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NATIONAL DISABILITY AUTHORITY ACT, 1999

AN ACT TO PROVIDE FOR THE ESTABLISHMENT OF A BODY TO BE KNOWN AS THE NATIONAL DISABILITY AUTHORITY AND TO DEFINE ITS FUNCTIONS, TO PROVIDE FOR CERTAIN MATTERS RELATING TO THE NATIONAL REHABILITATION BOARD AND TO PROVIDE FOR CONNECTED MATTERS. [8th June, 1999]

BE IT ENACTED BY THE OIREACHTAS AS FOLLOWS:

PART I

Preliminary and General

1.—This Act may be cited as the National Disability Authority Act, 1999. Short title.

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

“the Authority” means the National Disability Authority established under *section 3*;

“the Board” means the National Rehabilitation Board established by the National Rehabilitation Board (Establishment) Order, 1967 (S.I. No. 300 of 1967);

“the Director” means the person appointed under *section 25* as the Director of the Authority;

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

“establishment day” means the day appointed by the Minister under *section 3* to be the establishment day for the Authority for the purposes of this Act;

“functions” includes powers and duties, and reference to the performance of functions includes, as respects powers and duties, references to the exercise of the powers and the performance of the duties;

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“local authority” means a local authority for the purposes of the Local Government Act, 1941;

“the Minister” means the Minister for Justice, Equality and Law Reform;

“public body” means—

- (a) a Department of State,
 - (b) a local authority,
 - (c) a health board established under section 4(1) of the Health Act, 1970,
 - (d) a board or other body established (but not including a company) 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
 - (f) a company in which all the shares are held by a board, company or other body referred to in *paragraph (d) or (e)*.
- (2) In this Act—
- (a) a reference to a section is a reference to a section of this Act, unless it is indicated that reference to some other enactment is intended,
 - (b) a reference to a subsection, paragraph or subparagraph is a reference to a subsection, paragraph or subparagraph of the provision in which the reference occurs unless it is indicated that reference to some other provision is intended.

Establishment day.

3.—The Minister shall by order appoint a day to be the establishment day for the National Disability Authority for the purposes of this Act.

Laying of orders and regulations before Houses of Oireachtas.

4.—Every order (other than an order made under *section 3*) and every regulation made by the Minister 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 the order or regulation is passed by either such House within the next subsequent 21 days on which that House has sat after the order or regulation is laid before it, the order or regulation shall be annulled accordingly but without prejudice to the validity of anything previously done thereunder.

Expenses.

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

PART II

National Disability Authority

Chapter I

Establishment, Functions and Procedures, etc.

Establishment of Authority.

6.—(1) There shall be established on the establishment day a body to be known as the National Disability Authority, or in the Irish

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language as Údarás Náisiúnta Míchumais, to perform the functions assigned to it by this Act. Pt.II S.6

(2) The Authority shall be a body corporate with perpetual succession and an official seal and power to sue and be sued in its corporate name and, with the consent of the Minister, to acquire, hold and dispose of land or an interest in land and to acquire, hold and dispose of any other property.

7.—The Authority shall, subject to the provisions of this Act, be independent in the exercise of its functions. Independence of Authority.

8.—(1) The principal function of the Authority shall be to advise the Minister and keep him or her informed of developments in relation to any disability of persons which concern issues of policy and practice and, in particular, developments which relate to the functions specified in *subsection (2)*. Functions of Authority.

(2) The following shall be functions of the Authority:

- (a) to act as a central, national body which will assist the Minister in the co-ordination and development of policy relating to persons with disabilities;
- (b) to undertake, commission or collaborate in research projects and activities on issues relating to disability and to assist in the development of statistical information appropriate for the planning, delivery and monitoring of programmes and services for persons with disabilities;
- (c) to advise the Minister on appropriate standards for programmes and services provided or to be provided to persons with disabilities and to act as an advisory body with regard to the development of general and specific standards in relation to such programmes and services;
- (d) to monitor the implementation of standards and codes of practice in programmes and services provided to persons with disabilities and to report to the Minister thereon;
- (e) to liaise with other bodies, both corporate and unincorporate, involved in the provision of services to persons with disabilities and to facilitate and support the development and implementation of appropriate standards for programmes and services for persons with disabilities;
- (f) to prepare codes of practice in accordance with *section 10*;
- (g) to recognise the achievement of good standards and quality in the provision of programmes and services to persons with disabilities including through the provision of a disability equality awards system;
- (h) to prepare strategic plans in accordance with *section 9*.

