for that purpose. 15

*Staff*

4. (1) The Centre may appoint such and so many persons to be members of its staff as may be approved from time to time by the Minister with the consent of the Minister for Finance. 20
- (2) The appointment shall either—
- (a) be on such terms as the Minister may, with the consent of the Minister for Finance, determine and be subject to the Civil Service Commissioners Act, 1956, and the Civil Service Regulation Acts, 1956 to 1996, or 25
  - (b) be on such other terms and conditions as may be determined by the Centre and approved by the Minister with the consent of the Minister for Finance.

*Superannuation*

5. (1) The Centre, with the approval of the Minister and the consent of the Minister for Finance, shall make a scheme or schemes for the granting of superannuation benefits to or in respect of members of the staff of the Centre. 30
- (2) A scheme under this paragraph shall take account of any other superannuation benefits to which such members may be entitled. 35
- (3) A scheme under this paragraph shall fix the time and conditions of retirement of all persons to or in respect of whom superannuation benefits are payable under the scheme or schemes, and different times and conditions may be fixed in respect of different classes of persons. 40
- (4) The Centre may, with the approval of the Minister and the consent of the Minister for Finance, make a scheme amending or revoking a scheme under this paragraph including a scheme under this subparagraph.
- (5) If any dispute arises as to the claim of any person to, or the amount of, any superannuation benefit payable in pursuance of a scheme or schemes under this paragraph, the dispute shall be submitted to the Minister who shall refer it to the Minister for Finance, whose decision shall be final. 45



(6) No superannuation benefits shall be granted by the Centre to or in respect of a person on ceasing to be a member of the staff of the Centre otherwise than—

5 (a) in accordance with a scheme or schemes under this paragraph, or

(b) with the consent of the Minister and the Minister for Finance.

10 (7) A scheme under this paragraph, including an amendment of a scheme, shall be laid before each House of the Oireachtas as soon as may be after it is made and, if a resolution annulling the scheme is passed by either such House within the next 21 days on which that House has sat after the scheme is laid before it, the scheme shall be annulled accordingly, but without prejudice to the validity of anything previously done thereunder.

15 (8) In this paragraph, “superannuation benefits” means pensions, gratuities and other allowances payable on ceasing to be a member of the staff of the Centre.

#### *Disclosure of interests*

20 6. (1) Where a member of the Centre or a member of its staff has (otherwise than in that capacity) a pecuniary interest or other beneficial interest in, or material to, any matter to be considered by the Centre, he or she shall—

(a) in advance of any consideration of the matter, disclose that interest and its nature to the Centre,

25 (b) neither influence nor seek to influence any decision to be made in relation to it,

(c) not make any recommendation in relation to it,

(d) not take part in any consideration of it,

30 (e) absent himself or herself from any meeting of the Centre, or any part of such a meeting, at which it is being considered or discussed,

(f) not be counted towards a quorum during any such consideration or discussion, and

(g) not vote on any decision relating to the matter.

35 (2) Without prejudice to the generality of *subparagraph (1)*, a person shall be regarded for the purposes of this paragraph as having a beneficial interest if—

40 (a) any member of his or her household has a beneficial interest in, or material to, a matter referred to in that subparagraph,

(b) he or she or any member of his or her household—

(i) is in partnership with or in the employment of a person who has a beneficial interest in, or material to, such a matter, or

(ii) is a party to any arrangement or agreement (whether or not enforceable) concerning land to which such a matter relates,

or

(c) he or she or any member of his or her household or any nominee of his or her household is a member of a company or any other entity which has a beneficial interest in, or material to, such a matter. 5

(3) For the purposes of this paragraph, a person shall not be regarded as having a beneficial interest in, or material to, any matter by reason only of an interest of the person, or of any company or other entity or person mentioned in *subparagraph (2)*, which is so remote or insignificant that it could not reasonably be regarded as likely to influence a person in considering, discussing or voting on any question with respect to the matter or in performing any function in relation to it. 10 15

(4) Where a question arises as to whether or not a course of conduct, if pursued by a person, would be a failure by the person to comply with *subparagraph (1)*, it shall be determined by the Centre, and particulars of the determination shall be recorded in the minutes of the meeting concerned. 20

(5) Where a disclosure under *subparagraph (1)* is made to the Centre, particulars of the disclosure shall be recorded in the minutes of the meeting concerned.

(6) The Minister, if of opinion that a person mentioned in *subparagraph (1)* has contravened that subparagraph, may remove the person from office or terminate his or her contract, and the person shall thereupon cease to be qualified for membership of the Centre or appointment by it in any capacity. 25

(7) A person who contravenes *subparagraph (1)* is guilty of an offence. 30

#### *Non-disclosure of confidential information*

7. (1) Save as otherwise provided by law, a person shall not, without the consent of the Centre, disclose confidential information obtained by him or her while performing, or as a result of having performed, duties as a member of the Centre or as its Director or a member of its staff. 35

(2) A person who contravenes *subparagraph (1)* is guilty of an offence and liable, on summary conviction, to a fine not exceeding €3,000. 40

(3) This paragraph does not apply to the disclosure of information in a report made to the Centre or by the Centre to the Minister.

#### *Membership, etc. of Dáil, Seanad or European Parliament*

8. (1) Where a member of the Centre (other than the Director)—

(a) accepts nomination as a member of Seanad Éireann, 45

(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 under Part XIII of the Second Schedule to the European Parliament Elections Act, 1997, as having been elected to that Parliament,

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

5 (2) Where the Director or a member of the staff of the Centre is—

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

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

10 (c) regarded under the said Part XIII as having been elected to that Parliament,

he or she shall thereupon stand seconded from employment by the Centre and shall not be paid by, or be entitled to receive from, the Centre any remuneration or allowances in respect of the period commencing on such nomination, election or the date on which he or she is regarded as having been so elected and ending on the date on which he or she ceases to be a member of either such House or a representative in that Parliament.

