



**AN BILLE SLAINTE (TEAGHLAIGH DO DHAOINE
EAGUMASAITHE), 1963
HEALTH (HOMES FOR INCAPACITATED PERSONS)
BILL, 1963**

*Mar a ritheadh ag Dáil Éireann
As passed by Dáil Éireann*

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AN BILLE SLAINTE (TEAGHLAIGH DO DHAOINE
EAGUMASAITHE), 1963
HEALTH (HOMES FOR INCAPACITATED PERSONS)
BILL, 1963

BILL

5

entitled

AN ACT TO MAKE PROVISION IN RELATION TO THE
STANDARDS OF HOMES IN WHICH INCAPACITATED
PERSONS ARE MAINTAINED FOR PRIVATE PROFIT.

BE IT ENACTED BY THE OIREACHTAS AS FOLLOWS :— 10

Interpretation.

1.—(1) In this Act—

“incapacitated”, in relation to a person, means incapable of
looking after himself by reason of—

- (a) old age,
- (b) physical infirmity or a physical injury, defect or disease, 15
or
- (c) mental infirmity or a mental handicap;

“home” means any premises in which incapacitated persons are
maintained, excluding—

- (a) premises in which no incapacitated person is maintained 20
for private profit,
- (b) premises in which not more than one incapacitated person
is maintained,
- (c) premises in which a majority of the persons being main- 25
tained are being treated for acute ailments by or under
the control of medical or surgical specialists,
- (d) a maternity home in respect of which a person is registered
in the register of maternity homes under the Registra-
tion of Maternity Homes Act, 1934, and in which incapa-
citated persons who are not maternity patients are 30
not maintained, and
- (e) a mental institution, within the meaning of the Mental
Treatment Acts, 1945 to 1961,

1934, No. 14.

but where—

- (i) a person who is the spouse of the occupier of any 35
premises or a parent, grandparent, child, grand-
child, brother, sister, uncle, aunt, nephew or niece
of the occupier or of the spouse (if any) of the
occupier is maintained in those premises, or
- (ii) an incapacitated person who has become incapaci- 40
tated while a resident in premises consisting of a
bona fide hotel, guest-house or boarding-house is
maintained in those premises for a period not
exceeding one month,

such maintenance shall, for the purpose of this definition, be 45
disregarded.

(2) The Health Acts, 1947 to 1960, and this Act shall be construed as one.

(3) Without prejudice to the generality of *subsection (2)* of this section, a reference in the Health Act, 1947, to that Act shall, save 1947, No. 28.
5 where the context otherwise requires, be construed as including a reference to this Act.

2.—(1) The Minister may, for the purpose of ensuring adequate and suitable accommodation, food and care for incapacitated persons while being maintained in homes and the proper conduct of
10 homes, make such regulations as he thinks appropriate in relation to homes. Regulations in relation to homes.

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

- 15 (a) prescribe requirements as to the care of incapacitated persons while being maintained in homes,
- (b) prescribe requirements as to the numbers and qualifications of the staffs of homes,
- (c) prescribe requirements as to the design, maintenance, repair, ventilation, heating and lighting of homes and
20 the amount of space in bedrooms and wards in homes,
- (d) prescribe requirements as to the accommodation (including washing facilities and sanitary conveniences) provided in homes,
- (e) prescribe requirements as to the food provided for incapacitated persons while being maintained in homes,
25 (f) prescribe requirements as to the cleanliness of homes,
- (g) prescribe requirements as to the description of homes in written communications and the display in homes of notices specified in the regulations,
- 30 (h) provide for the conduct of interviews (including interviews in private) of persons (including staff) in a home where the health authority have reasonable cause to believe that a person in the home is not receiving proper care,
- 35 (i) provide for the enforcement and execution of the regulations by health authorities and their officers.

(3) Regulations under this section prescribing requirements of the kind referred to in *paragraph (a)* or *(b)* of *subsection (2)* of this section shall provide that a requirement shall not apply in
40 relation to a home carried on by or on behalf of a religious body or organisation if compliance with that requirement by the home would be contrary to the religious beliefs or principles of the body or organisation.

(4) Regulations under this section prescribing requirements of
45 the kind referred to in *paragraph (a)* of *subsection (2)* of this section shall provide that a requirement shall not apply in relation to a person if submission by the person to the carrying out of that requirement in relation to him would be contrary to his religious beliefs or principles.