(3) The Authority may, subject to the other provisions of this Act, do anything which it considers necessary or expedient for enabling it to perform its functions.

9.—(1) As soon as practicable after the establishment day, and thereafter within 6 months before each third anniversary of the establishment day, the Authority shall prepare and submit to the Strategic plans.

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Minister, for approval by the Minister with or without amendment, a strategic plan for the ensuing 3 year period.

(2) A strategic plan shall—

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

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

Codes of practice.

10.—(1) The Authority may, and shall if requested by the Minister, prepare for submission to the Minister draft codes of practice for the purpose of achieving the aim of good standards and quality in the provision of programmes and services provided or to be provided to persons with disabilities.

(2) Before submitting a draft code of practice under *subsection (1)* to the Minister, the Authority shall consult such other ministers of the Government or any other person or body as the Authority considers appropriate or as the Minister may direct.

(3) After a code of practice has been submitted under *subsection (1)*, the Minister may by order declare that the draft—

- (a) is an approved code of practice for the purposes of this Act,
or
- (b) as amended by the Minister after consultation with the Authority, is an approved code of practice for the purposes of this Act.

(4) The Minister may, after consultation with the Authority, by order revoke or amend an approved code of practice.

Consultants,
advisers and
advisory
committees.

11.—(1) Subject to the consent of the Minister, given with the consent of the Minister for Finance in respect of matters to which *subsection (3)* relates, the Authority may from time to time appoint such and so many advisory committees and engage such and so many consultants or advisers as it may consider necessary for the performance of its functions.

(2) The appointment of a person to an advisory committee or as an adviser or consultant to the Authority shall be subject to such terms and conditions and for such period as the Authority may consider appropriate.

(3) Any fees or expenses incurred, which have been agreed by the Minister with the prior sanction of the Minister for Finance, and which are due to a consultant or adviser or to a member of an advisory committee appointed under this section, shall be paid out of moneys at the disposal of the Authority.

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12.—(1) The Minister may, with the consent of the Minister for Finance, by order confer on the Authority such additional functions in relation to disability of persons as the Minister may from time to time consider appropriate.

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Conferral of
additional functions
on Authority.

(2) The Minister may by order amend or revoke an order under this section, including an order under this subsection.

13.—(1) Subject to *subsection (2)*, the Authority shall have right of access to information (including data) of relevance to the functions of the Authority under *section 8* which is held by a public body and the public body concerned shall co-operate with the Authority.

Collection and
assessment of data.

(2) *Subsection (1)* shall not apply where the information or data sought is of a private or personal nature or where its disclosure is precluded by law.

14.—(1) The Authority may seek information on any matter which concerns the provision of programmes or services for persons with disabilities from a person (including a public body) who has overall responsibility for provision of those programmes or services or a part thereof.

Information from
certain bodies to
Authority.

(2) Where—

(a) a programme or service is required by law to be provided to persons with disabilities, or

(b) any other programme or service for persons with disabilities is directly or indirectly funded in whole or in part out of moneys provided by the Oireachtas,

and, in the opinion of the Authority, such programme or service—

(i) is being provided in an inadequate or unsatisfactory manner in any regard, or

(ii) is not being provided to persons with disabilities,

then, the Authority shall inform the person or body providing or failing to provide the programme or service concerned.

15.—(1) The Authority shall, not later than the 30th day of September in each year, make a report to the Minister (in this section referred to as the “annual report”) in such form as the Minister may approve, on the performance of its functions and activities during the preceding year and the Minister shall cause copies of each annual report to be laid before each House of the Oireachtas.

Reports and
information to
Minister.

(2) Each annual report shall include information in such form and regarding such matters as the Minister may direct.

(3) The Authority may from time to time make such other reports to the Minister with respect to its functions as it thinks fit.

(4) Without prejudice to the generality of *subsection (3)*, the Authority may, in making a report to which *section 8(2)(d)* relates, make recommendations for the review, reduction or withdrawal of any moneys provided by the Oireachtas for any programme or service where it is of the opinion that it would be appropriate in the circumstances to make such a recommendation.

