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**AN BILLE SLÁINTE (LEASÚ), 2013  
HEALTH (AMENDMENT) BILL 2013**

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**EXPLANATORY AND FINANCIAL MEMORANDUM**

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**Purpose of the Bill**

The Bill amends the Nursing Homes Support Scheme Act 2009 and the Health Act 1970 in order to update provisions on charges and contributions in respect of acute in-patient services in public hospitals, public nursing homes and other residential settings and to address Budget 2013 measures relating to:

- increasing the asset contribution under the Nursing Homes Support Scheme and abolishing the requirement to backdate State support to the date of the Scheme's commencement for those who were in nursing home care prior to that date,
- increasing the charges applicable to acute in-patient services in public hospitals, and
- applying charges to all private in-patient services in public hospitals.

**Provisions of the Bill**

**Part 1**

**Preliminary and General**

*Section 1* states the short title of the Act.

*Section 2* is a standard provision relating to commencement of the provisions of the Bill.

*Section 3* provides that in the Bill “Act of 1970” means the Health Act 1970, “Act of 2009” means the Nursing Homes Support Scheme Act 2009 and “Minister” means the Minister for Health.

**Part 2**

**Amendment of Nursing Homes Support Scheme Act 2009**

*Section 4* provides that the Health Service Executive (HSE) may outsource the operation and administration of the Nursing Homes Support Scheme Act 2009.

*Section 5* is a technical amendment required as a result of amendments to Schedule 1 of the Nursing Homes Support Scheme Act 2009 (which sets out details of the financial assessment provisions of the Scheme).

*Section 6* abolishes the requirement to backdate State support to the commencement of the Nursing Homes Support Scheme for those who were in nursing home care prior to the Scheme commencing.

*Section 7* amends Schedule 1 of the Nursing Homes Support Scheme Act 2009 to increase the asset contribution from 5% to 7.5% for people who enter nursing home care after the enactment of this Bill.

### **Part 3**

#### **Amendment of Health Act 1970**

*Section 8* amends section 51 of the Health Act 1970 to add definitions of “acute in-patient services” and “long-term residential care services” to the existing definition of “in-patient services”.

*Section 9* amends section 52 of the Health Act 1970:

- Subsection (a) is a technical amendment arising from the insertion of a definition of “long-term residential care services” in section 51 of the Health Act 1970.
- Subsection (b) is a technical amendment providing for the deletion of section 52(2) of the Health Act 1970, which provides for circumstances regarding a class of eligibility that no longer applies.
- Subsection (c) is a technical amendment to take account of the fact that section 54 of the Health Act 1970 stands repealed.

*Section 10* repeals section 53 of the Health Act 1970. Replacement or related provisions are provided for in sections 12 and 19 of the Bill.

*Section 11* extends section 53A of the Health Act 1970, which currently applies to certain persons in acute hospitals, to certain persons in public nursing homes. The amended section 53A will provide that persons residing in public nursing homes may be charged, based on the average cost of long-term residential care in public nursing homes, in a situation where they do not co-operate with the application process for the Nursing Homes Support Scheme when long-term residential care becomes appropriate to meet their needs.

*Section 12* inserts into the Health Act 1970 new sections 53B and 53C:

- Section 53B provides for charges for long-term residential care services under the Nursing Homes Support Scheme Act 2009. This is a technical amendment resulting from the repeal of section 53 of the Health Act 1970.
- Section 53C provides for charges to be raised for acute public in-patient services in public hospitals at a rate of €80 per day. It also provides for certain categories of people to be exempted from the charges (e.g. medical card holders and others

currently exempted). It provides that the Minister for Health, with the consent of the Minister for Public Expenditure and Reform, may make regulations specifying the amounts of charges and the maximum number of days (within the range 7 to 15 days) the charge will apply for in a period of 12 consecutive months. It also stipulates the factors the Minister for Health must have regard to in making such regulations.

*Section 13* amends Section 55 of the Health Act 1970 in order to provide for a new framework for charging all private in-patients in public hospitals:

- Subsection (1) provides that where a person waives his or her eligibility to services as a public patient, the HSE may make in-patient services available to him or her and impose the relevant charge set out in the Fourth Schedule. Charges will vary depending on the service provided and the hospital where the service is obtained: the hospitals are specified in Schedules 5, 6 and 7.
- Subsection (2) provides that charges can be made by third party bodies (e.g. voluntary hospitals) providing services on behalf of the HSE and stipulates that the third party body making the charge is accountable to the HSE for such charges.
- Subsection (3) enables the Minister to make regulations dealing with the manner in which services may be provided to private patients, including the designation of hospital beds.
- Subsection (4) allows the Minister by regulations to assign a hospital to Schedule 5, 6 or 7, or to delete a hospital from the Schedules and provides for the criteria to be used by the Minister when specifying the Schedule to which a hospital is assigned.
- Subsection (5) provides that where a person is admitted to hospital before the commencement of this Bill, the relevant charge will be applied from the commencement date whether or not they were being charged prior to that date.

*Section 14* inserts a new section 74A in the 1970 Health Act providing that third party bodies which provide services on behalf of the HSE (under section 38 of the Health Act 2004) may collect unpaid charges or contributions as a simple contract debt from the person to whom the services were provided.

*Section 15* inserts as a Fourth Schedule to the Health Act 1970 a list of charges in respect of in-patient services provided to private patients in public hospitals. The charges depend on whether a patient is accommodated in a single or multiple occupancy room or on a day case basis and to which Schedule (as outlined in sections 16, 17 and 18 of the Bill) the hospital concerned is assigned.

*Sections 16, 17 and 18* insert, respectively, as Fifth, Sixth and Seventh Schedules to the Health Act 1970 the lists of hospitals to which the charges set out in the Fourth Schedule apply.

*Section 19* provides for the insertion in the Health Act 1970 of the following new sections relating to residential support services:

- Section 67A defines “residential support services” as services (other than out-patient, acute in-patient or long-term residential care services) provided by or on behalf of the HSE

to a person residing in a hospital, convalescent home, nursing home or residential accommodation for persons with physical, sensory, mental health or intellectual disabilities, and where that person's accommodation therein is provided by or on behalf of the HSE.

- Section 67B provides that the HSE may make available residential support services to persons with full or limited eligibility.
- Section 67C provides that the HSE shall collect a contribution towards the cost of maintenance and accommodation from a person who is receiving residential support services if the person has previously received specified services on at least 30 days within the 12 month period ending on the day in question. It provides that the Minister for Health, with the consent of the Minister for Public Expenditure and Reform, may make regulations specifying the amounts of the contributions required from persons or classes of persons (which may not exceed 80% of the maximum rate of the State Pension (non-contributory)). It also exempts certain categories of people from paying the contribution (these categories are consistent with current exemption provisions relating to long stay charges).
- Section 67D allows the HSE to waive, in whole or in part, the contribution in certain circumstances and requires the HSE to prepare guidelines, which must be approved by the Minister with the consent of the Minister for Public Expenditure and Reform, setting out the circumstances in which the HSE may waive or partially waive a contribution.

### **Financial Implications**

The new arrangements for charging private patients in public hospitals are expected to raise in the region of €120 million in 2014.

The amendments relating to the Nursing Homes Support Scheme will enable additional applicants to be supported under the scheme and contribute to the scheme's overall sustainability. They will not give rise to additional costs to the Exchequer.

*Department of Health,  
June, 2013.*