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*Number 29 of 2024*

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**Health (Miscellaneous Provisions) (No. 2) Act 2024**

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## **HEALTH (MISCELLANEOUS PROVISIONS) (NO. 2) ACT 2024**

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## **HEALTH (MISCELLANEOUS PROVISIONS) (NO. 2) ACT 2024**

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An Act to make certain provision in relation to residential services; and, for the foregoing purpose, to amend the Health Act 2007; to amend the Nursing Homes Support Scheme Act 2009; to amend the Mental Health Act 2001; and to provide for related matters. [17th July, 2024]

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

### **PART 1**

#### **PRELIMINARY AND GENERAL**

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

1. (1) This Act may be cited as the Health (Miscellaneous Provisions) (No. 2) Act 2024.
- (2) This Act shall come into operation on such day or days as the Minister for Health may by order or orders appoint either generally or with reference to any particular purpose or provision and different days may be so appointed for different purposes or different provisions.

### **PART 2**

#### **AMENDMENT OF PRINCIPAL ACT**

##### **Definition**

2. In this Part, “Principal Act” means the Health Act 2007.

##### **Amendment of section 41 of Principal Act**

3. Section 41 of the Principal Act is amended, in subsection (1), by the insertion of the following paragraphs after paragraph (b):
  - “(ba) collect and maintain information relating to specified designated centres within the meaning of section 65A, in accordance with that section and any regulations made under section 101B,

- (bb) inspect premises at which the chief inspector has reasonable grounds to believe that a person is carrying on the business of a designated centre which is not registered under this Act,”.

#### **Amendment of section 49 of Principal Act**

4. Section 49 of the Principal Act is amended, in subsection (1)—

- (a) in paragraph (f), by the deletion of “and”, and
- (b) by the insertion of the following paragraph after paragraph (f):

“(fa) details of any fine or other penalty imposed on the registered provider of the centre by a court under this Act during the period referred to in subsection (2), and”.

#### **Removal of condition of registration**

5. The Principal Act is amended by the insertion of the following section after section 51:

“51A. Notwithstanding section 51, the chief inspector may, at any time, remove any condition of the registration of a designated centre where he or she is satisfied that the removal of the condition—

- (a) is appropriate in the circumstances, and
- (b) will not adversely affect the persons who are resident in the designated centre.”.

#### **Amendment of section 53 of Principal Act**

6. Section 53 of the Principal Act is amended—

- (a) in paragraph (b), by the substitution of “conditions,” for “conditions, or”,
- (b) in paragraph (c)(iii), by the substitution of “centre, or” for “centre,”, and
- (c) by the insertion of the following paragraph after paragraph (c):

“(d) under section 51A, to remove any condition of the registration of a designated centre,”.

#### **Amendment of section 54 of Principal Act**

7. Section 54 of the Principal Act is amended—

- (a) in subsection (1), by the substitution of “14 days” for “28 days”, and
- (b) in subsection (2)(b), by the substitution of “14 days” for “28 days”.

#### **Amendment of section 55 of Principal Act**

8. Section 55 of the Principal Act is amended—



- (a) in subsection (1)—
  - (i) in paragraph (b), by the substitution of “conditions,” for “conditions, or”,
  - (ii) in paragraph (c)(iii), by the substitution of “centre, or” for “centre.”, and
  - (iii) by the insertion of the following paragraph after paragraph (c):
    - “(d) under section 51A, to remove any condition of the registration of a designated centre.”,
- (b) in subsection (3)(a), by the substitution of “14 days” for “28 days”, and
- (c) in subsection (4), by the substitution of “14 days” for “28 days”.

#### **Amendment of section 57 of Principal Act**

- 9. Section 57 of the Principal Act is amended, in subsection (2)(a), by the substitution of “14 days” for “28 days”.

#### **Provision of information to chief inspector**

- 10. The Principal Act is amended by the substitution of the following section for section 65:

- “65. (1) The chief inspector may require the registered provider of a designated centre to provide such information as the chief inspector considers necessary to enable the chief inspector to carry out the chief inspector’s functions.
- (2) Where the chief inspector requires that information be provided under subsection (1), the registered provider shall provide the information to the chief inspector.
- (3) The information to be provided under this section shall be provided in such manner and form, and at such time, as the chief inspector considers appropriate.”.