(5) In addition to information provided by the Authority in its annual report, the Authority shall supply to the Minister such information as the Minister may from time to time require regarding the performance of its functions.

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Grants.

16.—In each financial year there may be paid to the Authority out of moneys provided by the Oireachtas a grant of such amount as the Minister may, with the concurrence of the Minister for Finance, sanction towards the expenses of the Authority in the performance of its functions.

Accounts and
audits.

17.—(1) The Director, following the agreement of the Authority, shall submit estimates of income and expenditure to the Minister in such form, in respect of such periods and at such times as may be required by the Minister and shall furnish to the Minister any information which the Minister may require in relation to such estimates, including proposals and future plans relating to the discharge by the Authority of its functions over a period of years, as required.

(2) The Director, under the direction of the Authority, shall cause to be kept, on a continuous basis and in either or both a legible and a machine readable form, all proper books of account of all income and expenditure of the Authority, and of the sources of such income and the subject matter of such expenditure, and of the property, assets and liabilities of the Authority and shall keep and shall account to the Authority for all such special accounts as the Minister or the Authority, with the consent of the Minister, may from time to time direct should be kept.

(3) (a) The Authority, the Director and any relevant member of the staff of the Authority shall, whenever so requested by the Minister, permit any person appointed by the Minister to examine the books or other records of account of the Authority in respect of any financial year or other period and shall facilitate any such examination, and the Authority shall pay such fee therefor as may be fixed by the Minister.

(b) In this subsection “relevant member of the staff of the Authority” means a member of the staff of the Authority in respect of whom there has been duly assigned duties which relate to the books or other records of account referred to in *paragraph (a)*.

(4) (a) The accounts kept by the Authority by virtue of this section shall be prepared by the Director and approved by the Authority as soon as practicable but not later than 3 months after the end of the financial year to which they relate for submission to the Comptroller and Auditor General for audit.

(b) A copy of the accounts referred to in *paragraph (a)* and the report of the Comptroller and Auditor General thereon shall be presented to the members of the Authority and to the Minister as soon as practicable and the Minister shall cause a copy of these documents to be laid before each House of the Oireachtas.

(5) The Director shall be the accountable person in relation to the accounts of the Authority and shall, whenever he or she so is required by a Committee of Dáil Éireann established under Standing Orders of Dáil Éireann to examine and report to Dáil Éireann on the appropriation accounts and reports to the Comptroller and Auditor General, give evidence to that Committee on all matters pertaining to the expenditure of the Authority.

Procedures and
business of
Authority.

18.—Subject to the provisions of this Act, the Authority shall regulate by standing orders or otherwise the procedure and business of the Authority.

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19.—(1) The Authority shall as soon as may be after its establishment provide itself with a seal.

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Seal of Authority.

(2) The seal of the Authority shall be authenticated by the signature of its chairperson or that of another member authorised by it to act in that behalf and by the signature of the Director or that of a member of the staff of the Authority authorised by it to act in that behalf.

(3) Any contract or instrument which, if entered into or executed by a person not being a body corporate, would not require to be under seal may be entered into or executed on behalf of the Authority by any person generally or specially authorised by the Authority in that behalf.

(4) Judicial notice shall be taken of the seal of the Authority and every document purporting to be an instrument made by the Authority and to be sealed with the seal shall be received in evidence and deemed to be such without proof unless the contrary is shown.

Chapter II

Membership of Authority

20.—(1) (a) The Authority shall consist of a chairperson and 20 ordinary members who shall be appointed by the Minister and who shall, subject to the other provisions of this section, hold and vacate office as the Minister may determine.

Membership of
Authority.

(b) Notwithstanding *paragraph (a)*, until the first appointment to the Authority of a person consequent to an election having been held to which *subsection (4)(b)* relates, the Authority shall consist of a chairperson and 19 ordinary members.

(2) (a) The Minister shall from time to time as the occasion requires appoint a member of the Authority to be chairperson thereof.

(b) The chairperson of the Authority shall cease to hold such office if he or she ceases to be a member of the Authority.

