An Bille um Scéim Íocaíochta na bhForas Máithreacha agus Naíonán, 2022
Mother and Baby Institutions Payment Scheme Bill 2022

Mar a tionscnaíodh

As initiated

[No. 97 of 2022]
AN BILLE UM SCÉIM ÍOCAÍOCHTA NA bhFORAS MÁITHREACHA AGUS
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MOTHER AND BABY INSTITUTIONS PAYMENT SCHEME BILL 2022

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Commissions of Investigation Act 2004 (No. 23)
Companies Act 2014 (No. 38)
Data Protection Act 2018 (No. 7)
Health (Pricing and Supply of Medical Goods) Act 2013 (No. 14)
Health Act 1970 (No. 1)
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entitled

An Act to provide, in recognition of the circumstances experienced by certain persons while resident in certain institutions in the State, for the establishment of a scheme to be known as the Mother and Baby Institutions Payment Scheme for the purpose of the making of payments and the making available without charge of health services to such persons; to provide for the making by such persons of applications for such payments and services; and to provide for related matters.

Be it enacted by the Oireachtas as follows:

PART 1

PRELIMINARY AND GENERAL

Short title and commencement

1. (1) This Act may be cited as the Mother and Baby Institutions Payment Scheme Act 2022.

(2) This Act, other than sections 35 and 36, shall come into operation on such day or days as the Minister may appoint by order or orders generally or with reference to any particular purpose or provision and different days may be so appointed for different purposes or different provisions.

(3) Sections 35 and 36 shall come into operation on such day or days as the Minister for Finance may appoint by order or orders generally or with reference to any particular purpose or provision and different days may be so appointed for different purposes or different provisions.

Interpretation

2. (1) In this Act—

“Act of 1970” means the Health Act 1970;

“Act of 2014” means the Companies Act 2014;

“Act of 2018” means the Data Protection Act 2018;
“adult” means a person who has attained the age of 18 years;

“applicant” means a person who makes an application in accordance with section 14, or a person on whose behalf or for the benefit of whose estate such an application is, in accordance with this Act, made, and a reference in this Act to an applicant shall, where the context so requires, include a reference to a person who makes an application in accordance with section 31 or 32 or who proceeds under section 33 with an application;

“Chief Deciding Officer” means the person appointed under section 8(1) to be the Chief Deciding Officer;

“child” means a person who has not attained the age of 18 years;

“Data Protection Regulation” means Regulation (EU) 2016/679 of the European Parliament and of the Council of 27 April 2016 on the protection of natural persons with regard to the processing of personal data and on the free movement of such data, and repealing Directive 95/46/EC (General Data Protection Regulation);

“establishment day” means the day appointed under section 5;

“general payment” means a payment to which a relevant person is entitled under subsection (1) or (2) of section 13;

“health support payment” means a payment to which a relevant person is entitled under section 13(5);

“information source” means—

(a) a local authority,

(b) the Health Service Executive,

(c) the Child and Family Agency,

(d) the Adoption Authority of Ireland,

(e) the National Archives, or

(f) a person prescribed under section 45;

“local authority” means a local authority within the meaning of section 2 of the Local Government Act 2001;

“Minister” means the Minister for Children, Equality, Disability, Integration and Youth;

“personal data” has the same meaning as it has in the Data Protection Regulation;

“personal representative” has the meaning assigned to it by the Succession Act 1965;

“prescribed” means prescribed by regulations made by the Minister;

“processing” has the same meaning as it has in the Data Protection Regulation;

“public body” means—

(a) a Minister of the Government,
(b) a local authority, or
(c) a body (other than a company formed and registered under the Companies Act 2014 or an existing company within the meaning of that Act) established by or under any enactment;

“registered medical practitioner” has the same meaning as it has in the Medical Practitioners Act 2007;

“registered nurse” has the same meaning as it has in the Nurses and Midwives Act 2011;

“relevant institution”, subject to section 43, means an institution specified in Schedule 1;

“relevant person” means a person who is either or both of the following:

(a) a person who, while the person was a child, was resident in a relevant institution other than in circumstances referred to in paragraph (b);

(b) a person who, while the person was a child or while the person was an adult, or both, was resident in a relevant institution for reasons relating to the person’s pregnancy, or the birth or care of the child born as a result of the pregnancy;

“Scheme” means the Mother and Baby Institutions Payment Scheme established under section 5;

“special categories of personal data” has the same meaning as it has in the Act of 2018;

“work-related payment” means a payment to which a relevant person is entitled under section 13(3).

(2) For the purposes of this Act, a person shall be considered to have been resident in a relevant institution where he or she—

(a) was born in, or admitted as a resident to, and

(b) spent not less than one night in, the institution.

Expenses

3. The expenses incurred by the Minister or the Minister for Health in the administration of this Act shall, to such extent as may be sanctioned by the Minister for Public Expenditure and Reform, be paid out of moneys sanctioned by the Oireachtas.

Laying of regulations

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

(2) Every regulation made 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 the 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.

PART 2

MOTHER AND BABY INSTITUTIONS PAYMENT SCHEME

Establishment of Scheme

5. (1) There shall stand established on the establishment day a scheme to be known as the Mother and Baby Institutions Payment Scheme, to be operated in accordance with this Act and any regulations made under it.

(2) The Scheme is established for the purpose of the making of general payments, work-related payments and health support payments, and the making available without charge of certain health services, in accordance with this Act, to relevant persons.

(3) The Minister shall, by order, appoint a day to be the establishment day for the purposes of this Act.

Duration of Scheme

6. (1) Subject to subsection (2), the Scheme shall cease to operate on the following date (in this Act referred to as the “cessation date”):

(a) the date that is the fifth anniversary of the establishment day, or

(b) such date that the Minister may by order specify that is—

   (i) earlier than the date referred to in paragraph (a), and

   (ii) not earlier than one year after the date on which the order specifying it is made.

(2) Notwithstanding subsection (1), this Act shall continue to apply in respect of an application made in accordance with section 14 that is received by the Chief Deciding Officer before the cessation date.

Office of Chief Deciding Officer

7. On the date on which this section comes into operation, there shall stand established, within the Department of Children, Equality, Disability, Integration and Youth, an office to be known as the Office of the Chief Deciding Officer of the Mother and Baby Institutions Payment Scheme.

Chief Deciding Officer

8. (1) The Minister shall, subject to this section, appoint, from among his or her officers, a person to be the Chief Deciding Officer to perform the functions conferred on the Chief Deciding Officer by or under this Act.
(2) The Chief Deciding Officer shall hold office on such terms and conditions as may be determined by the Minister, with the approval of the Minister for Public Expenditure and Reform, at the time of the appointment.

(3) The Minister may at any time remove the Chief Deciding Officer from office if, in the Minister’s opinion, the Chief Deciding Officer—

(a) has become incapable through ill-health of performing his or her functions, or

(b) has committed stated misbehaviour.

(4) A person shall not be eligible for appointment as Chief Deciding Officer and shall cease to hold office as Chief Deciding Officer if he or she—

(a) is sentenced by a court of competent jurisdiction to a term of imprisonment,

(b) is convicted on indictment of an offence,

(c) is convicted of an offence involving fraud or dishonesty,

(d) has a declaration made against him or her under section 819 of the Act of 2014 or is deemed to be subject to such a declaration by virtue of Chapter 5 of Part 14 of that Act, or

(e) is subject to, or is deemed to be subject to, a disqualification order within the meaning of Chapter 4 of Part 14 of the Act of 2014 whether by virtue of that Chapter or of any other provision of that Act.

