



AN BILLE ÁRACHAIS SLÁINTE, 1994
HEALTH INSURANCE BILL, 1994

Mar a ritheadh ag Dáil Éireann
As passed by Dáil Éireann

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The Health Insurance Authority

ACTS REFERRED TO

European Assembly Elections Act, 1977	1977, No. 30
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Insurance Act, 1936	1936, No. 45
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Voluntary Health Insurance Act, 1957	1957, No. 1



AN BILLE ÁRACHAIS SLÁINTE, 1994
HEALTH INSURANCE BILL, 1994

BILL

entitled

5 AN ACT TO REGULATE FURTHER, IN THE INTERESTS OF
THE COMMON GOOD, THE PROVISION OF VOL-
UNTARY HEALTH INSURANCE SO AS TO PROVIDE,
10 *INTER ALIA*, FOR THE ESTABLISHMENT OF THE
HEALTH INSURANCE AUTHORITY, FOR THE ESTAB-
LISHMENT OF SCHEMES FOR THE EQUALISATION OF
RISKS BETWEEN HEALTH BENEFITS UNDERTAKINGS,
FOR A MINIMUM RANGE OF COVER UNDER SUCH
15 INSURANCE, FOR UNIFORMITY OF THE PREMIUMS
CHARGED BY EACH PARTICULAR SUCH UNDER-
TAKING IN RESPECT OF SPECIFIED RANGES OF SUCH
COVER AND FOR THE ESTABLISHMENT OF A REGIS-
TER OF SUCH UNDERTAKINGS AND TO PROVIDE FOR
RELATED MATTERS.

BE IT ENACTED BY THE OIREACHTAS AS FOLLOWS:

PART I

PRELIMINARY AND GENERAL

1.—(1) This Act may be cited as the Health Insurance Act, 1994.

Short title and
commencement.

(2) Subject to *section 12 (2) (b)*, this Act shall come into operation
25 on such day or days as the Minister shall fix by order or orders either
generally or with reference to any particular purpose or provision and
different days may be so fixed for different purposes and different
provisions.

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

Interpretation.

“ancillary health services” means—

30 (a) out-patient services and general medical practitioner ser-
vices,

(b) dental services, other than those involving surgical pro-
cedures carried out in a hospital on an in-patient basis,

35 (c) services consisting of the supply, alteration, maintenance or
repair of hearing aids, spectacles, contact lenses, artificial

teeth, eyes or limbs (including parts of teeth or limbs) or other medical, surgical, prosthetic or dental aids, equipment or appliances,

(d) services consisting of the supply of drugs or medicinal preparations,

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(e) ambulance services,

(f) services by an attendant of a person who is sick or disabled (other than as part of a hospital in-patient service), and

(g) any other health service, or any health service included in a class of health service, prescribed for the purposes of this paragraph,

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but does not include—

(i) hospital in-patient (including day patient) services, or

(ii) any health service (including a health service specified in paragraphs (a) to (g)), or any health service included in a class of health service, prescribed for the purposes of this paragraph;

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“the Authority” means the Health Insurance Authority established by section 20;

“community rating” shall be construed in accordance with section 7 (1) (c);

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“the Council Directives” means Council Directive 73/239/EEC of 24 July, 1973⁽¹⁾, Council Directive 88/357/EEC of 22 June, 1988⁽²⁾ and Council Directive 92/49/EEC of 18 June, 1992⁽³⁾;

“establishment day” means the day appointed under section 19;

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“health benefits undertaking” means a person (including a body established under the laws of a place outside the State) carrying on health insurance business;

“health insurance business” means the business of effecting health insurance contracts;

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“health insurance contract” means a contract of insurance, or any other insurance arrangement, the sole or principal purpose of which is to provide for the making of payments by undertakings, whether or not in conjunction with other payments, specifically for the reimbursement or discharge in whole or in part of fees or charges in respect of the provision of hospital in-patient services or ancillary health services, but does not include a contract of insurance, or any other insurance arrangement, the sole purpose of which is to provide for the making of payments by undertakings in respect of sickness, injury or disease of amounts calculated by reference only to the duration of the sickness, injury or disease;

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“health services” means medical, surgical, diagnostic, nursing, dental,

⁽¹⁾O.J. No. L.228 of 16/8/73.

⁽²⁾O.J. No. L.172 of 4/7/88.

