



**SEANAD ÉIREANN**

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**AN BILLE SLÁINTE (TITHE BANALTRAIS) (LEASÚ) 2006  
HEALTH (NURSING HOMES) (AMENDMENT) BILL 2006**

**LEASUITHE COISTE  
COMMITTEE AMENDMENTS**

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# SEANAD ÉIREANN

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## AN BILLE SLÁINTE (TITHE BANALTRAIS) (LEASÚ) 2006 —AN COISTE

### HEALTH (NURSING HOMES) (AMENDMENT) BILL 2006 —COMMITTEE STAGE

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*Leasuithe  
Amendments*

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*\* Government amendments are distinguished by an asterisk*

#### SECTION 3

1. In page 5, between lines 24 and 25, to insert the following:

- “(5) (a) A person applying for a subvention, or a person acting on his or her behalf, may appeal, to an appeals officer designated by the Minister, on the grounds of—
- (i) his or her means and circumstances, or
  - (ii) any abatement of the rate of subvention to that person of the maximum rate appropriate to that person’s level of dependency,
- against a decision of the Executive—
- (I) not to pay a subvention, to pay a lower amount of subvention than the maximum rate,
  - (II) to withdraw a subvention, or
  - (III) to reduce a subvention, within 28 days of the date on which the Executive notified the person of its decision and the grounds for its decision.
- (b) The designated appeals officer shall consider an appeal under paragraph (a) and shall inform the person making the appeal of his or her decision within 28 days of the receipt of the appeal.
- (c) For the purpose of deciding the appeal, the designated appeals officer may request information from the Executive and from the person to whom the appeal refers or a person acting on his or her behalf.
- (d) A decision of an appeals officer shall be final and conclusive.
- (e) Where the Executive has determined that a person does not qualify for a subvention, or qualifies for less than the maximum rate of subvention, it shall inform the applicant of his or her right to appeal the decision under this subsection.”.

—*Senator Fergal Browne.*

\* 2. In page 5, lines 36 and 37, to delete “degree of dependency of the applicant” and substitute the following:

“need for the applicant to be maintained in a nursing home”.

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\* 3. In page 5, lines 49 and 50, to delete “degree of dependency” and substitute “need to be maintained in a nursing home”.

\* 4. In page 7, line 20, before “the” where it firstly occurs to insert “subject to subparagraph (vi),”.

\* 5. In page 7, to delete lines 29 to 39 and substitute the following:

“(IV) a relative of the applicant in receipt of—

- (A) disability or similar allowance,
- (B) blind person’s pension,
- (C) illness benefit,
- (D) invalidity pension,
- (E) state pension (contributory) in any case where, before 28 September 2006, the relative would have been entitled to invalidity pension,
- (F) state pension (non-contributory),
- (G) any successor to an allowance, pension or benefit referred to in this subclause in any case where that allowance, pension or benefit, as the case may be, ceases to be provided, or
- (H) any European Union equivalent to an allowance, pension or benefit, or any successor thereto, referred to in this subclause,

or

(V) a relative of the applicant in receipt of—

- (A) state pension (contributory),
- (B) any successor to a pension referred to in this subclause in any case where that pension ceases to be provided, or
- (C) any European Union equivalent to a pension, or any successor thereto, referred to in this subclause,

which is the relative’s sole income.”.

\* 6. In page 7, line 40, to delete “subparagraph (v)” and substitute “subparagraphs (v) and (vi)”.

\* 7. In page 8, to delete lines 1 to 5 and substitute the following:

“(iii) one-fifth of the weekly rate of—

- (I) subject to clause (II), state pension (non-contributory),
- (II) any successor to that pension in any case where that pension ceases to be provided,

and whether or not the applicant is in receipt of that pension or any successor thereto.”.

[ SECTION 3 ]

\* 8. In page 8, line 8, to delete “and”.

\* 9. In page 8, line 20, to delete “made.” and substitute “made, and”.