(c) The chairperson of the Authority shall hold such office until the expiration of his or her term of office as a member of the Authority unless he or she dies, resigns, becomes disqualified or is removed from office before the expiration of his or her term of office as a member of the Authority but, if he or she is reappointed as a member of the Authority, he or she shall be eligible for re-appointment as chairperson of the Authority.

(3) In appointing persons to be members of the Authority, the Minister shall have regard to—

(a) the objective that a majority of the Authority would be persons with disabilities, their representatives, families or carers and, in the case of each member of the Authority, that he or she would have knowledge or experience, either directly or indirectly, of matters pertaining to disability or of any other subject which in the opinion of the

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Minister would be of assistance to the Authority in the performance of its functions, and

(b) subject to *paragraph (a)*—

(i) the objective that not less than 9 of the members are women and not less than 9 of the members are men, and

(ii) the desirability that the Authority would include among its members persons from both rural and urban areas.

(4) The ordinary members of the Authority shall include—

(a) one officer of the Minister and a representative of any other Minister of the Government who, in the opinion of the Minister, has at that time direct concern with or responsibility for activities relevant to the functions of the Authority, and

(b) one member of the staff of the Authority who shall be elected by secret ballot of the staff of the Authority in such manner—

(i) where notice of the holding of the first election is given before the establishment day, as the Minister shall direct in writing, and

(ii) in every other case (including where notice of the holding of the first election is given after the establishment day), as the Authority, with the agreement of the Minister, may determine.

Term of office, etc.

21.—(1) The term of office of a member of the Authority shall be not more than 4 years and no person shall be appointed a member of the Authority for more than 2 consecutive terms.

(2) Each member of the Authority shall act on a part-time basis and shall be paid such allowances for expenses as the Minister with the consent of the Minister for Finance may determine.

(3) A member of the Authority may resign from the Authority by letter addressed to the Minister and the resignation shall take effect as and from the date on which the Minister receives the letter.

(4) The Minister may at any time remove a member from the Authority where the Minister considers that such member has become incapable of performing his or her functions or has committed stated misbehaviour, or where such member's removal is considered necessary for the effective performance of the Authority.

Casual vacancies.

22.—The Minister may appoint a person to fill a casual vacancy which arises in the membership of the Authority due to the death, resignation, disqualification or removal from office of a member and provide that any such appointment shall run for the remainder of the term of office of the member replaced and that any such appointee shall be eligible for re-appointment as a member for one further term.

Meetings of Authority.

23.—(1) The Authority shall hold such and so many meetings as may be necessary for the performance of its functions but shall hold at least one meeting in each quarter of the calendar year.

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(2) The Minister may fix the date, time and place of the first meeting of the Authority. Pt.II S.23

(3) The quorum for a meeting of the Authority shall be 14 or such other number (not being less than 11) as the Authority may from time to time determine.

(4) The chairperson of the Authority shall chair any meetings of the Authority except in the case that the chairperson is not present or such office is vacant in which case the members who are present shall choose one of their number to chair the meeting.

(5) At meetings of the Authority, the chairperson of the Authority and each ordinary member present shall have one vote.

(6) Where a vote is taken to determine a question at a meeting of the Authority, it shall be determined by a majority of votes, the chairperson or other member chairing the meeting having a casting vote in the case of an equal division.

24.—The Authority and any committee appointed by the Authority may act notwithstanding one or more vacancies among its members. Vacancies in membership.

Chapter III

Director and Staff of Authority

25.—(1) There shall be a chief executive of the Authority who shall be known, and is referred to in this Act, as the “Director”. Director.

(2) The first Director shall be appointed by the Minister and each subsequent Director (including any person re-appointed as Director) shall be appointed by the Authority.

(3) A person appointed as Director shall hold office under a contract of service in writing with the Authority upon such terms and conditions, including those relating to remuneration and allowances for expenses, as may be determined by the Minister with the consent of the Minister for Finance and specified in the contract.

(4) The Director shall not be a member of the Authority or of an advisory committee established under *section 11*, but he or she may, in accordance with procedures established by the Authority, attend meetings of the Authority or of any such advisory committee and shall be entitled to speak and advise at any such meeting.

(5) (a) The Director shall, unless he or she earlier dies, resigns or retires at any stage after attaining the earliest age to retire in accordance with a scheme under *section 28* or is earlier removed from office, hold office for a period not exceeding 7 years or for the period from the date of the appointment to the date on which he or she attains the age of 65 years, whichever is the shorter.