⁽³⁾O.J. No. L.228 of 11/8/92.

chiroprody, chiropractic, eye therapy, occupational therapy, physiotherapy or speech therapy services or treatment or services or treatment provided in connection therewith, or similar services or treatment;

- 5 "hospital in-patient services" means in-patient services within the meaning of the Health Act, 1970;

"the Minister" means the Minister for Health;

"out-patient services" has the meaning assigned to it by section 56 of the Health Act, 1970;

- 10 "premium" has the meaning assigned to it by the Insurance Act, 1936, and, in relation to a health insurance contract, includes any payment made to the undertaking concerned under the contract;

"prescribed" means prescribed by regulations made by the Minister;

- 15 "quarter" means a period of three months ending on the 31st day of March, 30th day of June, 30th day of September or 31st day of December;

"registered", in relation to an undertaking, means registered in the Register and cognate words shall be construed accordingly;

- 20 "the Register" means the Register of Health Benefits Undertakings established under *section 14*;

"the Registrar" means the Registrar and Chief Executive of the Authority;

- 25 "restricted membership undertaking" means an undertaking which effects health insurance contracts with its members and the membership of which is restricted to persons and their dependants of a common vocational, occupational or other group or class;

- 30 "risk equalisation" means the sharing of prescribed costs of registered undertakings between the undertakings (being costs incurred in respect of payments under health insurance contracts to or in relation to the persons with whom the contracts have been effected) by means of payments made by or to such undertakings in accordance with the terms and conditions of a scheme;

"scheme" means a scheme of risk equalisation under *section 12*;

"undertaking" means a health benefits undertaking.

- 35 (2) (a) In this Act a reference to a section or a Schedule is a reference to a section of, or a Schedule to, this Act unless it is indicated that reference to some other enactment is intended.

- 40 (b) In this Act 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.

- 45 (c) References in this Act to any enactment or to regulations are to any such enactment or regulations as amended.

Regulations.

3.—(1) The Minister may—

- (a) by regulations provide for any matter referred to in this Act as prescribed or to be prescribed, and
- (b) make regulations generally for the purpose of giving effect to this Act and, if in any respect any difficulty arises during the period of two years after the commencement of this section in bringing into operation this Act, by regulations do anything which appears to be necessary or expedient for bringing this Act into operation.

(2) Regulations under this Act may contain such incidental, supplementary and consequential provisions as appear to the Minister to be necessary or expedient for the purposes of the regulations.

(3) Every regulation 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 21 days on which that House has sat after the regulation is laid before it, the regulation shall be annulled accordingly, but without prejudice to the validity of anything previously done thereunder.

Offences.

4.—(1) (a) A person who contravenes a provision of this Act shall be guilty of an offence and shall be liable—

(i) on summary conviction, to a fine not exceeding £1,000, or

(ii) on conviction on indictment, to a fine not exceeding £100,000.

(b) A person who contravenes a provision of a regulation under this Act stated to be a penal regulation shall be guilty of an offence and shall be liable on summary conviction to a fine not exceeding £1,000.

(2) A person who, after conviction for an offence under subsection (1), continues to contravene the provision concerned, shall be guilty of an offence on each day on which the contravention continues and for each such offence shall be liable—

(a) on summary conviction, to a fine not exceeding £100, or

(b) on conviction on indictment, to a fine not exceeding £10,000.

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

Repeals.

5.—Sections 22, 23 and 24 of the Voluntary Health Insurance Act, 1957, are hereby repealed.

Expenses.

6.—Any expenses incurred by the Minister in the administration of

this Act shall, to such extent as may be approved by the Minister for Finance, be paid out of moneys provided by the Oireachtas.

PART II

HEALTH INSURANCE CONTRACTS

Prohibition of non-community rated health insurance contracts.

5 7.—(1) (a) Subject to *subsection (3)*, the premium payable under any health insurance contract effected by a particular registered undertaking shall be the same as that payable under every other such contract (after due allowance has been made in respect of the payment of any premium by instalments) that—

- 10 (i) is effected by that undertaking,
- (ii) is in respect of the same period as that to which the first-mentioned contract relates,
- 15 (iii) relates to the same health services or ancillary health services as those to which the first-mentioned contract relates, and
- (iv) provides for the same payments by the undertaking in respect of those services as those provided for by the first-mentioned contract.

20 (b) A registered undertaking shall not effect a health insurance contract that contravenes *paragraph (a)*.

(c) A health insurance contract that complies with *paragraph (a)* shall be known as a community rated health insurance contract and “community rating” shall be construed accordingly.

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(2) Without prejudice to the generality of *subsection (1)*, premiums payable under health insurance contracts shall not be varied by reference to—

30 (a) the age or sex or the suffering or prospective suffering of a person from a chronic disease, illness or other medical condition or from a disease, illness or medical condition of a particular kind,

(b) the frequency of the provision of health services or ancillary health services to a person, or

35 (c) the amounts of payments or the number of different payments to which a person becomes entitled under such a contract.

(3) *Subsections (1) and (2)* of this section do not apply to health insurance contracts if and in so far as they provide for payments in respect of nursing care, whether provided in an institution or otherwise, for persons who are of or over the age of 65 years or are suffering from a prescribed long term illness or disability, other than such care provided in the course of the provision of hospital in-patient services.