(5) The Minister may appoint such and so many of his or her officers as he or she may determine to be members of staff of the Office of the Chief Deciding Officer to assist the Chief Deciding Officer in the performance of his or her functions.

Functions of Chief Deciding Officer

9. (1) The functions of the Chief Deciding Officer shall include the following:

(a) examining, in accordance with this Act and any regulations made under it, applications under section 14;

(b) determining, in accordance with section 20 the entitlement of applicants to payments, and their eligibility for the provision without charge of health services to them, under section 13;

(c) carrying out reviews under section 22;

(d) assigning, under section 24(3), appeals to appeals officers;

(e) notifying, in accordance with section 29, the Health Service Executive of an applicant’s eligibility for the provision without charge of the health services specified in that section to him or her;

(f) making all reasonable efforts, including by the holding of a public information campaign, as he or she considers appropriate to promote awareness among the public and, in particular, relevant persons, of the Scheme, the process under Part 3 for the making and examination of applications and of the effect of section 6;

(g) performing any additional functions conferred on him or her by regulations under subsection (2).
(2) The Minister may by regulation confer upon the Chief Deciding Officer such additional functions relating to the administration of the Scheme as the Minister considers appropriate.

(3) The Chief Deciding Officer shall be independent in the performance of the functions conferred upon him or her by or under this Act.

(4) The functions of the Chief Deciding Officer may be performed, subject to the general superintendence and control of the Chief Deciding Officer, by a member of the staff of the Office of the Chief Deciding Officer.

**Deputy Chief Deciding Officer**

10. (1) The Chief Deciding Officer shall designate a member of the staff of the Office of the Chief Deciding Officer to be the Deputy Chief Deciding Officer.

(2) The Deputy Chief Deciding Officer shall perform the functions of the Chief Deciding Officer when the Chief Deciding Officer is absent or is, for any other reason, unable to perform his or her functions, or when the position of Chief Deciding Officer is vacant.

(3) Subsections (2) to (4) of section 8 shall apply to the Deputy Chief Deciding Officer as they apply to the Chief Deciding Officer.

**Agreements relating to performance of certain functions of Chief Deciding Officer**

11. (1) Subject to subsection (6), the Minister may by an agreement entered into with any person, upon such terms and conditions as may be specified in the agreement, provide for the performance by such person, subject to such terms and conditions (if any) as may be so specified, of such functions conferred on the Chief Deciding Officer by or under this Act as may be so specified.

(2) An agreement under this section may include provision for payments (if any) to be made to and the disposal of such payments by the person concerned for the purpose of the performance of a function specified in the agreement.

(3) Where an agreement under this section provides for the performance by a person of a specified function of the Chief Deciding Officer, the function concerned shall be deemed, so long as the agreement continues in force, to be conferred by this Act on the person concerned, to the extent, and subject to the terms and conditions, specified in the agreement.

(4) A function deemed under subsection (3) to be conferred on a person shall—

(a) be performable by the person in his or her own name but subject to the general superintendence and control of the Chief Deciding Officer, and

(b) continue to be conferred on the Chief Deciding Officer but shall be so conferred concurrently with the person so as to be capable of being performed by either of those persons.

(5) The application of subsection (3) to a function of the Chief Deciding Officer shall not remove or derogate from the Chief Deciding Officer’s responsibility to the Minister for the performance of the function.
An agreement under this section shall not provide for the performance by the person concerned of the functions conferred upon the Chief Deciding Officer by sections 12, 24(3) and 47.

**Annual report**

12. (1) The Chief Deciding Officer shall, not later than 30 June in each year, prepare and furnish to the Minister a report (in this section referred to as an “annual report”) in writing on the performance of the functions of the Chief Deciding Officer in the preceding calendar year.

(2) If, under subsection (1), the first annual report would relate to a period of less than 6 months, that report shall, notwithstanding that subsection, instead relate to the performance of the functions of the Chief Deciding Officer during that period and the year immediately following that period and the Chief Deciding Officer shall prepare, and submit to the Minister, that first annual report as soon as may be, but not later than 6 months, after the end of that year.

(3) An annual report shall, if the Minister so directs, include information in such form and regarding such matters as he or she may specify.

(4) The Minister shall cause copies of an annual report to be laid before each House of the Oireachtas.

(5) An annual report shall not identify by name any applicant or other person referred to in an application.

**PART 3**

**APPLICATION FOR PAYMENT OR PROVISION OF SERVICES UNDER SCHEME**

**Eligibility of relevant person for certain payments and provision of services**

13. (1) Subject to this Part, a relevant person who, in circumstances referred to in paragraph (a) of the definition of a “relevant person” in section 2(1), was resident in a relevant institution for not less than 180 days, shall be entitled to a general payment in respect of the number of days, referred to in column 2 of Schedule 2 at any reference number, during which the person was so resident, of the amount specified in column 3 of that Schedule at that reference number.

(2) Subject to this Part, a relevant person who, in circumstances referred to in paragraph (b) of the definition of “relevant person” in section 2(1), was resident in a relevant institution, shall be entitled to a general payment in respect of the number of days, referred to in column 2 of Schedule 3 at any reference number, during which the person was so resident, of the amount specified in column 3 of that Schedule at that reference number.

(3) Subject to this Part, a relevant person who, in circumstances referred to in paragraph (b) of the definition of a “relevant person” in section 2(1), was resident for not less than 90 days in a relevant institution that is specified in Part 1 of Schedule 1, shall, in addition to any entitlement under this section to a general payment, be entitled to a payment in respect of the number of days, referred to in column 2 of Schedule 3 at any...
reference number, during which the person was so resident, of the amount specified in column 4 of that Schedule at that reference number.

(4) Subject to this Part, a relevant person who was resident, in circumstances referred to in paragraph (a) or (b), or both, of the definition of “relevant person” in section 2(1), in a relevant institution for not less than 180 days shall be eligible for the provision without charge of the health services specified in paragraphs (a) to (h) of section 29(3) to him or her.

(5) Subject to this Part, a relevant person to whom subsection (4) applies who is not ordinarily resident in the State and who applies under section 14 for such a payment, shall be entitled to a payment of €3000, which payment shall be—

(a) in lieu of the provision without charge of the health services referred to in that subsection to him or her, and

(b) made to him or her once only.

(6) A relevant person who, in circumstances referred to in paragraph (a) of the definition of “relevant person” in section 2(1), was resident in a relevant institution, shall not be entitled to a general payment in respect of such residence where he or she has received an award under the Residential Institutions Redress Act 2002 in respect of circumstances arising in the same institution.

(7) A relevant person shall not be entitled to a general payment or work-related payment in respect of a period of residence in a relevant institution where he or she has received an award from a court or settlement in respect of an action arising out of any circumstances relating to the same period of residence in the institution.

(8) A relevant person shall not be eligible for the provision without charge of the health services referred to in subsection (4) to him or her, or entitled to a health support payment, if he or she is a relevant participant, within the meaning of section 2 of the Redress for Women Resident in Certain Institutions Act 2015.

(9) Subject to section 15, a reference in this section to the number of days on which a relevant person was—

(a) resident in a relevant institution,

(b) resident in a relevant institution in circumstances referred to in paragraph (a) or paragraph (b), or both, of the definition of “relevant person” in section 2(1), or

(c) resident in a relevant institution specified in Part 1 of Schedule 1 in circumstances referred to in paragraph (b) of the definition of “relevant person” in section 2(1),

is a reference to such number calculated in accordance with section 19.

Application for payment or provision of services under Scheme

14. (1) Subject to this Part, a person who considers that he or she is a relevant person may make an application (in this Act referred to as an “application”) to the Chief Deciding Officer for any or all of the payments, and the provision without charge to him or her of the health services, specified in section 13.
(2) The Chief Deciding Officer shall not consider an application that is received by him or her on or after the cessation date.