#### **Insertion of sections 65A and 65B in Principal Act**

- 11. The Principal Act is amended by the insertion of the following sections after section 65:

##### **“Submission of information to chief inspector in accordance with regulations under section 101B**

- 65A. (1) Without prejudice to the generality of section 65, the registered provider of a specified designated centre shall submit to the chief inspector such information relating to the designated centre as may be prescribed in regulations under section 101B(1)(a).
- (2) Where the information submitted by a registered provider under subsection (1) is, in the reasonable opinion of the chief inspector, incomplete, the chief inspector may request that the registered provider submit such further information as is necessary for the registered provider to be in compliance with subsection (1).

- (3) Where the chief inspector makes a request under subsection (2), the registered provider shall comply with the request.
- (4) The information to be submitted to the chief inspector under subsections (1) and (2) shall be submitted in accordance with any regulations made under section 101B, and in such manner and form as the chief inspector considers appropriate.
- (5) The chief inspector shall establish and maintain a record of the information submitted by registered providers under this section.
- (6) If the chief inspector becomes aware that any particular in the record is incorrect, he or she may make such alteration to the record as he or she considers necessary to correct the particular and shall notify the registered provider concerned in writing of any such alteration.
- (7) The chief inspector may use information submitted by a registered provider of a specified designated centre under this section where necessary for the purposes of carrying out the chief inspector's functions.
- (8) Subject to subsection (9), the chief inspector shall, in accordance with any regulations made under section 101B(1), provide such information submitted to him or her under this section as is prescribed under paragraph (b) of that section, or data derived from that information, to—
  - (a) the Minister,
  - (b) the Authority,
  - (c) the Executive, and
  - (d) such public bodies as are prescribed in regulations under section 101B(1)(d).
- (9) Information or data provided by the chief inspector under subsection (8) shall exclude any information or data that may identify or could reasonably lead to the identification of an individual.
- (10) The chief inspector shall, in accordance with any regulations made under section 101B(1)(e), publish—
  - (a) aggregated information in relation to a specified designated centre for the purpose of informing residents, prospective residents, or the family members of such residents or prospective residents, in relation to decisions that they might wish to make in connection with that specified designated centre, and
  - (b) aggregated information, using any geographic, temporal or other categorisation that the chief inspector considers appropriate.
- (11) In this section—

‘aggregated information’ means data derived from information submitted to the chief inspector under this section, which excludes any information that identifies or could reasonably lead to the identification of—

- (a) where subsection (10)(a) applies, an individual, or
- (b) where subsection (10)(b) applies, an individual or a particular specified designated centre;

‘public body’ means—

- (a) a Minister of the Government, or
- (b) a person, body or organisation established—
  - (i) by or under any enactment (other than the Companies Act 2014 or a former enactment relating to companies within the meaning of section 5 of that Act), or
  - (ii) under the Companies Act 2014 or a former enactment relating to companies within the meaning of section 5 of that Act, in pursuance of powers conferred by or under another enactment,

and financed wholly or partly, whether directly or indirectly, by means of moneys provided, or loans made or guaranteed, by a Minister of the Government or the issue of shares held by or on behalf of a Minister of the Government;

‘specified designated centre’ means a designated centre to which paragraph (a)(iii) or (c) of the definition of ‘designated centre’ in section 2(1) applies.

#### **Prohibition against submission of false or misleading information**

**65B.** A registered provider of a designated centre shall not submit to the chief inspector information under section 65 or 65A that the registered provider knows or should reasonably know to be false or misleading.”.

#### **Transitional provision in relation to amendment of certain time limits**

**12.** The Principal Act is amended by the insertion of the following section after section 69:

“**69A.** (1) Where, immediately before the commencement day, a time limit referred to in section 54(1) or (2)(b), 55(3)(a) or (4), or 57(2)(a) has not expired in relation to a person, the time limit concerned, notwithstanding its amendment by *section 7(a) or (b), 8(b) or (c), or 9, as the case may be, of the Act of 2024*, shall continue to have effect in relation to the person on and after the commencement day as if *section 7(a) or (b), 8(b) or (c), or 9, as the case may be, of the Act of 2024* had not been commenced.

- (2) In this section—

‘*Act of 2024*’ means the *Health (Miscellaneous Provisions) (No. 2) Act 2024*;

‘commencement day’ means—

- (a) in relation to the time limit referred to in section 54(1), the day on which *section 7(a)* of the *Act of 2024* comes into operation,
- (b) in relation to the time limit referred to in section 54(2)(b), the day on which *section 7(b)* of the *Act of 2024* comes into operation,
- (c) in relation to the time limit referred to in section 55(3)(a), the day on which *section 8(b)* of the *Act of 2024* comes into operation,
- (d) in relation to the time limit referred to in section 55(4), the day on which *section 8(c)* of the *Act of 2024* comes into operation, or
- (e) in relation to the time limit referred to in section 57(2)(a), the day on which *section 9* of the *Act of 2024* comes into operation.”.