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(4) Subject to *subsections (1) and (2)*, a premium payable under a health insurance contract effected by a registered undertaking—

45 (a) shall, in so far as it relates to a person under the age of 18 years, be—

(i) waived, or

(ii) reduced, such a premium being not more than 50 per cent. of the premium in respect of a person other than the persons specified in this subsection under a health insurance contract effected by that undertaking, and

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(b) may be reduced in so far as it relates—

(i) to a person who is of or over the age of 18 years and under the age of 21 years, is receiving full time education and is dependent on the person with whom the contract is effected, such a premium being not more than 50 per cent. of the premium in respect of a person other than the persons specified in this subsection under a health insurance contract effected by that undertaking,

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(ii) to a person who is a member of a restricted membership undertaking registered on or before the 1st day of January, 1995, and is in receipt of a pension recognised for the purposes of the undertaking, or

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(iii) to a person who is a member, for the purposes of health insurance, of a group of persons, such a premium being, if it is reduced, not less than 90 per cent. of the premium in respect of a person other than the persons specified in this subsection under a health insurance contract effected by that undertaking.

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Obligation to provide health insurance.

8.—(1) A registered undertaking, other than a restricted membership undertaking, shall not refuse to effect a health insurance contract with or for a person who is under the age of 65 years or such a person and his or her dependants under that age except in such cases (if any) or in such circumstances (if any) as may be prescribed.

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(2) A restricted membership undertaking shall not—

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(a) impose as a condition of qualification for membership of the undertaking a requirement as to age in relation to a person who is under the age of 65 years,

(b) refuse to admit to membership of the undertaking a person who is under the age of 65 years and is qualified for such membership and requests to be so admitted, or

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(c) refuse to effect a health insurance contract with or for such a person as aforesaid or with or for such a person and his or her dependants under the age of 65 years,

except in such cases (if any) or in such circumstances (if any) as may be prescribed.

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(3) The Minister may prescribe the maximum waiting periods for eligibility for payment under a health insurance contract which a registered undertaking may impose in respect of the person effecting the contract or his or her dependants and, in particular, but without prejudice to the generality of the foregoing, in respect of a person who—

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(a) is of or over the age of 55 years and under the age of 65 years,

(b) is suffering from a medical condition when the contract is effected,

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(c) effects such a contract without previously having effected a health insurance contract in the State, or

(d) effects such a contract with that undertaking having previously effected such a contract with the undertaking whether in respect of the same or different services.

(4) (a) Subject to *paragraph (b)*, where a health insurance contract effected by a person with a registered undertaking ceases to be in force for any reason, that or any other registered undertaking shall not refuse to effect another health insurance contract with the person, irrespective of his or her age, in respect of the same services except in such cases (if any) or in such circumstances (if any) as may be prescribed.

(b) A restricted membership undertaking may refuse to effect a health insurance contract with a person referred to in *paragraph (a)* if the person is not entitled to membership of the undertaking.

(5) Where a health insurance contract effected by a person with a registered undertaking ceases to be in force for any reason and the person effects such a contract with another registered undertaking within such period after such cesser as may be prescribed—

(a) the waiting period for eligibility for any payment to the person under that contract shall not be longer than it would have been if the person had effected the latter contract at the time he or she effected the former contract, and

(b) there shall be deemed to have expired so much of that period as is equal to so much of the like period under the first-mentioned contract as had expired at the time of the cesser aforesaid.

9.—A registered undertaking shall not terminate or (irrespective of whether or not the contract provides for its renewal) refuse to renew a health insurance contract without the consent of the other party to the contract except in such cases (if any) or in such circumstances (if any) as may be prescribed.

Prohibition of termination of, or refusal to renew, health insurance contracts.

10.—(1) A health insurance contract effected by a registered undertaking (other than such a contract relating solely to ancillary health services or solely to the public hospital daily in-patient charges made under the Health (In-patient Charges) Regulations, 1987 (S.I. No. 116 of 1987))—

Minimum level of health insurance cover.

(a) shall relate, at least, to such health services and ancillary health services as may be prescribed, and

(b) in so far as it relates to services prescribed under *paragraph (a)*, shall provide for the payment by the undertaking in respect of those services of amounts that are not less than such amounts as may be prescribed.

(2) The Minister may engage a person whom he or she considers competent and qualified to do so to advise him or her in relation to the performance of the functions of the Minister under this section.

11.—A registered undertaking or a person acting on behalf of such an undertaking shall not—

- (a) make or offer to make a payment to a person,
- (b) forego or offer to forego a payment or part of a payment from a person,
- (c) give or offer to give any goods to a person,
- (d) provide or offer to provide any service for a person, or
- (e) give or provide or offer to give or provide any other thing of value to or for a person,

as an inducement to the person—

- (i) to terminate or not to effect or renew a health insurance contract with that undertaking, or
- (ii) (I) to forego a payment to or on behalf of the person in respect of a hospital in-patient service or an ancillary health service under a health insurance contract effected between the undertaking and the person, and
- (II) to avail of his or her entitlements under Chapter II of Part IV of the Health Act, 1970, as respects the service.

12.—(1) The Minister may, if he or she so thinks fit, having regard to the effects or likely effects of the operation of sections 7 to 11, prescribe a scheme or schemes of risk equalisation (which or each of which shall be known as a risk equalisation scheme and is referred to in this Act as “a scheme”).

(2) (a) A scheme shall apply to each registered undertaking and each such undertaking shall comply with the terms and conditions of the scheme.