(3) An application for a payment or the provision without charge of health services may be in respect of one or more than one of the following circumstances relating to the applicant:

(a) his or her being a person to whom paragraph (a) or paragraph (b), or both, of the definition of “relevant person” in section 2(1) applies;

(b) a period spent by him or her as a resident in one or more than one relevant institution;

(c) one or more than one period during which he or she was a relevant person.

(4) Subject to section 15, no more than one application may be made in respect of an individual relevant person.

(5) An application shall be in such form as may be prescribed and shall—

(a) include—

(i) such contact details, personal data (including, where relevant, special categories of personal data) and information relating to the applicant (being contact details, personal data and information that are necessary for the performance by the Chief Deciding Officer of his or her functions under this Act) as may be prescribed, and

(ii) such information relating to the identity of the applicant as the Chief Deciding Officer may specify for the purposes of this section,

(b) specify the payment, or provision without charge of health services, referred to in section 13 for which the applicant is applying,

(c) include a statement by the applicant—

(i) where the application is for a general payment or a work-related payment, that section 13(7) does not apply to him or her, and

(ii) where the application is for a health support payment or the provision without charge of health services, that subsection (8) of section 13 does not apply to him or her,

(d) where the application is for a health support payment, be accompanied by such information as may be prescribed to demonstrate that the applicant is not ordinarily resident in the State, and

(e) be accompanied by such other information or documentation in support of the application as may be specified by the Chief Deciding Officer for the purposes of this section.

(6) The making of an application under this section does not involve the waiver of any other right of action by the applicant.

Further application where relevant institution added to Schedule 1

15. (1) This section applies where—
(a) a relevant person has made an application in accordance with section 14,

(b) on or after the date on which the application referred to in paragraph (a) is made, an institution (in this section referred to as an “additional institution”) is, under section 43, inserted in Schedule 1, and

(c) the relevant person concerned was resident, whether in circumstances referred to in paragraph (a) or paragraph (b), or both, of the definition of “relevant person” in section 2(1), in the additional institution.

(2) Where this section applies, the relevant person concerned may, notwithstanding that he or she has made an application under section 14 (in this section referred to as an “earlier application”), make a further application (in this section referred to as a “further application”) under that section in respect of his or her residence in the additional institution.

(3) Subject to subsection (4), this Act shall apply to a further application, and a reference in this Act to an application shall be deemed to include a reference to a further application.

(4) Where—

(a) a relevant person made an earlier application in respect of his or her residence in a relevant institution, and

(b) the final determination of the earlier application is that the relevant person is not entitled to a benefit under a relevant provision, on the basis that he or she was not resident in the relevant institution for the minimum number of days specified in the relevant provision concerned,

then, in the determination, for the purposes of a further application by the relevant person, of his or her entitlement to a benefit under the relevant provision concerned, the number of days on which he or she was resident in the relevant institution referred to in paragraph (a) shall be deemed to be reckonable.

(5) In this section—

“benefit” means a payment under subsection (1), (3) or (5) of section 13, or the provision without charge of health services under subsection (4) of that section;

“final determination” means, in relation to an earlier application, the determination of the application that applies after any review or appeal has concluded or where no such review has been sought or appeal made and the period for seeking such review or making such appeal has expired;

“relevant provision” means subsection (1), (3), (4) or (5) of section 13.
(b) proceed to examine the application in accordance with this section and sections 17 to 19, and make his or her determination of the applicant’s entitlement under section 13 to each payment or eligibility for the provision without charge of health services, for which the applicant has applied.

(2) Where—

(a) an application is not accompanied by the information referred to in section 14(5), or

(b) the Chief Deciding Officer is of the view that the applicant has not provided such information as the Chief Deciding Officer may reasonably require in order to examine the application in accordance with this Part,

the Chief Deciding Officer shall inform the applicant that paragraph (a) or (b), as the case may be, applies and the reasons for this and request the applicant to provide, within such reasonable period as the Chief Deciding Officer may specify, the information required.

(3) The Chief Deciding Officer—

(a) shall, subject to paragraph (b), complete his or her examination of an application and make his or her determination, as soon as practicable, and

(b) may accord priority to the examination of an application where he or she considers that it is in the interest of fairness and efficiency to do so, having regard in particular to the personal circumstances, including the age and state of health, of the applicant.

(4) In examining an application under this section, the Chief Deciding Officer shall—

(a) establish the identity of the applicant,

(b) establish whether the applicant is a relevant person,

(c) where the applicant is a relevant person, make, in accordance with section 19, the calculations specified in subsection (1) of that section, and

(d) where the application is for a health support payment, establish whether the applicant is not ordinarily resident in the State.

(5) The Minister may issue guidelines to assist persons in establishing, for the purposes of this Part, whether an applicant is not ordinarily resident in the State.

(6) For the purposes of his or her examination under this section, the Chief Deciding Officer shall have regard to—

(a) the information provided by the applicant with his or her application, or pursuant to a request under subsection (2),

(b) the information provided by—

(i) an information source in accordance with section 17, and

(ii) any other person, on the request of the Chief Deciding Officer, where the Chief Deciding Officer considers the information to be relevant to the application,
(c) the information (if any) accessed and processed by him or her in accordance with section 46 or 47, and

(d) where applicable, the information provided by affidavit by the applicant under section 18.

**Chief Deciding Officer may request information from information source**

17. (1) The Chief Deciding Officer may, to the extent necessary and proportionate, in particular for the purpose of establishing or verifying an applicant’s residence in a relevant institution and the length of the period of such residence, or verifying information provided in the application, request an information source that holds information (including personal data and special categories of personal data) relating to the applicant to disclose such information to him or her.

(2) A request under subsection (1) shall—

(a) confirm the purpose for which the information is required,

(b) where the request relates to a document, specify that a copy of a document, and not the original, be provided,

(c) confirm the safeguards in place in relation to the storage of the information and documents and the processing of personal data and special categories of personal data provided, and

(d) specify the period within which the information requested is to be provided to the Chief Deciding Officer.

(3) An information source that receives a request made in accordance with subsection (1) shall comply with the request within the period specified in the request or within such further time period as may be agreed in writing between the Chief Deciding Officer and the information source.

(4) The Chief Deciding Officer may share with the applicant a copy of information accessed which is relevant to determinations made in relation to his or her application.

**Chief Deciding Officer may request information by affidavit**

18. (1) The Chief Deciding Officer may, for the purposes of his or her examination of an application, request the applicant concerned to provide, within such reasonable period as the Chief Deciding Officer may specify, information by affidavit where the Chief Deciding Officer is of the opinion that—

(a) the information referred to in paragraphs (b) and (c) of section 16(6) available to him or her is incomplete or otherwise insufficient for the purposes of his or her examination of the application, or

(b) the information provided by the applicant for the purposes of his or her application that is relevant to the examination of the application is inconsistent with information referred to in paragraphs (b) and (c) of section 16(6).

(2) The Chief Deciding Officer shall make a request under subsection (1) only where he or she considers that it is necessary to do so for the purposes of the examination of the application.
Calculation of period of residence in relevant institution

19. (1) For the purposes of section 16(4)(c), the Chief Deciding Officer shall calculate, in accordance with this section—

(a) the number of days of each period of residence by the applicant in a relevant institution, and

(b) the aggregate number of days of each of the following:

(i) all periods of residence by the applicant in a relevant institution;

(ii) all periods of residence by the applicant in a relevant institution in circumstances referred to in paragraph (a) of the definition of “relevant person” in section 2(1);

(iii) all periods of residence by the applicant in a relevant institution in circumstances referred to in paragraph (b) of the definition of “relevant person” in section 2(1);

(iv) all periods of residence by the applicant in a relevant institution specified in Part 1 of Schedule 1 in circumstances referred to in paragraph (b) of the definition of “relevant person” in section 2(1).