### **Insertion of sections 73A and 73B in Principal Act**

**13.** The Principal Act is amended by the insertion of the following sections after section 73:

#### **“Right of entry and inspection by chief inspector (premises that are not registered)**

- 73A.** (1) Subject to subsection (3), if the chief inspector has reasonable grounds having regard to all the circumstances to believe that a person is, at a premises, carrying on the business of a designated centre which is not registered under this Act, he or she may enter and inspect such premises at any time.
- (2) The chief inspector, in the performance of functions under this section, may not enter a dwelling other than—
- (a) with the consent of the occupier, or
  - (b) in accordance with a warrant from the District Court issued under section 73B authorising the entry.
- (3) The chief inspector, in respect of premises referred to in subsection (1), may—
- (a) inspect, take copies of or extracts from and remove from the premises any documents or records (including personal records) relating to the services believed to be provided at that premises,
  - (b) inspect the operation of any computer and any associated apparatus or material which is or has been in use in connection with the records in question,
  - (c) inspect any other item and remove it from the premises where the chief inspector considers it necessary or expedient for the purposes

of ascertaining whether a person is carrying on the business of a designated centre which is not registered under this Act,

(d) interview in private any person—

(i) working at the premises concerned, or

(ii) who at any time was or is in receipt of a service at the premises and who consents to be interviewed,

and

(e) make any other examination of the premises as is necessary for the purposes of ascertaining whether a person is carrying on the business of a designated centre which is not registered under this Act.

(4) At any time, the chief inspector, in respect of premises referred to in subsection (1), may require any person who—

(a) is the owner of the premises or the person in control of the premises or of the services provided at the premises, or

(b) possesses or is in charge of any records held at the premises or in respect of any services provided at the premises, even if the records are held elsewhere,

to furnish the chief inspector with the information the chief inspector reasonably requires for the purposes of ascertaining whether a person is carrying on the business of a designated centre which is not registered under this Act and to make available to the chief inspector any document or record in the power or control of the person described in paragraph (a) or (b) of this subsection that, in the opinion of the chief inspector, is relevant for the purposes of ascertaining whether a person is carrying on the business of a designated centre which is not registered under this Act.

(5) If a person is required under this section to produce a document or record and that document or record is kept by means of a computer, the chief inspector, for premises referred to in subsection (1), may require the person who is required to produce that document or record to produce it in a form which is legible and can be taken away.

(6) If the chief inspector, in respect of premises referred to in subsection (1), considers an explanation necessary and expedient for the purposes of ascertaining whether a person is carrying on the business of a designated centre which is not registered under this Act, the chief inspector may require a person who is in control of the premises or a person who possesses or is in charge of any documents or records which are the subject of the inspection under this section to provide an explanation of any—

- (a) documents or records inspected, copied or provided in accordance with this section,
  - (b) other information provided in the course of the inspection, or
  - (c) other matters which are the subject of the functions being exercised by the chief inspector under this section.
- (7) In this section and section 73B, ‘dwelling’ includes any part of a designated centre (including a centre where a person is carrying on the business of a designated centre that is not registered under this Act) occupied as a private residence by—
- (a) a member of staff of the centre, or
  - (b) a person managing or participating in the management of the centre.

**Circumstances in which District Court may issue warrant for premises that is not registered**

**73B.** (1) Where, in relation to any premises referred to in section 73A(1), the chief inspector has reasonable grounds for believing that a person is carrying on the business of a designated centre which is not registered under this Act and he or she is prevented or has reasonable cause to believe there is a likelihood that he or she will be prevented from entering the premises, an application may be made to the District Court for a warrant under subsection (2) authorising the entry.

(2) If a judge of the District Court is satisfied on the sworn information of the chief inspector that there are reasonable grounds for believing—

- (a) that there are any records (including records stored in a non-legible form) relating to the premises referred to in section 73A(1) or that there is anything being used at those premises which the chief inspector considers necessary to inspect for the purposes of ascertaining whether a person is carrying on the business of a designated centre which is not registered under this Act, or

- (b) that there is, or such an inspection is likely to disclose, evidence of the matters referred to in paragraph (a),

the judge may issue a warrant permitting the chief inspector or an inspector, accompanied by other persons with appropriate qualifications, or by members of the Garda Síochána as may be necessary, at any time or times, within one month after the date of issue of the warrant, on production of the warrant if requested, to enter the premises, if need be by reasonable force, and to perform the functions conferred by or under section 73A.”.