(b) Paragraph (a) shall not come into operation as respects a restricted membership undertaking lawfully carrying on health insurance business in the State on the 30th day of June, 1994, before the 30th day of June, 1999.

(3) A scheme may contain such terms and conditions as the Minister considers necessary or expedient and may, without prejudice to the generality of the foregoing, provide for—

- (a) the making of payments by registered undertakings to the Authority of such amounts as may be determined by the Authority,
- (b) the making of payments by the Authority of such amounts as may be determined by the Authority to such registered undertakings as may be so determined in such manner and by reference to such matters as may be specified in the scheme,
- (c) the establishment and maintenance by the Authority of a fund into which all monies paid to the Authority under

the scheme shall be paid and out of which all monies paid by the Authority under the scheme shall be paid, and

5 (d) the keeping by the Authority of specified accounts in relation to the scheme and the furnishing of copies of those accounts, as audited by the Comptroller and Auditor General, and copies of the reports of the Comptroller and Auditor General thereon to the Minister at specified times.

10 (4) (a) A registered undertaking shall, in respect of each quarter or such other period as may be prescribed, make a return to the Authority and, in respect of such periods as afore-said before the establishment day, to the person engaged under subsection (5) in relation to such matters concerning its health insurance business as may be prescribed.

15 (b) The first return under paragraph (a) shall be made in respect of such period as may be prescribed.

(c) Returns under paragraph (a) shall be made not later than 60 days after the end of the period to which they relate.

20 (d) The contents of returns under paragraph (a) shall, in so far as they can be related to individual undertakings, be disclosed only where necessary for the purpose of the functions of the Authority or the person engaged under subsection (5).

25 (5) (a) The Minister shall engage a person whom he or she considers to be competent and qualified to do so to advise him or her and consult with him or her in relation to the functions of the Minister under this section.

30 (b) It shall be a function of a person engaged under paragraph (a) to evaluate and analyse returns made to him or her under subsection (4) for the purpose of advising the Minister in relation to the functions of the Minister under this section, including the determination of the question whether regulations should be made under subsection (7).

35 (6) A payment due by a registered undertaking to the Authority under a scheme may be recovered by it from the undertaking as a simple contract debt in any court of competent jurisdiction.

(7) (a) A scheme under this section shall come into operation on such day (if any) as may be prescribed.

40 (b) The Minister shall make regulations under paragraph (a) if, but only if, he or she is satisfied that it is necessary to do so having regard to the effects or likely effects of the operation of sections 7 to 11.

45 13.—The Minister may, if he considers it appropriate to do so for the purpose of ensuring that any advertising or promotion of health insurance business is accurate and truthful, is not misleading or exaggerated and does not convey an impression that is false, misleading, inaccurate or exaggerated, make regulations providing for the control and regulation of such advertising and promotion.

Advertising and
promotion of health
insurance business.

PART III

REGISTRATION OF HEALTH INSURANCE UNDERTAKINGS

The Register.

14.—(1) The Minister shall cause a register of undertakings to be established which shall be known as The Register of Health Benefits Undertakings and is referred to in this Act as “the Register”. 5

(2) The Register shall be in such form and shall contain such particulars in relation to undertakings as may be prescribed.

(3) Upon the establishment of the Register, the following undertakings shall be entered in it:

(a) an undertaking duly authorised pursuant to the Council Directives to carry on health insurance business in the State, and 10

(b) the Voluntary Health Insurance Board.

(4) Upon application to the Minister or the Authority, as the case may be, in that behalf and upon furnishing to the Minister or the Authority, as the case may be, such information (if any) as the Minister or the Authority, as the case may be, may require, any other undertaking which was lawfully carrying on health insurance business in the State on the 30th day of June, 1994 and complies with the provisions of this Act shall be entered in the Register. 15 20

(5) The Minister may by regulations provide for the registration of undertakings (other than those specified in subsections (3) and (4)) of such classes as may be specified upon and subject to such terms and conditions as may be specified including (but without prejudice to the generality of the foregoing)— 25

(a) in the case of a restricted membership undertaking, terms and conditions requiring it to satisfy specified financial criteria and to effect not less than a specified number of health insurance contracts within a specified period, and

(b) in the case of any other undertaking, a term or condition requiring the undertaking to be the holder of an authorisation (within the meaning of the Insurance Act, 1989) for the time being in force to carry on non-life insurance business (within the meaning aforesaid). 30

(6) Upon the registration of an undertaking, the Minister or the Authority, as the case may be, shall cause a certificate containing such particulars of the registration as the Minister or the Authority, as the case may be, may determine and signed by an officer of the Minister or the Authority, as the case may be, authorised in that behalf by the Minister or the Authority, as the case may be, to be prepared and furnished to the undertaking and, if the undertaking is removed from the Register, it shall return the certificate to the Minister or the Authority, as the case may be. 35 40

(7) The Register may be established and maintained in a form that is not legible if it is capable of being converted into a legible form. 45

(8) A certificate issued by or on behalf of the Minister or the Authority, as the case may be, and stating that the undertaking specified in the certificate is or, as the case may be, is not registered shall, without proof of the signature of the person purporting to sign

the certificate or that that person was the proper person so to sign, be evidence in any legal proceedings of the matters stated in the certificate, until the contrary is shown.

