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**AN BILLE ÁRACHAIS SLÁINTE (LEASÚ) 2003  
HEALTH INSURANCE (AMENDMENT) BILL 2003**

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**EXPLANATORY AND FINANCIAL MEMORANDUM**

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**INTRODUCTION**

*Background*

The Health Insurance Acts 1994 and 2001 (“the Acts”) set out the provisions for the regulation of the voluntary private health insurance market based on the principles of community rating, open enrolment and lifetime cover. In support of the continued operation of these principles, the Acts provided for the operation of a risk equalisation (or loss compensation) scheme between insurers. They also provided for the establishment of an independent Health Insurance Authority to, inter alia, manage and administer risk equalisation schemes.

*Objects of Bill*

The Bill has been prepared to amend and extend the Acts.

*Main Points*

- (1) The Bill provides for The Health Insurance Authority (“the Authority”) to have an immunity from damages for acts or omissions arising in connection with the discharge of its statutory functions in good faith. It also provides for fair and accurate reports, etc., of the Authority to be accorded qualified privilege under the Defamation Act 1961.
- (2) It amends the provisions concerning application of the limited exemption from risk equalisation for new entrant insurers to the market.
- (3) It allows for the Minister for Health and Children, with the consent of the Minister for Finance, to waive the repayment of moneys advanced to the Authority at the time of its establishment.
- (4) It makes limited procedural changes to the Acts relating to reports by the Authority to the Minister and notifications to insurers under a risk equalisation scheme.

**PROVISIONS OF BILL**

*Section 1* provides for interpretation.

*Section 2* makes provision for the Authority to have immunity from damages in respect of acts or omissions arising in the discharge

of its statutory functions, provided such acts or omissions occurred in good faith. This provision is similar to that made in other Acts relating to the operation of independent regulatory bodies (e.g. the Irish Takeover Panel Act 1997).

*Section 3* amends Part II of the Second Schedule to the Defamation Act 1961 by adding the Authority to the bodies which have qualified privilege in respect of a copy or fair and accurate report or summary of any recommendation, report, etc.

*Section 4* provides for limited changes to procedural arrangements in the Acts relating to a risk equalisation scheme. These involve clarifying that the Authority in its periodic reports to the Minister will not be required to include a recommendation about the commencement of actual risk equalisation payments once the Minister has previously exercised his or her power in that regard. It further provides that notification to insurers of a proposal to commence risk equalisation payments under a scheme will not require to be issued to restricted membership undertakings (i.e. established vocational/occupational insurance schemes) which have already availed of a provision in a scheme to opt out of risk equalisation.

*Section 5* maintains provision under the Acts for new entrant insurers to opt for a limited exemption from the provisions of a risk equalisation scheme. However, in pursuance of the provision's objective to encourage entry of additional insurers, to increase consumer choice and real competition in the market, the section provides that the exemption shall not be available to associated companies of existing insurers.

*Section 6* concerns amending arrangements relating to the repayment of advances made to the Authority by the Minister in respect of costs incurred in its establishment. Under the section, the Minister, with the consent of the Minister for Finance, will have the power to waive all or part of the start-up costs provided. The ongoing operations of the Authority will continue to be funded by a levy on the premium income of registered health insurers.

*Section 7* provides for short title, collective citation and collective construction.

#### *Financial implications*

Additional costs to the Exchequer under the Bill will relate to waiving in full, or part, the €508,000 advanced to the Authority in 2001 to meet establishment costs. The current wording in the Acts has meant that the establishment costs would fall to be repaid. Section 6 of the Bill will enable the Minister, with the consent of the Minister for Finance, to waive in full, or part, moneys advanced to the Authority.

*An Roinn Sláinte agus Leanaí,  
Feabhra, 2003*