**Amendment of section 76 of Principal Act**

**14.** Section 76 of the Principal Act is amended, in paragraph (b), by the substitution of

“section 73B(2) or 75(2)” for “section 75(2)”.

**Prohibition against certain conduct in relation to inspections under section 73A**

**15.** The Principal Act is amended by the insertion of the following section after section 77A:

**“77B.** A person shall not—

- (a) refuse to allow a person who under section 73A is conducting an inspection—
  - (i) to enter any premises other than a dwelling in accordance with that section or in accordance with a warrant issued by the District Court, or
  - (ii) to enter any dwelling in accordance with that section under and in accordance with a warrant issued by the District Court,
- (b) obstruct or impede a person conducting an inspection under section 73A in the exercise of functions under that section, or
- (c) give to a person conducting an inspection under section 73A information that the person giving the information knows, or should reasonably know, to be false or misleading.”.

**Insertion of Part 9A in Principal Act**

**16.** The Principal Act is amended by the insertion of the following Part after Part 9:

**“PART 9A**

**COMPLIANCE NOTICES**

**Compliance notices**

**78A.** (1) Where the chief inspector is satisfied that the registered provider of a designated centre to which paragraph (a)(ii) or (iii) or (c) of the definition of ‘designated centre’ in section 2(1) applies has contravened or is contravening a relevant provision, the chief inspector may serve a notice (in this section referred to as a ‘compliance notice’) on the registered provider.

(2) A compliance notice shall—

- (a) specify the act or omission constituting the contravention referred to in subsection (1) to which the notice relates,
- (b) for the purpose of ensuring compliance by the registered provider on whom it is served with a relevant provision, require the registered provider to do or refrain from doing such act or acts as is or are specified in the notice by such date as is so specified, and

- (c) contain information regarding the bringing of an appeal under subsection (5) against the notice, including the manner in which an appeal shall be brought.
- (3) A compliance notice shall not specify a date in accordance with subsection (2)(b) that falls on or before the date by which an appeal under subsection (5) may be brought.
- (4) The chief inspector may, as he or she considers appropriate—
  - (a) withdraw a compliance notice at any time, or
  - (b) where no appeal is brought under subsection (5), specify a date that is later than the date specified in the notice under subsection (2)(b), and shall notify the registered provider in writing accordingly.
- (5) A registered provider on whom a compliance notice has been served may appeal the notice to the District Court not later than 14 days after the service of the notice concerned.
- (6) Where a registered provider makes an appeal under subsection (5), the chief inspector, or an individual acting on behalf of the chief inspector, and the registered provider shall be entitled to be heard and to adduce evidence at the hearing of the appeal.
- (7) Where an appeal is brought under subsection (5), the District Court may—
  - (a) confirm the compliance notice in whole or in part, with or without amendment of the notice, or
  - (b) direct the chief inspector to withdraw the compliance notice.
- (8) A registered provider who fails to comply with a compliance notice by the specified date shall be guilty of an offence and shall be liable—
  - (a) on summary conviction, to a class A fine or imprisonment for a term not exceeding 12 months or both, or
  - (b) on conviction on indictment, to a fine not exceeding €70,000 or imprisonment for a term not exceeding 2 years or both.
- (9) This section shall not operate to prevent or restrict—
  - (a) the chief inspector from performing any of his or her functions under this Act in relation to the registered provider concerned, including in relation to the contravention to which the compliance notice applies, or
  - (b) the bringing or prosecuting of any proceedings for an offence under this Act.
- (10) In this section—
  - ‘relevant provision’ means—



- (a) section 65 or 65A,
- (b) a provision of the Health Act 2007 (Care and Support of Residents in Designated Centres for Persons (Children and Adults) with Disabilities) Regulations 2013 (S.I. No. 367 of 2013),
- (c) a provision of the Health Act 2007 (Care and Welfare of Residents in Designated Centres for Older People) Regulations 2013 (S.I. No. 415 of 2013),
- (d) a provision of regulations under section 101, made on or after the coming into operation of *section 16* of the *Health (Miscellaneous Provisions) (No. 2) Act 2024*, that applies in relation to a designated centre to which paragraph (a)(ii) or (iii) or (c) of the definition of ‘designated centre’ in section 2(1) applies, or
- (e) a provision of regulations under section 101B, made on or after the coming into operation of *section 16* of the *Health (Miscellaneous Provisions) (No. 2) Act 2024*, that applies in relation to a designated centre to which paragraph (a)(iii) or (c) of the definition of ‘designated centre’ in section 2(1) applies;