- 5 (9) On the establishment day, *subsections (4), (6) and (8)* shall cease to have effect in so far as they relate to the Minister.

15 15.—(1) Where the authorisation of a registered undertaking under the Council Directives is withdrawn, pursuant to the Council Directives, the undertaking shall be removed from the Register. Removal from Register.

(2) (a) Where a registered undertaking—

- 10 (i) is convicted on indictment in the State for an offence or is convicted outside the State for an offence consisting of acts or omissions which would constitute an offence triable on indictment in the State if done or made in the State, or

- 15 (ii) contravenes a provision of this Act or of a regulation thereunder stated to be penal,

the undertaking shall be removed from the Register if the Minister or the Authority, as the case may be, so directs and the High Court so directs under *subsection (3) or (4)*.

- 20 (b) Where the Minister or the Authority, as the case may be, proposes to give a direction under this subsection, the Minister or the Authority, as the case may be, shall send by registered post to the undertaking concerned, at the address of the undertaking specified in the Register, a notice stating the proposal and the reasons therefor and, before deciding whether to give the direction, shall take into account any representations made in relation to the proposal by the undertaking within the period of 21 days from the giving of the notice.

- 30 (3) (a) An undertaking to which a direction of the Minister or the Authority, as the case may be, under *subsection (2)* relates may, within the period of 21 days from the date of the direction, apply to the High Court for cancellation of the direction and on such an application—

- 35 (i) that Court may—

(I) cancel the direction, or

(II) confirm the direction and direct that the undertaking be removed from the Register, or

- 40 (III) give such other directions (if any) to the Minister or the Authority, as the case may be, as the Court thinks proper,

or

- 45 (ii) if the Minister or the Authority, as the case may be, satisfies that Court that the undertaking has, without reasonable cause, delayed unduly in proceeding with the application, that Court shall, unless it is satisfied that there are good reasons for not doing so, confirm

the direction and direct that the undertaking be removed from the Register.

(b) The High Court may direct how, as between the parties to an application under *paragraph (a)*, the costs of the application are to be borne.

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(4) Where an undertaking to whom a direction of the Minister or the Authority, as the case may be, under *subsection (2)* relates does not, within the period of 21 days beginning on the date of the direction, apply to the High Court for cancellation of the direction, that Court shall, on application to it *ex parte* in that behalf by the Minister or the Authority, as the case may be, unless it is satisfied that there are good reasons for not doing so, confirm the direction and direct that the undertaking be removed from the Register.

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(5) The decision of the High Court on an application under this section shall be final, save that, by leave of that Court or of the Supreme Court, an appeal, by the Minister or the Authority, as the case may be, or the undertaking concerned, from the decision shall lie to the Supreme Court on a question of law.

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(6) On the giving of a direction by the Minister or the Authority under *subsection (2)* in relation to an undertaking or upon the removal of an undertaking from the Register, the Minister or the Authority, as the case may be, shall forthwith send by registered post to the undertaking at the address of the undertaking specified in the Register a notice in writing stating, as may be appropriate—

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(a) that the direction has been given, the reasons for it and its date, or

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(b) that the undertaking has been removed from the Register.

(7) (a) Upon application to the Minister or the Authority, as the case may be, in that behalf and upon furnishing to the Minister or the Authority, as the case may be, such information (if any) as the Minister or the Authority, as the case may be, may require, an undertaking that has been removed from the Register shall, if the Minister or the Authority, as the case may be, so thinks fit and so directs in writing, be entered in the Register and such entry shall be subject to such terms and conditions (if any) as the Minister or the Authority, as the case may be, determines and specifies in the direction.

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(b) A copy of a direction under this subsection shall be furnished to the undertaking concerned and it shall comply with any terms or conditions contained in it.

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(8) On the establishment day, *subsections (2) to (7)* shall cease to have effect in so far as they relate to the Minister.

Prohibition on carrying on of health insurance business by persons other than registered undertakings.

16.—A person other than a registered undertaking shall not carry on health insurance business.

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Levy on registered undertakings.

17.—(1) In this section “assessable amount”, in relation to a quarter, means the gross amount received by a registered undertaking by way of premiums in that quarter in respect of health insurance business

of the undertaking in the State on or after the establishment day but excluding any amount so received in the course or by way of re-insurance.

(2) A registered undertaking shall, within 30 days from the end of the quarter following the establishment day and within 30 days from the end of each quarter thereafter, deliver to the Authority a statement in writing showing the assessable amount for that undertaking in respect of that quarter.

(3) There shall be charged on every statement delivered in pursuance of *subsection (2)* a levy of an amount equal to such percentage of the assessable amount shown therein as may be prescribed having regard to the costs and expenses referred to in *subsection (4)*.

(4) The levy charged under *subsection (3)* on a statement delivered in pursuance of *subsection (2)* shall be paid by the undertaking concerned to the Authority upon delivery of the statement and the amount so paid shall be used by the Authority to defray the costs and expenses (but not including payments referred to in *section 12 (3) (b)*) incurred by it in the performance of its functions.