(2) For the purposes of the calculation under subsection (1) of the number of days of a period of residence:

(a) the date of entry and the date of discharge shall be included in the calculation;

(b) a temporary absence by the applicant from the relevant institution concerned shall not be reckonable where—

(i) the Chief Deciding Officer is satisfied, on the basis of his or her examination of the information referred to in section 16(6), that the temporary absence occurred, and

(ii) the temporary absence period concerned exceeds 180 days.

(3) For the purposes of this section, a person shall be considered to have been discharged from a relevant institution where he or she ceased (other than where he or she is temporarily absent from the relevant institution) to be a resident of the relevant institution.

(4) For the purposes of this section, a person shall be considered to have been temporarily absent from a relevant institution where he or she—

(a) was absent from the relevant institution for a period (in this section referred to as a “temporary absence period”) of not less than one day, beginning after the admission date and ending before the discharge date, and

(b) at the end of the temporary absence period—

(i) resumed his or her residence in the same relevant institution for the same reason as that for which he or she was admitted to the institution at the time when the period of residence began, and

(ii) spent not less than one night in the relevant institution.

(5) In this section—
“admission date” means, in relation to a period of residence, the date on which the relevant person concerned was admitted to the relevant institution and, in the case of a relevant person who was born in the relevant institution, means his or her date of birth;

“discharge date” means, in relation to a period of residence, the date on which the discharge of the relevant person concerned from the relevant institution occurred;

“period of residence” means, in relation to a relevant person, the period, beginning on the admission date and ending on the discharge date, during which he or she was, other than during a temporary absence period, continuously resident in a particular relevant institution;

“temporary absence period” shall be construed in accordance with subsection (4)(a).

Determination of application

20. (1) On completion of his or her examination under section 16 of an application, the Chief Deciding Officer shall, on the basis of the matters established under subsection (4) of that section, determine the payments to which the applicant is entitled, and the provision of services for which the applicant is eligible, under section 13, if any.

(2) Where an application is for a health support payment, the Chief Deciding Officer, where not satisfied that the applicant is not ordinarily resident in the State, but satisfied that the applicant is eligible under section 13(5) for the provision without charge of health services to him or her, may make a determination to that effect.

Notification to applicant of determination

21. (1) The Chief Deciding Officer shall, as soon as practicable after making a determination under section 20, notify the applicant in writing of the determination.

(2) A notification under subsection (1) shall include—

(a) a statement of the determination concerned, which shall include the information specified in subsection (3),

(b) where the determination includes a determination referred to in subsection (3)(b), an offer to the applicant of a payment to him or her of the amount concerned, and of the effect of sections 26, 27 and 28,

(c) where the determination includes a determination referred to in paragraph (d) or (g) of subsection (3), an offer to the applicant of the provision without charge of health services to him or her,

(d) where the determination includes a determination referred to in subsection (3)(f), an offer to the applicant for the payment to him or her of a health support payment, and

(e) a statement of the entitlement of the applicant under section 22(1) to seek a review.

(3) The information referred to in subsection (2)(a) is the following:
(a) where the determination includes a determination that the applicant is not a relevant person, a statement of that fact and of the reasons for it;

(b) where the determination includes a determination that the applicant is entitled to a general payment or a work-related payment, a statement of that fact and of the amount of such payment calculated in accordance with subsection (1), (2) or (3), as the case may be, of section 13;

(c) where the determination includes a determination that the applicant is not entitled to a general payment or work-related payment, a statement of that fact and of the reasons for the determination;

(d) where the determination includes a determination (other than a determination under section 20(2)) that the applicant is eligible the provision without charge of health services to him or her, a statement of that fact;

(e) where the determination includes a determination that the applicant is not eligible for the provision without charge of health services to him or her, a statement of that fact and of the reasons for the determination;

(f) where the determination includes a determination that the applicant is entitled to a health support payment, a statement of that fact;

(g) where the determination includes a determination under section 20(2), a statement of that fact and of the reasons for the determination;

(h) where the determination includes a determination (other than a determination under section 20(2)) that the applicant is not entitled to a health support payment, a statement of that fact and of the reasons for the determination.

**Review of determination**

22. (1) An applicant may, within 60 days of the date on which a notification under section 21 is sent to him or her, request the Chief Deciding Officer to review one or more of the following:

(a) a determination that the applicant is not a relevant person;

(b) a determination that the applicant is not entitled to a general payment or a work-related payment;

(c) a determination that the applicant is entitled to a general payment or a work-related payment of a particular amount;

(d) a determination that the applicant is not eligible for the provision without charge of health services to him or her;

(e) a determination (including a determination under section 20(2)) that the applicant is not entitled to a health support payment.

(2) A request under subsection (1) shall be in such form and made in such manner as may be prescribed, and shall be accompanied by a statement of the reasons for the request, and by such documents as may be prescribed.

(3) The Chief Deciding Officer shall, on receipt of a request under subsection (1), carry out a review of the determination to which the request relates.
The Chief Deciding Officer, in carrying out a review under subsection (3), shall do so in accordance with any regulations under section 38 and shall—

(a) not be confined to the grounds on which the determination under review was based, but may decide the matter the subject of the review as if it were being decided for the first time,

(b) subject to procedures prescribed under section 38, and as he or she considers appropriate, consider written or oral submissions made by the applicant and by or on behalf of the person who made the determination the subject of the review,

(c) have regard to any information or documents furnished by the applicant under subsection (1) or, where applicable, subsection (5), and

(d) consider, where relevant to the determination under review, any matter established under paragraph (a) to (d) of section 16(4) in relation to the applicant.

For the purposes of a review under this section, the Chief Deciding Officer may require an applicant to provide, within such reasonable period as the Chief Deciding Officer may specify—

(a) documentation or information, or

(b) where the Chief Deciding Officer considers it necessary to do so for the purposes of the review, information by affidavit,

in relation to any matter that may be relevant to the decision by the Chief Deciding Officer in relation to the matter under review.

The Chief Deciding Officer, having carried out a review under subsection (3), may decide to affirm or vary the determination the subject of the review.

The Chief Deciding Officer shall, not later than 20 days after the making of his or her decision under subsection (6), notify the applicant in writing of the decision, which notification shall include—

(a) a statement of the decision and of the reasons for it,

(b) where the effect of the decision is that the applicant is entitled to a general payment or a work-related payment—

(i) a statement of that fact and of the amount of such payment calculated in accordance with subsection (1), (2) or (3), as the case may be, of section 13,

(ii) an offer to the applicant of a payment to him or her of the amount concerned, and

(iii) a statement of the effect of sections 26, 27 and 28,

(c) where the effect of the decision is that the applicant is eligible for the provision without charge of health services to him or her (including on the basis that the circumstances referred to in section 20(2) apply in respect of the applicant), an offer to the applicant of the provision without charge of such services to him or her, and a statement of the effect of section 29,
(d) where the effect of the decision is that the applicant is eligible for the payment to him or her of a health support payment, an offer to the applicant of such a payment, and a statement of the effect of section 30, and

(e) a statement of the entitlement of the applicant under section 24(1) to appeal the decision.

**Appeals officer**

23. (1) The Minister shall appoint a panel of suitable persons (in this Act referred to as “appeals officers”) to consider appeals received under section 24(1).