‘specified date’ means, in relation to a compliance notice—

- (a) where no appeal against the notice is brought under subsection (5), the date specified in the notice in accordance with subsection (2)(b) or, where applicable, subsection (4)(b), or
- (b) where an appeal against the notice is brought under subsection (5) and the District Court confirms the notice in accordance with subsection (7)(a), the day falling immediately after the expiration of the period of 7 days from the date on which the District Court confirms the notice.

#### **Chief inspector may publish information respecting certain persons**

- 78B.** (1) The chief inspector shall keep and maintain a list (in this section referred to as the ‘non-compliance list’) of registered providers on whom a fine or other penalty is imposed by a court under section 78A(8).
- (2) Subject to subsection (4), the non-compliance list shall specify, in respect of each registered provider listed therein—
- (a) the name of the registered provider on whom the fine or other penalty is imposed,
  - (b) the address of the premises at which the business of the designated centre to which the fine or penalty concerned relates is carried on,
  - (c) the provision under which the fine or penalty concerned was imposed, and

- (d) such particulars as the chief inspector considers appropriate in respect of the matters occasioning the fine or penalty and the amount or nature of that fine or penalty.
- (3) The chief inspector may, in any form or manner as the chief inspector considers appropriate, publish or cause to be published all or any part of the non-compliance list.
- (4) An entry in the non-compliance list in relation to the imposition of a fine or other penalty shall be deleted not more than 3 years after the date of the imposition of the fine or penalty.”.

**Amendment of section 79 of Principal Act**

17. Section 79 of the Principal Act is amended—

- (a) in subsection (1)(b), by the substitution of “77 or 77B” for “or 77”, and
- (b) in subsection (2)—
  - (i) in paragraph (a), by the substitution of “56(1), 65 or 65A” for “56(1) or 65”, and
  - (ii) in paragraph (b), by the insertion of “65B” after “(4),”.

**Amendment of section 101 of Principal Act**

18. Section 101 of the Principal Act is amended, in subsection (3), by the substitution of the following paragraph for paragraph (a):

- “(a) may, subject to any regulations made under Part 9 of the Health Act 2004, require registered providers—
  - (i) to make adequate arrangements for an accessible and effective procedure for dealing with complaints made by or on behalf of a person who is or was receiving any of the services provided through a designated centre or who is seeking or has sought any such service,
  - (ii) to nominate a member of staff of a designated centre to be the complaints officer and another member of such staff to be the review officer to investigate and review complaints for the designated centre,
  - (iii) to ensure that persons employed in the designated centre are appropriately trained on the arrangements for dealing with complaints, and
  - (iv) to publicise the arrangements for dealing with complaints,”.

**Regulations respecting submission of information to chief inspector concerning specified designated centres**

19. The Principal Act is amended by the insertion of the following section after section 101A:

**“101B.** (1) Without limiting the generality of section 98, the Minister may make regulations prescribing—

- (a) subject to subsection (3), the information to be submitted under section 65A(1) by the registered provider of a specified designated centre and the frequency at which that information is to be submitted,
  - (b) the information referred to in paragraph (a) to be provided by the chief inspector under subsection (8) of section 65A to the persons referred to in paragraphs (a) to (d) of that subsection and, for that purpose, different information may be prescribed for different persons or classes of such persons,
  - (c) the frequency at which information or data derived from that information is to be provided under section 65A(8),
  - (d) the public bodies (within the meaning of section 65A) to which information or data derived from that information is to be provided under section 65A(8)(d), and
  - (e) the information referred to in paragraph (a) which may be published under paragraph (a) or (b), or both, of section 65A(10).
- (2) The Minister may, under this section, make different regulations for different purposes and for different categories of specified designated centre.
- (3) Regulations under subsection (1)(a) may provide for the following:
- (a) information in relation to the specified designated centre, including:
    - (i) the number of beds and the type of accommodation in the designated centre;
    - (ii) information relating to services offered by the designated centre to residents;
    - (iii) information relating to charges imposed on residents by the designated centre;
    - (iv) where a registered provider is a member of a group of companies within the meaning of section 8 of the Companies Act 2014, information relating to the group;
    - (v) such other information as the Minister may prescribe;