(5) There shall be furnished to the Authority by a registered undertaking such particulars as the Authority may deem necessary in relation to a statement under this section delivered by it to the Authority.

(6) In the case of failure by a registered undertaking to deliver a statement required under *subsection (2)* within the time specified in that subsection or of failure by a registered undertaking to pay any levy chargeable on such a statement on the delivery thereof, the undertaking shall be liable to pay, in addition to the levy, interest thereon at the rate of 15 per cent. per annum from the expiration of the quarter to which the statement relates until the day on which the levy is paid.

(7) An amount payable to the Authority under *subsection (4)* or (6) may be recovered by the Authority from the registered undertaking concerned as a simple contract debt in any court of competent jurisdiction.

18.—(1) A registered undertaking—

Records.

(a) shall maintain such records relating to its health insurance business as may be prescribed, and

(b) shall furnish to the Minister or the Authority, as the case may be, such information regarding the health insurance business aforesaid carried on by it as the Minister or the Authority may require for the purposes of his or her or, as the case may be, its functions under this Act.

(2) Upon the establishment day, *subsection (1)* shall cease to have effect in so far as it relates to the Minister.

PART IV

THE HEALTH INSURANCE AUTHORITY

19.—The Minister may by order appoint a day to be the establishment day for the purposes of this Part.

Establishment day.

Establishment of
Authority.

20.—(1) On the establishment day there shall stand established a body which shall be known as The Health Insurance Authority and is referred to in this Act as “the Authority” to perform the functions conferred on it by this Act.

(2) The provisions of the *Schedule* shall have effect with respect to the Authority. 5

Functions of
Authority.

21.—(1) In addition to the functions conferred on the Authority by *sections 12, 14, 15, 17 and 18*, the principal functions of the Authority shall be—

(a) to manage and administer any schemes prescribed under *section 12*, and to establish and maintain the fund referred to in that section, 10

(b) to maintain the Register,

(c) to evaluate and analyse returns made to it under *section 12 (4)*, 15

(d) to advise the Minister either at his or her request or on its own initiative on matters relating to the functions of the Minister under this Act, the functions of the Authority and health insurance generally, and

(e) to monitor the operation of this Act and the carrying on of health insurance business and developments in relation to health insurance generally. 20

(2) The Authority shall have all such powers as are necessary for or incidental to the performance of its functions.

Conferral of
additional
functions on
Authority.

22.—(1) The Minister may, with the consent of the Minister for Finance and, if in so far as the order relates to the supervision of registered undertakings, the Minister for Enterprise and Employment, by order— 25

(a) confer on the Authority such additional functions in relation to health insurance and related matters as he or she considers appropriate, and 30

(b) make such provision as he or she considers necessary or expedient in relation to matters ancillary to or arising out of the conferral on the Authority of functions under this section or the performance by the Authority of functions so conferred. 35

(2) The Minister may, with the consent of the Minister for Finance and, if in so far as the order relates to the supervision of registered undertakings, the Minister for Enterprise and Employment, by order amend or revoke an order under this section (including an order under this subsection). 40

(3) Where an order is proposed to be made under this section, a draft of the order shall be laid before each House of the Oireachtas and the order shall not be made unless a resolution approving of the draft is passed by each such House. 45

23.—Subject to the prior approval of the Minister, the Authority may from time to time engage such consultants or advisers as it may consider necessary for the performance of its functions and any fees payable by the Authority to a consultant or adviser engaged under this section shall be paid by the Authority out of moneys at its disposal.

Consultants and advisers.

24.—(1) The Authority may, subject to the consent of the Minister and the Minister for Finance, borrow money (including money in a currency other than the currency of the State) for capital or current purposes.

Power to borrow.

(2) Any moneys borrowed by the Authority pursuant to this section and any interest accruing thereon may be secured on the revenue or property of the Authority.

25.—(1) The Authority may accept gifts of money, land or other property upon such trusts or conditions (if any) as may be specified by the donor.

Gifts.

(2) The Authority shall not accept a gift if the trusts or conditions attached to it would be inconsistent with its functions.

26.—(1) There shall be a chief officer of the Authority who shall be known as the Registrar and Chief Executive and is referred to in this Act as "the Registrar".

The Registrar.

(2) The first Registrar shall be appointed, and may be removed from office at any time, by the Minister.

(3) Thereafter, the Registrar shall be appointed, and may be removed from office at any time, by the Authority with the consent of the Minister.

(4) The Registrar shall not be a member of the Authority.

(5) The Registrar shall carry on and manage and control generally the administration and business of the Authority and perform such other functions as may be determined by the Authority.

(6) The Registrar shall not hold any other office or position without the consent of the Authority.

(7) The Registrar shall hold office on and subject to such terms and conditions (including terms and conditions relating to remuneration and superannuation) as may be determined by the Minister with the consent of the Minister for Finance.

(8) The Registrar shall be paid, out of moneys at the disposal of the Authority, such allowances for expenses incurred by him or her in the performance of his or her functions as may be determined by the Minister with the consent of the Minister for Finance.