(2) An appeals officer shall be independent in the performance of his or her functions under this Act.

(3) An appeals officer—

(a) shall be paid such remuneration and allowances as the Minister, with the consent of the Minister for Public Expenditure and Reform, determines, and

(b) may be provided with such staff, whose terms and conditions of service and to whom payment of remuneration and allowances shall be such as the Minister, with the consent of the Minister for Public Expenditure and Reform, determines as reasonably necessary to enable the appeals officer to perform his or her functions under this Act.

(4) The Minister may revoke an appointment under subsection (1) for stated reasons.

**Appeals**

24. (1) An applicant who is dissatisfied with a decision of the Chief Deciding Officer under section 22(6) may, within 60 days of the date on which the notification under section 22(7) is sent to him or her, appeal the decision to an appeals officer.

(2) An appeal under this section shall be in such form and made in such manner as may be prescribed and shall be accompanied by a statement of the reasons for the appeal, and by such documents as may be prescribed.

(3) Where an appeal is made under this section, the Chief Deciding Officer shall, without delay, assign the appeal to an appeals officer, who shall consider the appeal in accordance with this section.

(4) An appeals officer considering an appeal under this section shall do so in accordance with any regulations under section 38 and shall—

(a) not be confined to the grounds on which the decision under appeal was based, but may decide the matter the subject of the appeal as if it were being decided for the first time,

(b) subject to procedures prescribed under section 38, and as he or she considers appropriate, consider written or oral submissions (including information or documentation provided under subsection (5) or in accordance with regulations under section 38) made by the applicant and by or on behalf of the person who made the decision under appeal, and information provided under subsection (6),
(c) determine the appeal as soon as is practicable in all the circumstances of the case, and in any case within such period as may be prescribed, and

(d) prepare a report in writing, specifying the determination and the reasons for it and send a copy of the report to the Chief Deciding Officer.

(5) For the purposes of an appeal under this section, the appeals officer may require an applicant to provide, within such reasonable period as the appeals officer may specify—

(a) documentation or information, or

(b) where the appeals officer considers it necessary to do so for the purposes of the review, information by affidavit,

in relation to any matter that may be relevant to the determination of the appeal.

(6) (a) For the purposes of an appeal under this section, the appeals officer may request the Chief Deciding Officer to provide him or her with any information in relation to any matter that may be relevant to the determination of the appeal.

(b) The Chief Deciding Officer shall comply with a reasonable request under paragraph (a) and, for the purpose of such compliance, may—

(i) exercise such of his or her powers under this Part as he or she considers appropriate in order to obtain information, and

(ii) share such information with the appeals officer concerned.

(7) An appeals officer, having considered an appeal in accordance with subsection (4), may make a determination to—

(a) affirm the decision the subject of the appeal,

(b) vary the decision the subject of the appeal and replace it with such other decision as the appeals officer considers appropriate, or

(c) refer the matter back to the Chief Deciding Officer for re-examination, with such directions as the appeals officer considers appropriate.

(8) Where the determination of the appeals officer is one referred to in paragraph (a) or (b) of subsection (7), the Chief Deciding Officer shall, not later than 20 days after the making of the determination, notify the applicant in writing of the determination, which notification shall include—

(a) a statement of the determination,

(b) a copy of the report prepared under subsection (4)(d),

(c) where the effect of the determination is that the applicant is entitled to a general payment or a work-related payment—

(i) a statement of that fact and of the amount of such payment calculated in accordance with subsection (1), (2) or (3), as the case may be, of section 13,

(ii) an offer to the applicant of a payment to him or her of the amount concerned, and

(iii) a statement of the effect of sections 26, 27 and 28,
(d) where the effect of the determination is that the applicant is eligible for the provision without charge of health services to him or her (including on the basis that the circumstances referred to in section 20(2) apply in respect of the applicant), an offer to the applicant of the provision of such services to him or her, and a statement of the effect of section 29,

(e) where the effect of the determination is that the applicant is eligible for the payment to him or her of a health support payment, an offer to the applicant of such a payment, and a statement of the effect of section 30, and

(f) a statement of the right of the applicant under section 25 to appeal the determination to the High Court.

(9) Where the determination of the appeals officer is one referred to in paragraph (c) of subsection (7), the Chief Deciding Officer shall—

(a) arrange for the matter to be re-examined under section 16, and this Part shall apply accordingly, and

(b) not later than 20 days after the making of the determination, notify the applicant in writing of the determination and of the effect of paragraph (a).

Appeal to High Court

25. (1) The Chief Deciding Officer, within 28 days of the date on which the report under section 24(4)(d) is sent to him or her, or an applicant, within 28 days of the date on which a notification under section 24(8) is sent to him or her, may appeal the determination concerned to the High Court on a point of law.

(2) A decision of the High Court following an appeal under subsection (1) shall—

(a) where appropriate, specify the period within which effect shall be given to the decision, and

(b) be final and conclusive.

Offer of general payment or work-related payment

26. (1) Subject to this section, an applicant to whom an offer is made may, within 6 months of the date on which the notification concerned is sent to him or her, or such longer period as may be prescribed, and in accordance with this section, accept or reject the offer.

(2) An applicant—

(a) to whom an offer is made under section 21(2)(b), who requests a review under section 22 of the determination concerned, or

(b) to whom an offer is made under section 22(7)(b)(ii) or 24(8)(c)(ii), who appeals under section 24 or 25, as the case may be, the decision or determination concerned,

may accept, in accordance with this section, the offer concerned—

(i) only where he or she withdraws, in accordance with section 34, the review or appeal, and
(ii) within 6 months of the date of such withdrawal.

(3) For the purposes of this section, an applicant shall accept an offer by providing to the Chief Deciding Officer a statement in writing stating that the applicant—

(a) accepts the offer, and

(b) agrees to waive any right of action which the applicant may otherwise have had against a public body and to discontinue any other proceedings instituted by the applicant, against such public body, that arise out of the circumstances to which his or her application related.

(4) For the purposes of subsection (1) and (2), an applicant shall reject an offer by communicating in writing such rejection to the Chief Deciding Officer.

(5) An applicant who does not, within the period referred to in subsection (1) or (2)(b)(ii), as the case may be, communicate in accordance with this section his or her acceptance or rejection of the offer shall be deemed to have rejected the offer.

(6) In this section and sections 27 and 28, “offer” means an offer made under section 21(2)(b), 22(7)(b)(ii), or 24(8)(c)(ii).

Acceptance of offer of general payment or work-related payment

27. (1) Where an applicant accepts an offer in accordance with section 26, the Chief Deciding Officer shall, as soon as practicable, cause the payment concerned to be made to—

(a) the applicant, or

(b) where section 32 or 33 applies to the application, the personal representatives of, as the case may be, the deceased relevant person (within the meaning of section 32) or the deceased applicant (within the meaning of section 33) concerned.

(2) Where a payment is made under subsection (1)(b), the personal representatives concerned shall treat such payment as if it had been paid to the deceased relevant person or deceased applicant, as the case may be, immediately prior to his or her death.

(3) An applicant who receives a payment under subsection (1)(a), or the personal representative of a person in respect of whom a payment is made under subsection (1)(b), shall not institute civil proceedings, and shall discontinue any other proceedings instituted by or on behalf of the applicant, against a public body, that arise out of the same, or substantially the same, circumstances as the circumstances to which the application concerned related.