\* 10. In page 8, between lines 20 and 21, to insert the following:

“(vi) without prejudice to the generality of subparagraph (i), the principal residence of the applicant in any case where the applicant has been paid in accordance with this Act a relevant subvention for not less than 3 consecutive years at any time following the commencement of this subsection.”.

11. In page 9, between lines 1 and 2, to insert the following:

“(8) (a) A person whose degree of dependency or means are assessed by a person, or a person acting on behalf of that dependent person, may appeal, to an appeals officer designated by the Minister on the grounds that he or she is not satisfied that his or her means and circumstances were adequately, properly or correctly assessed.

(b) The designated appeals officer shall consider an appeal under paragraph (a) and shall inform the person making the appeal of his or her decision within 28 days of the receipt of the appeal.

(c) For the purpose of deciding the appeal, the designated appeals officer may request information from the Executive and from the person to whom the appeal refers or a person acting on his or her behalf.

(d) A decision of an appeals officer shall be final and conclusive.

(e) Where a report is produced as to the means or degree of dependency of a person, and such report is provided to the Executive, the Executive shall inform the applicant of his or her right to appeal the contents of that report under this subsection.”.

—*Senator Fergal Browne.*

\* 12. In page 9, line 2, after “subsection (4)” to insert “and section 7K”.

\* 13. In page 10, line 15, to delete “€300,000” and substitute “€365,000”.

\* 14. In page 10, line 22, to delete “€9,000” and substitute “€10,400”.

15. In page 10, between lines 35 and 36, to insert the following:

“(6) (a) A person applying for a subvention, or a person acting on his or her behalf, may appeal, to an appeals officer designated by the Minister, on the grounds of—

(i) his or her means and circumstances, or

(ii) any abatement of the proposed rate of subvention to that person from the maximum rate appropriate to that person’s level of dependency, against a decision of the Executive—

(I) not to pay a subvention, to pay a lower amount of subvention than the maximum rate,

(II) to withdraw a subvention, or

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- (III) to reduce a subvention, within 28 days of the date on which the Executive notified the person of its decision and the grounds for its decision.
- (b) The designated appeals officer shall consider an appeal under paragraph (a) and shall inform the person making the appeal of his or her decision within 28 days of the receipt of the appeal.
- (c) For the purpose of deciding the appeal, the designated appeals officer may request information from the Executive and from the person to whom the appeal refers or a person acting on his or her behalf.
- (d) A decision of an appeals officer shall be final and conclusive.
- (e) Where the Executive has determined that a person does not qualify for a subvention, or qualifies for less than the maximum rate of subvention, it shall inform the applicant of his or her right to appeal the decision under this subsection.”.

—*Senator Fergal Browne.*

\* 16. In page 10, to delete lines 43 to 48 and substitute the following:

“(i) of—

(I) the need for a dependent person to whom a relevant subvention is paid to continue to be maintained in a nursing home, or

(II) the means of the dependent person,

on the same bases as are specified in section 7B(2) and (3).”.

\* 17. In page 11, to delete line 2 and substitute the following:

“(I) where subparagraph (i)(I) is applicable, a”.

\* 18. In page 11, to delete line 8 and substitute the following:

“(II) where subparagraph (i)(II) is applicable, an”.

19. In page 12, between lines 8 and 9, to insert the following:

“(5) (a) A person who is in receipt of a subvention and who is deemed by the Executive under subsection (2) either to be no longer qualified for the payment of a relevant subvention, or qualifies for the payment of a different relevant subvention than that currently being paid to the person, or a person acting on his or her behalf, may appeal, to an appeals officer designated by the Minister, on the grounds—

(i) of his or her means and circumstances,

(ii) that the review conducted under subsection (1) was inadequate, improper or incorrect, or

(iii) of any abatement of the maximum rate appropriate to that person’s level of dependency,

against the decision of the Executive under subsection (2).