(b) Nothing in *paragraph (a)* shall be construed as preventing the appointment of—

(i) a Director whose term as such is about to expire,
or

(ii) a former Director,

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for a further period as Director in accordance with *paragraph (a)*.

(6) The Director may be removed from office at any time for stated reasons by—

(a) in the case of the first person appointed as Director, the Minister, and

(b) in the case of subsequent appointments (including the re-appointment at any time of the person who was first appointed as Director), the Authority with the consent of the Minister,

and in accordance with the terms and conditions of his or her contract of service.

Executive functions.

26.—(1) The Director shall carry on and manage and control generally the administration and business of the Authority in accordance with this Act and perform such other functions as may be determined by the Authority.

(2) (a) Subject to the consent of the Authority, the Director may authorise a member of the staff of the Authority to perform such functions on his or her behalf, and, in the absence of the Director or where that post is vacant, the Authority may designate a member of its staff to perform such functions.

(b) Before giving its consent or designating under *paragraph (a)*, the Authority shall consider the extent, if any, to which *sections 30* and *31* shall apply to the person concerned as if he or she were the Director and where the Authority after such consideration decides on any such application it shall be noted in the minutes of the meeting of the Authority so deciding and be communicated to the person concerned.

(c) A person to whom *paragraph (b)* applies shall comply with the obligations imposed by *section 30* or *31* or both (as the case may be) and, accordingly, references in those sections to the Director shall be construed as including a person to whom *paragraph (b)* applies.

(3) The Director shall furnish the Authority with such information (including financial information) in relation to the performance of his or her executive functions as the Authority may from time to time require.

Staff of Authority.

27.—(1) Subject to any transfer of officers or servants from the Board to the Authority by virtue of *Part III* of this Act, the Authority may, subject to the approval of the Minister with the consent of the Minister for Finance, appoint such and so many persons to be staff of the Authority as it may from time to time think necessary to assist the Authority in the performance of its functions.

(2) Subject to *section 36*, members of staff of the Authority shall hold their employment on such terms and conditions, including those relating to remuneration and allowances for expenses, as the Authority, with the approval of the Minister given, in so far as it relates

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to remuneration and allowances for expenses, with the consent of Pt.II S.27
the Minister for Finance, may determine from time to time.

(3) The Director may from time to time assign such duties as he or she considers appropriate to each member of staff and each member of staff shall carry out the duties so assigned.

(4) In making a determination under *subsection (2)*, the Authority shall act in accordance with the directions of the Minister and shall have regard to any arrangements in operation for conciliation and arbitration for persons affected by the determination.

28.—(1) The Authority, 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 the members of staff, including the Director, of the Authority. Superannuation.

(2) A scheme under this section 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.

(3) The Authority 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 section including a scheme under this subsection.

(4) Any scheme submitted by the Authority under this section shall, if approved by the Minister with the consent of the Minister for Finance, be carried out by the Authority in accordance with its terms.

(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 section, such dispute shall be submitted to the Minister who shall refer it to the Minister for Finance, whose decision shall be final.

(6) No superannuation benefits shall be granted by the Authority to a person on ceasing to be the Director or a member of the staff of the Authority otherwise than in accordance with a scheme or schemes under this section or with the consent of the Minister and the Minister for Finance.

(7) Any scheme under this section, 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.

(8) A scheme or schemes under *subsection (1)* shall, in so far as it concerns a person who immediately before his or her appointment as Director or to a position on the staff of the Authority was an officer or servant of the Board, grant superannuation benefits upon and subject to terms and conditions that are not less favourable than the terms and conditions that applied to that person immediately before their appointment to the Authority in relation to the grant of such benefits.

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(9) In applying *subsection (8)*, superannuation benefits that would have been granted to or in respect of a person during the period between his or her appointment as Director or to a position on the staff of the Authority and the coming into operation of a scheme under this section had he or she continued to be employed by the Board, shall be granted and paid to or in respect of that person by the Authority in accordance with the scheme or such enactments in relation to superannuation as applied to the person immediately before his or her appointment to the Authority and, for that purpose, his or her pensionable service with the Authority shall be aggregated with his or her previous pensionable service.