Statute of Limitations

28. (1) This section applies where an applicant, having made an application under section 14—

(a) withdraws, in accordance with section 34, the application,

(b) is the subject of a determination under section 20, a decision under section 22 or a determination under section 24 to the effect that he or she is not entitled to a
general payment or work-related payment, and does not, within the period specified in section 22(1), 24(1) or 25(1), as the case may be, seek a review or appeal of the decision or determination concerned, or

c) rejects, in accordance with section 26(4), or is deemed under section 26(5) to have rejected, an offer.

(2) Where this section applies, in any proceedings taken by the relevant person concerned arising out of the same, or substantially the same, circumstances as the circumstances to which his or her application under section 14 related, a public body or any other person who is a party to the proceedings, shall not rely for the purposes of the Statute of Limitations on the period between—

(a) the date on which the relevant person’s application under section 14 is received by the Chief Deciding Officer, and

(b) the date on which, as the case may be—

   (i) the applicant withdraws his or her application, or rejects, or is deemed to have rejected, the offer, or

   (ii) the period referred to in subsection (1)(b) expires.

Offer of provision without charge of health services

29. (1) Subject to this section, an applicant to whom an offer under section 21(2)(c), 22(7)(c) or 24(8)(d) is made may, within 6 months of the date on which the notification of the offer concerned is sent to him or her, or such longer period as may be prescribed, and in accordance with this section, accept or reject the offer.

(2) Where an applicant accepts, in accordance with subsection (1), an offer referred to in that subsection, the Chief Deciding Officer shall, as soon as is practicable—

   (a) notify the Health Service Executive of the applicant’s eligibility for the provision without charge of health services to him or her, and

   (b) inform the applicant concerned of the notification under paragraph (a).

(3) The Health Service Executive, following receipt of a notification under subsection (2) (a), shall make available without charge to the applicant concerned—

   (a) a general practitioner medical and surgical service,

   (b) drugs, medicines and medical and surgical appliances for the time being on the Reimbursement List within the meaning of the Health (Pricing and Supply of Medical Goods) Act 2013,

   (c) the nursing service specified in section 60 of the Act of 1970,

   (d) the home help service specified in section 61 of the Act of 1970, following an assessment of needs made by a registered medical practitioner or a registered nurse that the service is so required,

   (e) the dental, ophthalmic and aural services specified in section 67 of the Act of 1970,
(f) a counselling service, following a referral made in that regard by a registered medical practitioner, relative to the applicant’s residence in a relevant institution,

(g) a chiropody service, following a referral made in that regard by a registered medical practitioner or registered nurse, and

(h) a physiotherapy service, following a referral made in that regard by a registered medical practitioner.

**Offer of health support payment**

30. (1) Subject to this section, an applicant to whom an offer under section 21(2)(d), 22(7)(d) or 24(8)(e) is made may, within 6 months of the date on which the notification of the offer concerned is sent to him or her, or such longer period as may be prescribed, and in accordance with this section, accept or reject the offer.

(2) Where an applicant, in accordance with subsection (1), accepts an offer, the Chief Deciding Officer shall ensure that the health support payment is made to the applicant as soon as is practicable.

**Application on behalf of relevant person**

31. (1) Where a relevant person, due to illness or disability, lacks capacity to make an application under section 14, such an application may be made on his or her behalf by—

(a) where the relevant person is a ward of court, the Committee of the Person of that ward, duly authorised in that behalf, or

(b) a person appointed by a relevant person to be his or her attorney under an enduring power of attorney where—

(i) the attorney is not prohibited or restricted by the terms of the power from performing any matter performable under this section by an attorney, and

(ii) the enduring power of attorney has been registered and the registration has not been cancelled,

and such person may continue to act on behalf of the relevant person for the purposes of the application.

(2) In subsection (1)—

“enduring power of Attorney” means a power of attorney within the meaning of section 2 of the Powers of Attorney Act 1996, which is an enduring power construed in accordance with section 5 of that Act;

“registration” in relation to an enduring power of attorney means registration under section 10 of the Powers of Attorney Act 1996.

**Application on behalf of deceased relevant person**

32. (1) In this section, “deceased relevant person” means a relevant person who—

(a) died on or after 13 January 2021, and
(b) did not, prior to his or her death, make an application in accordance with section 14 in respect of a period during which he or she was resident in a relevant institution.

(2) The personal representative of a deceased relevant person may make an application under section 14 for the benefit of the estate of the deceased relevant person, in respect of a period during which the deceased relevant person was resident in a relevant institution, for one or more of the following:

(a) a general payment;

(b) a work-related payment.

Application process to continue where applicant dies

33. (1) Where an applicant (in this section referred to as a “deceased applicant”) dies after the making by him or her of an application—

(a) his or her personal representative may, subject to subsections (2) and (3), proceed with the application as if he or she were the applicant, and

(b) the application, insofar as it was for the provision without charge of health services to the applicant or for a health support payment, shall be deemed to have been withdrawn.

(2) A personal representative of a deceased applicant shall, for the purposes of paragraph (b) of that subsection, notify the Chief Deciding Officer in writing of his or her intention to proceed with the application concerned.

(3) A notification under subsection (2) shall include such contact details and information relating to the person concerned, being contact details, personal data and information that are necessary for the performance by the Chief Deciding Officer of his or her functions under this Act, as the Chief Deciding Officer may specify for the purposes of this section.

Withdrawal of application, review or appeal

34. (1) An applicant may withdraw an application made by him or her under section 14, a review sought by him or her under section 22 or an appeal made by him or her under section 24, by providing the Chief Deciding Officer with a notice in writing of such withdrawal.

(2) The withdrawal under subsection (1) of an application, review or appeal shall take effect on and from the date on which the relevant notice under that subsection is received by the Chief Deciding Officer.
(a) by the insertion of the following section after section 205A:

“Payments under Mother and Baby Institutions Payment Scheme Act 2022

205B. (1) In this section—

‘Act of 2022’ means the Mother and Baby Institutions Payment Scheme Act 2022;

‘relevant payment’, in relation to a relevant person, means a payment made to the relevant person under paragraph (a), or in respect of the relevant person under paragraph (b), of section 27(1) of the Act of 2022;

‘relevant person’ has the same meaning as it has in section 2 of the Act of 2022.

(2) Income that—

(a) consists of a relevant payment, or

(b) arises to a relevant person from the investment in whole or in part of a relevant payment or of the income derived from such a payment, being income consisting of dividends or other income which but for this section would be chargeable to tax under Schedule C or under Case III, IV (by virtue of section 59, 745 or 747E) or V of Schedule D or under Schedule F,

shall be exempt from income tax and shall not be reckoned in computing total income for the purposes of the Income Tax Acts.

(3) Gains that accrue to a relevant person, from the disposal of—

(a) assets acquired with a relevant payment,

(b) assets acquired with income exempted from income tax under subsection (2)(b), or

(c) assets acquired directly or indirectly with the proceeds from the disposal of assets referred to in paragraph (a) or (b),

shall not be chargeable gains for the purposes of the Capital Gains Tax Acts.

(4) For the purposes of computing whether by virtue of this section a gain is, in whole or in part, a chargeable gain, or whether income is, in whole or in part, exempt from income tax, all such apportionments shall be made as are, in the circumstances, just and reasonable.”.

(b) in section 256(1), by the substitution of the following definition for the definition of “relevant amount”:

“‘relevant amount’ means any amount of—

(a) income referred to in section 205A(2) or income that consists of a payment made to a relevant person (within the meaning of section 205B(1)) under section 27(1)(a) of the Mother and Baby Institutions Payment Scheme Act 2022, and
(b) gains referred to in section 205A(3) or section 205B(3);”,
(c) in section 267(3), by the substitution of “section 192(2), section 205A(2) or section 205B(2)” for “section 192(2) or section 205A(2)”, and
(d) in section 613(1)—
   (i) in paragraph (d), by the substitution of “applies;” for “applies.”, and
   (ii) by the insertion of the following paragraph after paragraph (d):
      “(e) any payment to which section 205B applies.”,
(e) in section 730GA, by the substitution of “192, 205A or 205B” for “192 or 205A”, and
(f) in section 739G(2)(j) by the substitution of “192, 205A or 205B” for “192 or 205A”.