20 (3) A person who is for the time being entitled under the Standing Orders of either House of the Oireachtas to sit therein or who is a representative in the European Parliament shall, while so entitled or such a representative, be disqualified for appointment as a member of the Centre or for employment by the Centre in any capacity.

25 (4) Without prejudice to the generality of *subparagraph (2)*, that subparagraph shall be construed as prohibiting, *inter alia*, the reckoning of a period mentioned in that subsection as service with the Centre for the purposes of any pensions, gratuities or other allowances payable on resignation, retirement or death.

#### *Accounts and audits*

30 9. (1) The Director, with the agreement of the Centre, shall—

(a) submit estimates of income and expenditure to the Minister in such form, in respect of such periods and at such times as may be specified by the Minister, and

35 (b) supply to the Minister any information which the Minister may require regarding those estimates and also regarding the proposals and plans of the Centre in respect of a period specified by the Minister.

(2) The Director, under the direction of the Centre, shall also keep, in such form and in respect of such accounting periods as may be approved of by the Minister with the consent of the Minister for Finance, all proper and usual accounts of moneys received and spent by the Centre, including an income and expenditure account and a balance sheet.

45 (3) (a) The Centre, the Director, and any relevant member of its staff shall, whenever so requested by the Minister, permit any person appointed by the Minister to examine the accounts of the Centre in respect of any financial year or other period and shall facilitate any such examination.

- (b) In this subsection, “relevant member of its staff” means a member of the staff of the Centre to whom duties relating to those accounts have been duly assigned.
- (4) (a) The accounts of the Centre shall be approved by it as soon as practicable (but not later than 3 months after the end of the accounting period to which they relate) and submitted by it to the Comptroller and Auditor General for audit.
- (b) A copy of the accounts and the report of the Comptroller and Auditor General on them shall be presented to the members of the Centre and the Minister as soon as practicable and the Minister shall cause a copy of the accounts and report to be laid before each House of the Oireachtas.

*Accountability of Director to Public Accounts Committee* 15

10. (1) The Director shall, whenever so 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, give evidence to the Committee on— 20

- (a) the regularity and propriety of the transactions recorded or required to be recorded in the accounts kept under *paragraph 9(2)*,
- (b) the economy and efficiency of the Centre in the use of its resources, 25
- (c) the systems, procedures and practices employed by it for the purpose of evaluating the effectiveness of its operations, and
- (d) any matter affecting it which is 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 by him or her (in so far as it relates to a matter specified in *clause (a), (b) or (c)*) that is laid before Dáil Éireann. 30

(2) In giving evidence to the Committee the Director 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 any such policy. 35

*Accountability to other Oireachtas Committees*

11. (1) In this paragraph, “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 *paragraph 10* or the Committee on Members’ Interests of Dáil Éireann or Seanad Éireann) or a subcommittee of such a Committee. 40

(2) Subject to *subparagraph (3)*, the Director shall, at the request in writing of a Committee, attend before it to give account for the general administration of the Centre. 45

(3) The Director shall not be required to give account before a Committee for any matter which is or has been or may at a future time be the subject of proceedings before a court or tribunal in the State.

5 (4) The Director, if of opinion that a matter in respect of which he or she is requested to give an account before a Committee is a matter to which *subparagraph (3)* applies, shall inform the Committee in writing of the opinion and the reasons for it, unless the information is conveyed to the Committee at a time when the Director is  
10 before it.

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

15 (a) the Director may, not later than 21 days after being informed by the Committee of its decision not to withdraw the request, apply to the High Court in a summary manner to determine whether the matter is one to which *subparagraph (3)* applies, or

20 (b) the chairperson of the Committee may, on behalf of the Committee, make such an application,

and the High Court may so determine.

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

(7) If the High Court determines that the matter concerned is one to which *subparagraph (3)* applies, the Committee shall withdraw its request in so far as it relates to that matter but, if the High Court determines that that subparagraph does not apply, the Director shall  
30 attend before the Committee to give account for it.

#### *Seal*

12. (1) The Centre shall, as soon as may be after its establishment, provide itself with a seal.

35 (2) The seal of the Centre, when applied to a document, may be authenticated by the signatures—

(a) of the chairperson or of another member authorised by it to act in that behalf, and

(b) of the Director or of a member of the staff of the Centre so authorised.

40 (3) Any contract or instrument which, if entered into or executed by an individual, would not require to be under seal may be entered into or executed on behalf of the Centre by any person generally or specially authorised by the Centre for that purpose.

(4) Judicial notice shall be taken of the seal of the Centre.

45 (5) In any proceedings, a document purporting to be made or issued by the Centre and to be sealed with its seal, duly authenticated in accordance with *subparagraph (2)*, shall be received in evidence and shall, unless the contrary is shown, be deemed to be such a document and to be evidence of the matters stated in it.

*Prohibition of improper influence*

13. (1) A person who communicates with a member of the Centre or a member of its staff for the purpose of influencing improperly any decision to be taken by the Centre in the performance of its functions is guilty of an offence and liable on summary conviction to a fine not exceeding €3,000. 5

(2) If the person communicated with is of opinion that the communication is in contravention of *subparagraph (1)*, he or she shall not entertain it further and shall immediately inform the Centre in writing of its substance, and the Centre shall acknowledge in writing the receipt of such information. 10