(10) In this section “superannuation benefits” means pensions, gratuities and other allowances payable on ceasing to be a Director or a member of the staff of the Authority.

Chapter IV

Disclosures, Declarations and Disqualifications Relating to Authority

Disclosure of information.

29.—(1) Save as otherwise provided by law, a person shall not, without the consent of the Authority, disclose any information obtained by him or her while performing, or as a result of having performed, duties as a member of the Authority, a member of staff of the Authority (including the Director), a member of an advisory committee or a consultant or adviser to the Authority.

(2) A person who contravenes *subsection (1)* shall be guilty of an offence and shall be liable on summary conviction to a fine not exceeding £1,500.

(3) Nothing in *subsection (1)* shall prevent the disclosure of information in a report made to the Authority or by or on behalf of the Authority to the Minister.

Declaration of interests.

30.—(1) The Director and each member of the Authority shall, on his or her appointment as such, make a declaration in writing of his or her interests to the Minister, in such form as the Minister, following consultation with the Minister for Finance, may specify.

(2) A person to whom *subsection (1)* applies shall, throughout the tenure of his or her appointment, amend and update his or her declarations of interests as required by the Minister or the Authority, as the case may be, by reference to any change in the interest held by the person.

(3) Where a person to whom *subsection (1)* applies, fails to make a declaration in accordance with that subsection, the Minister shall decide the appropriate action (including removal from office) to be taken.

Disclosure of interests.

31.—(1) Where a member of the Authority or the Director or an adviser, consultant or member of an advisory committee engaged by the Authority has a pecuniary interest or other beneficial interest in, or material to, any matter which falls to be considered by the Authority, he or she shall—

(a) disclose to the Authority the nature of his or her interest in advance of any consideration of the matter,

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(b) neither influence nor seek to influence a decision in relation to the matter, Pt.II S.31

(c) take no part in any consideration of the matter, and

(d) withdraw from any meeting for so long as the matter is being discussed or considered and not vote or otherwise act in relation to the matter.

(2) For the purpose of this section, but without prejudice to the generality of *subsection (1)*, a person shall be regarded as having a beneficial interest if—

(a) 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 body which has a beneficial interest in, or material to, a matter referred to in that subsection,

(b) he or she or any member of his or her household is in partnership with or is in the employment of a person who has a beneficial interest in, or material to, such a matter,

(c) he or she or any member of his or her household is a party to any arrangement or agreement (whether or not enforceable) concerning land to which such a matter relates, or

(d) any member of his or her household has a beneficial interest in, or material to, such a matter.

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

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

(5) Where a disclosure is made to the Authority or an advisory committee appointed by the Authority, particulars of the disclosure shall be recorded in the minutes of the meeting concerned.

(6) Where the Minister is satisfied that a member of the Authority, the Director or an advisor, consultant or member of an advisory committee engaged by the Authority, has knowingly failed to comply with a requirement of *subsection (1)*, he or she may remove that person from office and, in such case, that person shall be permanently disqualified from membership of the Authority or appointment thereunder.

32.—A person who is a member of the Authority shall be disqualified from holding and shall cease to hold such office if that person is adjudged bankrupt or makes a composition or arrangement with creditors or, on conviction on indictment by a court of competent Disqualification.

[No. 14.] *National Disability Authority Act*, [1999.]
1999.

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jurisdiction, is sentenced to imprisonment, or if he or she ceases to be ordinarily resident in the State.

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

33.—(1) Where a person who is the chairperson or an ordinary member of the Authority is—

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

the person shall thereupon cease to be chairperson or an ordinary member of the Authority.

(2) Where a person who is the Director or a member of the staff of the Authority is—

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

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

(3) A person who is for the time being entitled under the Standing Orders of either House of the Oireachtas to sit therein or who is a member of the European Parliament shall, while so entitled or such a member, be disqualified from becoming chairperson or an ordinary member of the Authority or the Director or a member of the staff of the Authority.

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

Chapter V

Review of Legislation

Review by Minister.

34.—The Minister shall, not later than 3 years after the establishment day, initiate a review of the operation of *Parts I and II* of this Act.

[1999.] *National Disability Authority Act, [No. 14]*
1999.