Amendment of Capital Acquisitions Tax Consolidation Act 2003

36. Section 82(1) of the Capital Acquisitions Tax Consolidation Act 2003 is amended, in paragraph (ba), by the substitution of “section 205A or 205B” for “section 205A”.

Legal costs and expenses

37. The Scheme may, in accordance with regulations under section 38, provide financial support to applicants to facilitate their—
   (a) seeking the assistance of a legal practitioner in providing an affidavit for the purposes of an application, and
   (b) where relevant, availing of independent legal advice for the purpose of their decision to accept or reject an offer under Part 3.

Regulations

38. (1) The Minister may make regulations prescribing any matter referred to in this Act as prescribed or to be prescribed.

   (2) The Minister may make regulations in relation to the operation of the Scheme which may provide for:
      (a) the procedures for the examining, under sections 16 to 19, of an application;
      (b) the procedures for the conduct of reviews under section 22 and appeals under section 24, which may include procedures relating to—
         (i) the time limits for the deciding of reviews and the determination of appeals,
         (ii) the making of submissions, whether oral or written, to the Chief Deciding Officer or appeals officer, as the case may be,
         (iii) the form and manner (which may include by electronic means) in which the appeal and written submissions referred to in subparagraph (ii) may be made,
(iv) the making of requests for further information by the Chief Deciding Officer or appeals officer, as the case may be, and

(v) the examination by the Chief Deciding Officer or appeals officer, as the case may be, of the applicant and any other person whom the Chief Deciding Officer or appeals officer considers appropriate;

(c) the amount of financial support that may be provided under section 37, being such amount that the Minister considers reasonable to enable access by applicants to the legal advice and assistance referred to in that section.

Amendment of section 53C of Act of 1970

39. Section 53C(9) of the Act of 1970 is amended—

(a) in paragraph (h), by the substitution of “2015),” for “2015),” and

(b) by the insertion of the following paragraph after paragraph (h):

“(i) a person to whom the health services specified in section 29(3) of the Mother and Baby Institutions Payment Scheme Act 2022 are, in accordance with that section, being made available without charge.”.

Amendment of Part 3 of Schedule 1 to Nursing Homes Support Scheme Act 2009

40. Part 3 of Schedule 1 to the Nursing Homes Support Scheme Act 2009 is amended in paragraph 1, in the definition of “relevant payment”, by—

(a) the substitution, in paragraph (e), of “Thalidomide,” for “Thalidomide, or” and

(b) the insertion of the following paragraph after paragraph (e):

“(ee) a general payment or a work-related payment made to the person, under the Mother and Baby Institutions Payment Scheme Act 2022, or”.

Prohibition on disclosure of information

41. (1) In this section, “confidential information” means information that refers to a relevant person or that could reasonably lead to the identification of a relevant person.

(2) Except in the circumstances specified in subsection (3), a person shall not disclose confidential information obtained by him or her while performing, or as a result of having performed, functions as—

(a) the Chief Deciding Officer or any of his or her staff,

(b) a person engaged by the Chief Deciding Officer to provide consultancy, advice or other services to the Chief Deciding Officer,

(c) a person with whom the Minister enters into an agreement under section 11,

(d) an employee of a person referred to in paragraph (b) or (c), or

(e) an appeals officer or any of the staff of an appeals officer.
(3) A person does not contravene subsection (2) by disclosing confidential information if the disclosure—

(a) is made to or authorised by the Chief Deciding Officer,

(b) is made to the Garda Síochána where the person is acting in good faith and reasonably believes that such disclosure is necessary in order to prevent an act or omission constituting a serious offence,

(c) is in compliance with this Act, or

(d) is required by law or an enactment other than this Act.

(4) Nothing in subsection (2) shall prevent the disclosure of confidential information to a relevant person to whom that information relates.

(5) A person who contravenes subsection (2) shall be guilty of an offence and shall be liable, on summary conviction, to a class A fine or to imprisonment for a term not exceeding 6 months, or to both.

Review of operation of Scheme

42. (1) The Minister shall cause a review of the operation of the Scheme to be commenced—

(a) as soon as possible after the second anniversary of the establishment day, and

(b) as soon as possible after the cessation date.

(2) A review under this section shall consider the following matters:

(a) the extent to which persons who are entitled to a payment, or eligible for the provision without charge of health services, under the Scheme have made applications under Part 3;

(b) the extent to which general payments and work-related payments have been made to relevant persons in accordance with the Scheme;

(c) the application, assessment and review processes under the Scheme, including the applicants’ experience of these;

(d) details of payments;

(e) the extent to which health services have been provided without charge to persons who are eligible under the Scheme for such provision;

(f) the extent to which health support payments have been made to relevant persons in accordance with the Scheme;

(g) whether the Scheme is achieving or, where applicable, has achieved the purpose specified in section 5(2);

(h) any other matter relevant to the administration of the Scheme as may be specified by the Minister.

Additional institution

43. (1) The Minister, with the consent of the Minister for Public Expenditure and Reform, may, by regulation, provide for the insertion in Schedule 1 of any institution which
was established for the purpose of providing maternity and infant care services and the placement of children for the purposes of adoption or care arrangements, and in respect of which a public body had a regulatory or inspection function.

(2) In this section—

“boarded out arrangement” means an arrangement under which a child was placed by a local authority or health board in a foster home at which care of the child was provided in exchange for a fee;

“care arrangement” means—

(a) a nursed out arrangement,

(b) a boarded out arrangement,

(c) an arrangement under which a child was placed with a foster parent—

(i) subject to subparagraph (ii), within the meaning of section 36(2) of the Child Care Act 1991, or

(ii) where the arrangement concerned was made before the coming into operation of the provision referred to in subparagraph (i), in accordance with the law in force in the State at the time the arrangement was made, whether or not the foster parent became the adoptive parent of the child,

(d) an arrangement made under section 36(1)(d) of the Child Care Act 1991, under which a child was placed with a relative, or

(e) an arrangement under which a child was placed with a prospective adoptive parent, whether or not the prospective adoptive parent became the adoptive parent of the child;

“nursed out arrangement” means an arrangement—

(a) under which a child was placed in a foster home at which care of the child was provided in exchange for a fee, and

(b) notice of which was required by or under the Children Act 1908 to be given to a local authority.

Service of documents

44. (1) A notice or other document that is required or authorised by or under this Act to be served on or given to a person shall be addressed to the person concerned by name and may be so served on or given to the person in one of the following ways:

(a) by delivering it in person;

(b) by leaving it at the address at which the person ordinarily resides or, in a case in which an address for service has been furnished, at that address;

(c) by sending it by post in a prepaid registered letter to the address at which the person ordinarily resides or, in a case in which an address for service has been furnished, to that address;
(d) by electronic means, in a case in which the person has given notice in writing to the person serving or giving the notice or document concerned of his or her consent to the notice or document (or notices or documents of a class to which the notice or document belongs) being served on, or given to, him or her in that manner.

(2) For the purposes of this section, a company formed and registered under the Act of 2014 or an existing company within the meaning of that Act shall be deemed to be ordinarily resident at its registered office, and every other body corporate and every unincorporated body of persons shall be deemed to be ordinarily resident at its principal office or place of business.