- (b) information in relation to the persons employed in the specified designated centre, including:
  - (i) the number of persons employed and details of their employment in the designated centre;
  - (ii) staff turnover;
  - (iii) demographic information relating to the persons employed;
  - (iv) the qualifications of, and training undertaken by, the persons employed which relate to their role in the designated centre;
  - (v) such other information as the Minister may prescribe;
- (c) information in relation to the residents of the specified designated centre, including:
  - (i) the number of residents and their duration of residence;
  - (ii) demographic information relating to residents;
  - (iii) the health status and dependency level of residents;
  - (iv) information relating to the admission of residents to, and the ceasing of their residence in, the designated centre, including the reasons therefor;
  - (v) such other information as the Minister may prescribe.
- (4) In this section, ‘specified designated centre’ has the same meaning as it has in section 65A.”.

### PART 3

#### AMENDMENT OF NURSING HOMES SUPPORT SCHEME ACT 2009

##### **Definition**

**20.** In this Part, “Act of 2009” means the Nursing Homes Support Scheme Act 2009.

##### **Amendment of section 14A of Act of 2009**

**21.** Section 14A of the Act of 2009 is amended, in subsection (3)(a)(iii), by the substitution of “a son-in-law, daughter-in-law, great-grandchild, great-nephew, great-niece or first cousin, or a child, grandchild or great-grandchild of a first cousin,” for “a son-in-law or daughter-in-law”.

##### **Amendment of section 14C of Act of 2009**

**22.** Section 14C of the Act of 2009 is amended—

- (a) in subsection (3)(b), by the substitution of “section 14A, 14K or 14L” for “section 14A”, and
- (b) in subsection (4), by the substitution of the following paragraph for paragraph (f):
  - “(f) that, in the opinion of the Executive, had a determination under subsection (2)(a) been made (and, accordingly, had section 14I applied), a repayment event would not otherwise have occurred in respect of that person in relation to the particular family asset, and”.

#### **Amendment of section 14D of Act of 2009**

- 23. Section 14D of the Act of 2009 is amended by the insertion of “or 14M(3)” after “under section 14C(2)(a)” in each place where it occurs.

#### **Amendment of section 14F of Act of 2009**

- 24. Section 14F of the Act of 2009 is amended, in subsection (5)(c), by the substitution of “a son-in-law, daughter-in-law, great-grandchild, great-nephew, great-niece or first cousin, or a child, grandchild or great-grandchild of a first cousin,” for “a son-in-law or daughter-in-law”.

#### **Amendment of section 14G of Act of 2009**

- 25. Section 14G of the Act of 2009 is amended—
  - (a) by the substitution of “14F(8)(b), 14H(5)(b), 14K(3)(e) or 14L(3)(f)” for “14F(8)(b) or 14H(5)(b)” in each place where it occurs,
  - (b) in subsection (2), by the substitution of the following paragraph for paragraph (b):
    - “(b) if not so satisfied—
      - (i) where a determination was made under section 14C(2)(a) in respect of the relevant person in relation to the particular family asset, make a decision under section 14I(2)(a), or
      - (ii) in any other case, refuse the application.”,
  - (c) in subsection (4), by the substitution of the following paragraph for paragraph (g):
    - “(g) that, in the opinion of the Executive—
      - (i) where a determination has been made in respect of the relevant person under section 14C(2)(a), a repayment event has not occurred in respect of the relevant person in relation to the particular family asset, or
      - (ii) where a determination under section 14C(2)(a) has not been made but, had such a determination been made (and,

accordingly, had section 14I applied), a repayment event would not have occurred in respect of that person in relation to the particular family asset.”,

(d) by the substitution of the following subsection for subsection (9):

“(9) If a person referred to in subsection (7) fails to provide the Executive with such information as may be requested in accordance with this section within 40 working days from the date of the request, the Executive shall—

(a) where a determination was made under section 14C(2)(a) in respect of the relevant person in relation to the particular family asset, make a decision under section 14I(2)(a), or

(b) in any other case, refuse to consider or further consider an application under this section.”,

(e) by the substitution of the following subsection for subsection (10):

“(10) The Executive shall, not later than 10 working days after making a determination or refusing an application under this section, give notice in writing to the relevant person, the relevant person’s partner and, where appropriate, the current family successor, the lawful successor and the person specified in the application of the determination or decision and the reasons for the determination or decision.”,

(f) by the insertion of the following subsection after subsection (10):