[ SECTION 3 ]

- (b) The designated appeals officer shall consider an appeal under paragraph (a) and shall inform the person making the appeal of his or her decision within 28 days of the receipt of the appeal.
- (c) For the purpose of deciding the appeal, the designated appeals officer may request information from the Executive and from the person to whom the appeal refers or a person acting on his or her behalf.
- (d) A decision of an appeals officer shall be final and conclusive.
- (e) Where the Executive makes a determination under subsection (2), it shall inform the dependent person to whom a relevant subvention is paid, of his or her right to appeal the decision under this subsection.”.

—*Senator Fergal Browne.*

\* 20. In page 14, to delete line 28 and substitute “(4).”.

\* 21. In page 14, between lines 38 and 39, to insert the following:

“(4) Subject to subsection (5), the amount of subvention which may be paid under section 7C(1)(a) is a weekly maximum rate of €300 or the prescribed amount, whichever is the greater.

(5) Without prejudice to the generality of section 7C(1)(b) or 7D, the amount of the prescribed subvention that is applicable to a dependent person shall, by virtue of this section, be reduced by the amount by which such person’s means, as determined in the assessment referred to in section 7B(3) or review under section 7D, as the case requires, made in respect of such person, exceeds the weekly rate of

(a) subject to paragraph (b), state pension (non-contributory),

(b) any successor to that pension in any case where that pension ceases to be provided,

payable at the time of assessment.”.

\* 22. In page 14, to delete lines 39 to 48, to delete page 15 and in page 16 to delete lines 1 to 7.

\* 23. In page 16, to delete line 52 and substitute “website.”.

\* 24. In page 16, after line 52, to insert the following:

“Tax clearance.

7K.—(1) In this section, ‘tax clearance certificate’ means a certificate under section 1095 (as substituted by section 127(b) of the Finance Act 2002) of the Taxes Consolidation Act 1997.

(2) The Executive may refuse to effect the payment of a relevant subvention in any case where the Executive is satisfied that a tax clearance certificate is not in force in respect of the proprietor of the nursing home in which the dependent person concerned is or intends to be maintained.”.

SECTION 11

\* 25. In page 17, before section 11, to insert the following new section:

[ SECTION 11 ]

“Amendment of  
Health Act 1970.

11.—The Health Act 1970 is amended by inserting the following immediately after section 61:

“Information to  
be provided to  
Health Service  
Executive by  
home care  
providers.

61A.—(1) A home care provider shall give notice in writing to the Health Service Executive, as soon as it is practicable for the provider to do so, of—

- (a) the name and address of the provider,
- (b) the name and address of each person to whom the provider provides home care services,
- (c) the nature of such services so provided, and
- (d) particulars of any change to information previously given by the provider to the Executive under any paragraph (including this paragraph) of this subsection.

(2) The Health Service Executive may, for statistical purposes, retain and process information given to it under subsection (1) provided that such information is not publicly disclosed except in the form of a summary so compiled as to prevent particulars relating to the identity of any home care provider, or of any person for whom any home care provider provides home care services, being ascertained from it.

(3) In this section—

‘home care provider’ means a natural or legal person who, whether or not pursuant to arrangements referred to in section 61 (1), provides, at a charge, home care services;

‘home care service’ means a service made available in a private dwelling for a person who, by reason of illness, frailty or disability, is unable to provide the service for himself or herself without assistance;

‘private dwelling’, in relation to a person referred to in the definition of ‘home care service’, means a permanent dwelling that is not open to the general public to visit unless invited and where that person habitually resides.”.

\* 26. In page 17, subsection (3), line 33, to delete “*section 10*” and substitute “*sections 10 and 11*”.

[#*This is the appropriate reference if amendment no. 25 is accepted.*]

TITLE

\* 27. In page 3, lines 11 to 13, to delete all words from and including “AND” in line 11 down to and including “2006” in line 13 and substitute the following:

“, AMEND SECTION 2 OF THE HEALTH (REPAYMENT SCHEME) ACT 2006 AND AMEND THE HEALTH ACT 1970”.