(9) The Registrar may make proposals to the Authority on any matter relating to its activities.

27.—(1) The Authority may appoint such, and such number of, persons to be members of the staff of the Authority as it may

Staff of Authority.

determine with the consent of the Minister and the Minister for Finance.

(2) (a) A member of the staff of the Authority (other than the Registrar) shall hold his or her office or employment on such terms and conditions (including terms and conditions relating to remuneration and superannuation) as the Authority may, with the consent of the Minister and the Minister for Finance, determine. 5

(b) The Authority may, with the consent of the Minister, remove from office a member of its staff (other than the Registrar) at any time. 10

(3) The Authority may perform any of its functions through or by the Registrar, or any other member of its staff, duly authorised by the Authority in that behalf.

Superannuation of staff of Authority.

28.—(1) The Authority may, with the consent of the Minister and the Minister for Finance, make a scheme or schemes for the granting of superannuation benefits to or in respect of persons appointed to whole-time positions on the staff of the Authority. 15

(2) A scheme under subsection (1) shall fix the time and conditions of retirement for all persons (including the Registrar) 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. 20

(3) The Authority may, with the consent of the Minister and the Minister for Finance, make a scheme amending or revoking a scheme under this section including a scheme under this subsection. 25

(4) 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, the dispute shall be submitted to the Minister who shall refer it to the Minister for Finance, whose decision shall be final. 30

(5) No superannuation benefits shall be granted by the Authority on the resignation, retirement or death of a member of the staff of the Authority (including the Registrar) otherwise than in accordance with a scheme or schemes under this section. 35

(6) A scheme under this section 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. 40

Membership of either House of the Oireachtas or of European Parliament.

29.—(1) Where a 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 45

(c) regarded pursuant to section 15 (inserted by the European Assembly Elections Act, 1984) of the European Assembly

Elections Act, 1977, as having been elected to such Parliament to fill a vacancy,

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

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

5 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

10 (c) regarded pursuant to section 15 (inserted by the European Assembly Elections Act, 1984) of the European Assembly Elections Act, 1977, as having been elected to such Parliament to fill a vacancy,

15 he or she 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 or election, or when he or she is so regarded as having been elected, as the case may be, and ending when he or she ceases to be a member of either such House or such Parliament.

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

25 (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.

30 30.—The Minister may from time to time, with the consent of the Minister for Finance, advance to the Authority, out of moneys provided by the Oireachtas, such sums as the Minister may determine for the purposes of expenditure by the Authority in the performance of its functions.

Advances by
Minister to
Authority.

35 31.—A member of the Authority who is in any way, whether directly or indirectly, interested in—

Disclosure by
member of
Authority of
interest in
proposed contract.

(a) any body corporate with which the Authority proposes to make any contract, or

(b) any contract which the Authority proposes to make,

40 shall disclose to the Authority the fact of that interest and the nature thereof and shall take no part in any deliberation or decision of the Authority relating to the contract, and the disclosure shall be recorded in the minutes of the Authority.

45 32.—(1) The Authority shall, in addition to any account kept by it under section 12 (3), keep in such form as may be approved by the Minister with the concurrence of the Minister for Finance all proper

Accounts and
audits of
Authority.

and usual accounts of all moneys received or expended by it including an income and expenditure account and balance sheet and, in particular, shall keep all such special accounts as the Minister may direct.

(2) Accounts kept in pursuance of this section shall be submitted as soon as may be after the end of the financial year of the Authority to which they relate to the Comptroller and Auditor General for audit and a copy of the income and expenditure account and of the balance sheet and of such other (if any) of its accounts as the Minister may direct and a copy of the Comptroller and Auditor General's report on the accounts shall be furnished to the Minister as soon as may be and the Minister shall cause copies of each of the documents aforesaid to be laid before each House of the Oireachtas.

Reports and
information to
Minister.

33.—(1) The Authority shall furnish to the Minister such information regarding its income and expenditure as he or she may direct.

(2) As soon as may be after the end of each financial year of the Authority, but not later than 6 months thereafter, the Authority shall make a report to the Minister of its activities during that year and the Minister shall cause copies of the report to be laid before each House of the Oireachtas.

(3) Each report under *subsection (2)* shall include information in such form and regarding such matters (if any) as the Minister may direct.

(4) The Authority shall, whenever so requested by the Minister, furnish to the Minister information in relation to such matters as he or she may specify concerning or relating to the scope of its activities generally, or in respect of any account prepared by the Authority or any report specified in *subsection (2)* or *section 32* or the policy activities, other than day to day activities, of the Authority.

Disclosure of
information.

34.—(1) 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, or member of the staff of, or an adviser or consultant to, the Authority.

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

Section 20.

SCHEDULE

The Health Insurance Authority

1. 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 or to acquire, hold and dispose of any other property.

2. The Authority shall consist of 5 members, who shall be appointed to be members of the Authority by the Minister and of whom one shall be the chairman of the Authority and the others shall be ordinary members thereof.