50 (5) Where, in relation to a home, there is a contravention of a provision of regulations under this section, the person carrying on the home and any person concerned with the management thereof shall be guilty of an offence and shall be liable, on summary conviction, to a fine not exceeding fifty pounds, and, in the case of a
55 continuing offence, to a further fine (not exceeding fifty pounds in all) not exceeding five pounds for each day on which the offence is continued or, at the discretion of the Court, to imprisonment for a term not exceeding three months or to both the fine or fines and the imprisonment.

(6) (a) Where a person is convicted of an offence under this section, the Court may, either in addition to or in substitution for the penalties referred to in subsection (5) of this section, by order declare that the person shall be disqualified during such period as may be specified in the order for carrying on, or taking part in the management of, the home to which the conviction related or, at the discretion of the Court, of any home. 5

(b) A person in respect of whom an order is made under this subsection shall not during the period specified in the order carry on, or take part in the management of, the home specified in the order or of any home, as the case may be. 10

(c) A person who contravenes paragraph (b) of this subsection shall be guilty of an offence and shall be liable on summary conviction to a fine not exceeding fifty pounds and, in the case of a continuing offence, to a further fine (not exceeding fifty pounds in all) not exceeding five pounds for each day on which the offence is continued or, at the discretion of the Court, to imprisonment for a term not exceeding three months or to both the fine or fines and the imprisonment. 15 20

(7) A person who wilfully obstructs the execution of a regulation under this section shall be guilty of an offence and shall be liable on summary conviction to a fine not exceeding fifty pounds and, in the case of a continuing offence, to a further fine (not exceeding fifty pounds in all) not exceeding five pounds for each day on which the offence is continued or, at the discretion of the Court, to imprisonment for a term not exceeding three months or to both the fine or fines and the imprisonment. 25 30

Duty of persons in charge of homes to notify health authority.

3.—(1) The person in charge of a home shall, within one month after the commencement of this Act, notify in writing the health authority in whose functional area the home is situate of the name and address of the home and the name of the person in charge of the home. 35

(2) Where a person proposes to establish a home, he shall, not less than one month before the date on which it is proposed to commence business, notify in writing the health authority in whose functional area the home will be situate of the name and address of the home and the name of the person in charge of the home. 40

(3) A person who contravenes subsection (1) or (2) of this section shall be guilty of an offence and shall be liable on summary conviction to a fine not exceeding twenty-five pounds.

Exemption from Act of certain homes.

4.—(1) The Minister may, if he so thinks fit, grant exemption from the provisions of this Act to any home approved of by him pursuant to a provision of the Health Acts, 1947 to 1960, for any of the purposes of those Acts. 45

(2) The Minister may, if he so thinks fit, on the application of any home, grant exemption from the provisions of this Act to that home. 50

(3) This Act shall not apply in relation to a home in respect of which an exemption under this section has been granted and has not been withdrawn.

(4) An exemption under this section may be withdrawn at any time by the Minister. 55

Prosecution of offences.

5.—An offence under this Act may be prosecuted by the health authority in whose functional area is situate the home in relation to which the offence was committed.

6.—Section 64 of the Health Act, 1947, is hereby amended by the insertion in paragraph (b) of subsection (3) after “ convalescent home ” of “, home within the meaning of the Health (Homes for Incapacitated Persons) Act, 1964 ”.

Amendment of section 64 of Health Act, 1947.

5 7.—Nothing in this Act shall be construed as authorising the reception and care of a person where such reception and care would contravene any provision of the Mental Treatment Acts, 1945 to 1961.

Saving.

8.—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 regulation is passed by either such House within the next subsequent twenty-one days on which that House has sat after the regulation is laid before it, the regulation shall be annulled accordingly but without prejudice to the validity of anything previously done thereunder.

Laying of regulations before Houses of Oireachtas.

9.—(1) This Act may be cited as the Health (Homes for Incapacitated Persons) Act, 1964.

Short title, collective citation and commencement.

(2) The Health Acts, 1947 to 1960, and this Act may be cited together as the Health Acts, 1947 to 1964.

20 (3) This Act shall come into operation on such day as the Minister may appoint by order.

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Rite ag Dáil Éireann, 14 Aibreán, 1964.

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