“(10A) Where the Executive refuses under subsection (9)(b) to consider or further consider an application under this section, it shall, not later than 10 working days after the refusal, give notice in writing to the relevant person, the relevant person’s partner and, where appropriate, the current family successor, the lawful successor and the person specified in the application of the decision and the reasons for the decision.”,

and

(g) in subsection (15)—

(i) in paragraph (a)(iii), by the substitution of “a son-in-law, daughter-in-law, great-grandchild, great-nephew, great-niece or first cousin, or a child, grandchild or great-grandchild of a first cousin,” for “a son-in-law or daughter-in-law”, and

(ii) in paragraph (b), by the substitution of the following subparagraph for subparagraph (iii):

“(iii) the person or one of the persons entitled to succeed to the current family successor’s estate on the death (in this section referred to as the ‘lawful successor’) is—

(I) the partner of the relevant person,

- (II) a relative of the relevant person or of the relevant person's partner,
- (III) a son-in-law, daughter-in-law, great-grandchild, great-nephew, great-niece or first cousin, or a child, grandchild or great-grandchild of a first cousin, of the relevant person or of the relevant person's partner, or
- (IV) the partner of the current family successor,”.

#### **Amendment of section 14H of Act of 2009**

#### **26. Section 14H of the Act of 2009 is amended—**

- (a) by the substitution of “14F(8)(b), 14G(4)(b), 14K(3)(e) or 14L(3)(f)” for “14F(8)(b) or 14G(4)(b)” in each place where it occurs,
- (b) in subsection (2)(c), by the substitution of “a son-in-law, daughter-in-law, great-grandchild, great-nephew, great-niece or first cousin, or a child, grandchild or great-grandchild of a first cousin,” for “a son-in-law or daughter-in-law”,
- (c) in subsection (3), by the substitution of the following paragraph for paragraph (b):
  - “(b) if not so satisfied—
    - (i) where a determination was made under section 14C(2)(a) in respect of the relevant person in relation to the particular family asset, make a decision under section 14I(2)(a), or
    - (ii) in any other case, refuse the application.”,
- (d) in subsection (5), by the substitution of the following paragraph for paragraph (g):
  - “(g) that, immediately before the transfer referred to in subsection (2), in the opinion of the Executive—
    - (i) where a determination has been made in respect of the relevant person under section 14C(2)(a), a repayment event has not occurred in respect of the relevant person in relation to the particular family asset, or
    - (ii) where a determination under section 14C(2)(a) has not been made but, had such a determination been made (and, accordingly, had section 14I applied), a repayment event would not have occurred in respect of that person in relation to the particular family asset.”,
- (e) by the substitution of the following subsection for subsection (11):
  - “(11) If a person referred to in subsection (9) fails to provide the Executive with such information as may be requested in accordance with this

section within 40 working days from the date of the request, the Executive shall—

- (a) where a determination was made under section 14C(2)(a) in respect of the relevant person in relation to the particular family asset, make a decision under section 14I(2)(a), or
- (b) in any other case, refuse to consider or further consider an application under this section.”,

(f) by the substitution of the following subsection for subsection (12):

“(12) The Executive shall, not later than 10 working days after making a determination or refusing an application under this section, give notice in writing to the relevant person, the relevant person’s partner and, where appropriate, the current family successor and the person specified in the application of the determination or decision and the reasons for the determination or decision.”,

and

(g) by the insertion of the following subsection after subsection (12):

“(12A) Where the Executive refuses under subsection (11)(b) to consider or further consider an application under this section, it shall, not later than 10 working days after the refusal, give notice in writing to the relevant person, the relevant person’s partner and, where appropriate, the current family successor and the person specified in the application, of the determination or decision and the reasons for the determination or decision.”.

#### **Amendment of section 14I of Act of 2009**

**27.** Section 14I of the Act of 2009 is amended—

- (a) in subsection (1)(d)(i), by the substitution of “14G(2)(b)(i), 14G(9)(a), 14H(3)(b)(i) or 14H(11)(a)” for “14G(2)(b), 14G(9), 14H(3)(b) or 14H(11)”, and
- (b) in subsection (7), in the definition of “relevant provision”—
  - (i) in paragraph (d), by the substitution of “that section,” for “that section;”, and
  - (ii) by the insertion of the following paragraphs after paragraph (d):
    - “(e) where the family successor was appointed under section 14K, subsection (3)(e) of that section, or
    - (f) where the family successor was appointed under section 14L, subsection (3)(f) of that section;”.