3. (1) The Minister may as occasion requires appoint one of the members of the Authority to be the chairman of the Authority.

(2) Where the chairman of the Authority ceases during his or her term of office as chairman to be a member of the Authority, he or she shall also then cease to be chairman of the Authority.

5 4. The chairman of the Authority may at any time resign his or her office by letter addressed to the Minister.

5. The Minister may at any time remove the chairman of the Authority from office.

10 6. Subject to the provisions of this Schedule, the chairman of the Authority shall hold office on such terms and conditions as the Minister may determine.

7. The chairman of the Authority shall be paid, out of moneys at the disposal of the Authority, such remuneration (if any) and allowances for expenses incurred by him or her (if any) as the Minister, with the consent of the Minister for Finance, may determine.

15 8. Subject to the provisions of this Schedule, each ordinary member of the Authority shall hold office on such terms and conditions as the Minister may determine.

9. (1) The term of office of the chairman of the Authority shall be 5 years.

20 (2) The term of office of an ordinary member of the Authority shall be such period not exceeding 5 years as the Minister may, with the consent of the Minister for Finance, determine when appointing him or her.

25 10. (1) If a member of the Authority dies, resigns, becomes disqualified or is removed from office, the Minister may appoint a person to be a member of the Authority to fill the casual vacancy so occasioned and the person so appointed shall be appointed in the same manner as the member of the Authority who occasioned the casual vacancy.

30 (2) A person appointed to be a member of the Authority by virtue of this paragraph shall hold office for the remainder of the term of office of the member occasioning the vacancy he or she is appointed to fill and shall be eligible for re-appointment as a member of the Authority.

35 11. A member of the Authority whose term of office expires by effluxion of time shall be eligible for re-appointment as a member of the Authority.

12. The Minister may at any time remove an ordinary member of the Authority from office.

40 13. An ordinary member of the Authority may resign his or her office as a member by letter addressed to the Minister.

45 14. A member of the Authority shall be disqualified for holding and shall cease to hold office if he or she is adjudged bankrupt or makes a composition or arrangement with creditors or is sentenced by a court of competent jurisdiction to a term of imprisonment or penal servitude.

15. Each ordinary member of the Authority shall be paid, out of moneys at the disposal of the Authority, such remuneration (if any)

and allowances for expenses incurred by him or her (if any) as the Minister may, with the consent of the Minister for Finance, sanction.

16. The Authority shall hold such and so many meetings as it considers appropriate for the performance of its functions.

17. The Minister may fix the date, time and place of the first meeting of the Authority. 5

18. The quorum for a meeting of the Authority shall be 3.

19. At a meeting of the Authority—

(a) the chairman of the Authority shall, if present, be the chairman of the meeting, 10

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

20. The chairman of the Authority, and each ordinary member of the Authority present at a meeting thereof shall have a vote. 15

21. Every question at a meeting of the Authority shall be determined by a majority of the votes of the members present and voting on the question and, in the case of an equal division of votes, the chairman of the meeting shall have a second or casting vote. 20

22. The Authority may act notwithstanding one or more than one vacancy among its members.

23. Subject to the provisions of this Schedule, the Authority shall regulate, by standing orders or otherwise, the procedure and business of the Authority. 25

24. The Authority shall, as soon as may be after its establishment, provide itself with a seal.

25. The seal of the Authority shall be authenticated by the signature of the chairman of the Authority or some other member thereof authorised by the Authority to act in that behalf and by the signature of an officer of the Authority authorised by the Authority to act in that behalf. 30

26. 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 (purporting to be authenticated in accordance with *paragraph 25*) of the Authority shall be received in evidence and be deemed to be such instrument without proof unless the contrary is shown. 35

27. 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. 40

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Acht do dhéanamh rialála breise, ar mhaithe le leas an phobail, ar sholáthar árachais sláinte shaorálaigh d'fhonn socrú a dhéanamh *inter alia* chun An tÚdarás Árachais Sláinte a bhunú, chun scéimeanna a bhunú le fiontair idir gnóthais sochar sláinte a chothromú, le haghaidh fósréimse cumhdaigh faoi árachas den sórt sin, le haghaidh chomhionannas na bpréimheanna a mhuirearaíonn gach gnóthas ar leith den sórt sin i leith réimsí sonraithe den chumhdach sin agus chun clár de na gnóthais sin a bhunú agus do dhéanamh socrú i dtaobh nithe gaolmhara.

An tAire Sláinte a thíolaic

*Ritheadh ag Dáil Éireann,
21 Meitheamh, 1994*

BAILE ÁTHA CLIATH:
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An Act to regulate further, in the interests of the common good, the provision of voluntary health insurance so as to provide, *inter alia*, for the establishment of The Health Insurance Authority, for the establishment of schemes for the equalisation of risks between health benefits undertakings, for a minimum range of cover under such insurance, for uniformity of the premiums charged by each particular such undertaking in respect of specified ranges of such cover and for the establishment of a register of such undertakings and to provide for related matters.

Presented by the Minister for Health

*Passed by Dáil Éireann,
21st June, 1994*

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