PART III

National Rehabilitation Board

35.—In this Part “the Act of 1961” means the Health (Corporate Bodies) Act, 1961. Definition (*Part III*).

36.—(1) Save in accordance with a collective agreement negotiated with any recognised trade union or staff association concerned, any person appointed under *section 27(1)* who immediately before that appointment was serving as an officer or servant of the Board shall not, while in the employ of the Authority, receive a lesser scale of pay or be made subject to less beneficial terms and conditions of service than the scale of pay to which that person was entitled and the terms and conditions of service to which he or she was subject immediately before such appointment. Appointment as staff of Authority of certain staff of Board.

(2) Until such time as the scale of pay and conditions of service of a person, appointed under *section 27(1)* and who immediately before such appointment had been serving as an officer or servant of the Board, are varied by the Authority following consultation and after agreement with recognised trade unions or staff associations concerned, the scale of pay to which that person was entitled and the terms and conditions to which he or she was subject immediately before his or her appointment, shall continue to apply to that person and may be applied or imposed by the Authority or its Director while that person remains a member of staff.

(3) In this section “recognised trade union or staff association” means a trade union and staff association recognised by the Authority for the purpose of negotiations which are concerned with the remuneration, conditions of employment or working conditions of members of the staff, including the Director, of the Authority and employees of the Authority.

37.—(1) Notwithstanding anything to the contrary contained in section 7 of the Act of 1961, the Minister for Health and Children may, with the consent of the appropriate Minister, by order transfer or assign on a specified day or days to the Authority or other public body in respect of which there is an appropriate Minister— Transfer of assets and liabilities of Board.

- (a) all or a specified part of the property enjoyed by the Board and rights in relation to such property so transferred or assigned, and
- (b) all or any specified class of liabilities incurred by the Board that have not been discharged prior to such transfer or assignment,

and, accordingly, without further conveyance, transfer or assignment—

- (i) the said property, real and personal, shall, on that day, vest in the public body for all the estate, term or interest for which, immediately before the day concerned, it was so vested in the Board, but subject to all trusts and equities affecting the property and capable of being performed,
- (ii) the said rights shall, as on and from the day concerned, be enjoyed by the public body, and
- (iii) the said liabilities shall, as on and from the day concerned, be liabilities of the public body.

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1999.

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(2) All property and rights relating thereto transferred or assigned to the public body by order under *subsection (1)* that, on the day concerned, were so standing in the name of the Board shall, upon the request of the public body, be transferred into the name of the public body.

(3) Any liabilities incurred by the Board which are transferred or assigned to the public body by order under *subsection (1)* may, from the day they are so transferred or assigned, be sued on, recovered or enforced by or against the public body in its own name and it shall not be necessary for the public body to give notice to the person whose liability has been so transferred or assigned.

(4) In this section “the appropriate Minister”, in relation to a public body, means—

- (a) in the case of the Authority, the Minister,
- (b) in the case of a public body for which the Minister for Enterprise, Trade and Employment has, by virtue of any enactment, specific functions vested in him or her in respect of the body which are or include functions exercisable directly or indirectly of a general supervisory nature, that Minister,
- (c) in the case of a public body for which the Minister for Social, Community and Family Affairs has, by virtue of any enactment, specific functions vested in him or her in respect of the body which are or include functions exercisable directly or indirectly of a general supervisory nature, that Minister, and
- (d) in the case of a public body for which the Minister for Education and Science has, by virtue of any enactment, specific functions vested in him or her in respect of the body which are or include functions exercisable directly or indirectly of a general supervisory nature, that Minister.

Dissolution of Board.

38.—An order made under *section 37(1)* shall not be construed so as to prevent the Minister for Health and Children from making an order under *section 7(2)* of the Act of 1961 dissolving the Board and that section shall have effect—

- (a) to enable the transfer or distribution of the property rights and liabilities not transferred to the Authority or other public body under *section 37(1)* to be transferred to one or more than one person, body or authority specified in *section 7(2)(a)* of the Act of 1961,
- (b) to enable staff, other than persons appointed to the Authority under *section 27(1)* and to whom *section 36* relates, to be transferred in accordance with *section 7(2)(d)* of the Act of 1961, and for the purposes of that provision in so far as it relates to the Board, reference to any other body established by an establishment order shall be deemed to include a reference to the Authority or other public body.