#### **Amendment of section 14K of Act of 2009**

**28.** Section 14K of the Act of 2009 is amended, in subsection (3), by the substitution of the following paragraph for paragraph (a):



“(a) that, in the opinion of the Executive—

- (i) where a determination has been made in respect of the relevant person under section 14C(2)(a), a repayment event has not occurred in respect of the relevant person in relation to the particular family asset, or
- (ii) where a determination under section 14C(2)(a) has not been made but, had such a determination been made (and, accordingly, had section 14I applied), a repayment event would not have occurred in respect of that person in relation to the particular family asset,”.

#### **Amendment of section 14L of Act of 2009**

**29.** Section 14L of the Act of 2009 is amended, in subsection (3)—

(a) by the substitution of the following paragraph for paragraph (a):

“(a) that, in the opinion of the Executive—

- (i) where a determination has been made in respect of the relevant person under section 14C(2)(a), a repayment event has not occurred in respect of the relevant person in relation to the particular family asset, or
- (ii) where a determination under section 14C(2)(a) has not been made but, had such a determination been made (and, accordingly, had section 14I applied), a repayment event would not have occurred in respect of that person in relation to the particular family asset,”.

and

(b) in paragraph (d)(iii), by the substitution of “a son-in-law, daughter-in-law, great-grandchild, great-nephew, great-niece or first cousin, or a child, grandchild or great-grandchild of a first cousin,” for “a son-in-law or daughter-in-law”.

#### **Amendment of section 14M of Act of 2009**

**30.** Section 14M of the Act of 2009 is amended, in subsection (1)(d)—

- (a) in subparagraph (i), by the insertion of “and” after “needs care services,”,
- (b) in subparagraph (ii), by the substitution of “the partner.” for “the partner, and”,  
and
- (c) by the deletion of subparagraph (iii).

#### **Amendment of section 24A of Act of 2009**

**31.** Section 24A of the Act of 2009 is amended, in subsection (4)—

(a) by the substitution of the following paragraph for paragraph (a):

- “(a) any change in the circumstances of the family successor—
  - (i) where a determination has been made in respect of the relevant person under section 14C(2)(a), which may result in the occurrence of a repayment event, or
  - (ii) where a determination under section 14C(2)(a) has not been made, which may result in the occurrence of a repayment event had such a determination been made (and, accordingly, had section 14I applied),”
- (b) by the substitution of the following paragraph for paragraph (b):
  - “(b) any change affecting the particular family asset in relation to which the family successor was appointed—
    - (i) where a determination has been made in respect of the relevant person under section 14C(2)(a), which may result in the occurrence of a repayment event, or
    - (ii) where a determination under section 14C(2)(a) has not been made, which may result in the occurrence of a repayment event had such a determination been made (and, accordingly, had section 14I applied),
  - or”,
- and
- (c) in paragraph (c), by the substitution of “14G(4)(b), 14H(5)(b), 14K(3)(e) or 14L(3)(f)” for “14G(4)(b) or 14H(5)(b)”.

**Amendment of section 27A of Act of 2009**

**32.** Section 27A of the Act of 2009 is amended—

- (a) in subsection (2)(b), by the substitution of “14G(4)(b), 14H(5)(b), 14K(3)(e) or 14L(3)(f)” for “14G(4)(b) or 14H(5)(b)”, and
- (b) in subsection (7), in the definition of “relevant period”—
  - (i) in paragraph (c), by the deletion of “or”,
  - (ii) in paragraph (d), by the substitution of “section,” for “section;”, and
  - (iii) by the insertion of the following paragraphs after paragraph (d):
    - “(e) in the case of a family successor appointed under section 14K, the period referred to in subsection (3)(e) of that section, or
    - (f) in the case of a family successor appointed under section 14L, the period referred to in subsection (3)(f) of that section;”.

**Amendment of section 32 of Act of 2009**

**33.** Section 32 of the Act of 2009 is amended, in subsection (1)—

- (a) by the insertion of “14G(2)(b)(ii), 14G(9)(b), 14H(3)(b)(ii), 14H(11)(b)” after “14D(2)(a)”, and
- (b) in paragraph (b), by the insertion of “14G(10), 14G(10A), 14H(12), 14H(12A)” after “14D(2)(b)”.

**PART 4****AMENDMENT OF MENTAL HEALTH ACT 2001****Amendment of section 48 of Mental Health Act 2001**

**34.** Section 48 of the Mental Health Act 2001 is amended, in subsection (6), by the substitution of “5 years” for “3 years”.