Minister may prescribe person to be information source

45. The Minister may, where he or she considers a person may have relevant information or documents for the purpose outlined in section 17(1), prescribe the person to be an information source.

Processing of personal data and special categories of personal data

46. (1) A person to whom this section applies may, to the extent necessary and proportionate for the performance of his or her functions under this Act, process personal data, including special categories of personal data, of an applicant, in accordance with the Act of 2018 and regulations under subsection (3).

(2) This section applies to the following persons:
   (a) the Chief Deciding Officer;
   (b) an appeals officer;
   (c) an information source.

(3) The Minister may prescribe suitable and specific measures for the processing of personal data and special categories of personal data under this Act.

(4) In this section, “suitable and specific measures” means measures to safeguard the fundamental rights and freedoms of data subjects in processing personal data of those data subjects and may include measures referred to in section 36(1) of the Act of 2018.

Use of database and records of Commission of Investigation into Mother and Baby Homes

47. (1) The Chief Deciding Officer may, to the extent necessary and proportionate for the performance by him or her of his or her functions under this Act, access and process personal data and special categories of personal data contained in the copy of the database and copy of the related records of the Commission deposited with the Minister under section 4(1) of the Commission of Investigation (Mother and Baby Homes and Certain Related Matters) Records, and Another Matter, Act 2020, for the purpose of the performance of his or her functions under this Act.

(2) The Chief Deciding Officer may share with an appeals officer personal data and special categories of personal data accessed from the copy of the database and copy of
the related records to the extent necessary and proportionate for the performance by 
the appeals officer of his or her functions under this Act.

(3) The Child and Family Agency may, to the extent necessary and proportionate for the 
performance by it of its functions under this Act as an information source— 

(a) access and process personal data and special categories of personal data 
contained in the database and the related records, and 

(b) disclose to the Chief Deciding Officer the data referred to in paragraph (a).

(4) For the avoidance of doubt, the Act of 2004 shall not operate to prevent the Chief 
Deciding Officer or the Child and Family Agency from accessing and processing 
personal data and special categories of personal data in accordance with subsections 
(2) and (3).

(5) In this section—

“Act of 2004” means the Commissions of Investigation Act 2004; 
“Commission” means the commission of investigation established by the Order of 
2015; 
“database” means the databases of residents of the institutions (specified in the 
Appendix to the terms of reference of the Commission set out in the Schedule to the 
Order of 2015) created by the Commission; 
“Order of 2015” means the Commission of Investigation (Mother and Baby Homes 
and certain related Matters) Order 2015 (S.I. No. 57 of 2015); 
“related record” means— 
(a) any evidence within the meaning of the Act of 2004 received by the Commission, 
(b) any document created by or for the Commission within the meaning of section 43 
of the Act of 2004, or 
(c) a copy of any such evidence or document, 
from which information was obtained for the purpose of creating the database.

Penalties

48. An applicant who, in connection with an application under Part 3, knowingly gives 
information to the Chief Deciding Officer or to an appeals officer which is false or 
misleading shall be guilty of an offence and shall be liable on summary conviction to a 
class A fine or to imprisonment for a term not exceeding 6 months, or to both.
SCHEDULE 1

Part 1

The Tuam Children’s Home, Tuam, County Galway
Sacred Heart Home and Hospital, Carlow, County Carlow
Sean Ross Abbey, County Tipperary 5
St. Felim’s County Home and Hospital, Cavan, County Cavan
St. Joseph’s Hospital, Ennis, County Clare
Cork County Home and District Hospital/St. Finbarr’s, County Cork
Our Lady of Lourdes Home, Midleton, County Cork
Mount Carmel Home, Clonakilty, County Cork 10
St. Patrick’s Hospital, Fermoy, County Cork
St. Joseph’s Home, Stranorlar, County Donegal
St. Brendan’s Home, Loughrea, County Galway
St. Columbanus Home, Killarney, County Kerry
St. Vincent’s Hospital, Athy, County Kildare 15
St. Columba’s County Home, Thomastown, County Kilkenny
St. Vincent’s Hospital, Mountmellick, County Laois
St. Patrick’s Home, Carrick-on-Shannon, County Leitrim
St. Ita’s Home, Newcastlewest, County Limerick 20
St. Camillus Hospital, County Limerick
St. Joseph’s Hospital, Longford, County Longford
Sacred Heart Home, Castlebar, County Mayo
St. Joseph’s Home, Trim, County Meath
St. Mary’s Hospital, Castleblayney, County Monaghan
St. Vincent’s Hospital, Tullamore, County Offaly 25
Roscommon Sacred Heart Home, Roscommon, County Roscommon
St. John’s Hospital, Sligo, County Sligo
Hospital of the Assumption, Thurles, Tipperary North, County Tipperary
St. Patrick’s Hospital, Cashel, Tipperary South, County Tipperary
St. John’s Hospital, Dungarvan, Waterford, County Waterford 30
St. Mary’s Hospital, Mullingar, County Westmeath
St. John’s Hospital, Enniscorthy, County Wexford

35
St. Colman’s, Rathdrum, County Wicklow

Part 2

St. Patrick’s/Pelletstown, Navan Road, Dublin 7
Bessborough Mother and Baby Home, Cork, County Cork
Manor House, Castlepollard, County Westmeath
Árd Mhuire, Dunboyne, County Meath
Bethany Home, Dublin
Denny House, Dublin
Miss Carr’s Flatlets, Dublin
The Regina Coeli Hostel, Dublin
The Castle Newtowncunningham, County Donegal
The County Clare Nursery, Kilrush, County Clare
Belmont Flatlets, Dublin
St. Gerard’s, Dublin
St. Kevin’s Institution (initially the Dublin Union), Dublin

36
### SCHEDULE 2

**Section 13(1)**

<table>
<thead>
<tr>
<th>(1)</th>
<th>(2) Number of days resident in relevant institution</th>
<th>(3) General Payment (in euro)</th>
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<tr>
<td>1</td>
<td>Between 180 – 360 days</td>
<td>12,500</td>
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<tr>
<td></td>
<td><strong>Over 1 Year</strong></td>
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<tr>
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</tr>
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<tr>
<td>5</td>
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<td><strong>Over 2 Years</strong></td>
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<tr>
<td>6</td>
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<td>7</td>
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<td>8</td>
<td>901 – 990 days</td>
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<tr>
<td>9</td>
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<tr>
<td></td>
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<td>26,250</td>
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<tr>
<td>12</td>
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<tr>
<td>13</td>
<td>1351 – 1440 days</td>
<td>28,750</td>
</tr>
<tr>
<td></td>
<td><strong>Over 4 Years</strong></td>
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<tr>
<td>14</td>
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<tr>
<td></td>
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<td></td>
</tr>
<tr>
<td>18</td>
<td>1801 – 1890 days</td>
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<tr>
<td>19</td>
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<td>21</td>
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<tr>
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<td></td>
<td><strong>Over 9 Years</strong></td>
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<td>34</td>
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<td>37</td>
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</tr>
<tr>
<td>38</td>
<td>3601 days and upwards</td>
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### Section 13(2) and (3)

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<th>(1) Number of days resident in relevant institution</th>
<th>(2) General Payment (in euro)</th>
<th>(3) Work-related Payment (in euro)</th>
<th>(4) Total amount of payment where person eligible for general payment and work-related payment</th>
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<td>(1)</td>
<td>(2) Number of days resident in relevant institution</td>
<td>(3) General Payment (in euro)</td>
<td>(4) Work-related Payment (in euro)</td>
<td>(5) Total amount (in euro) of payment where person eligible for general payment and work-related payment</td>
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<td>3601 days and upwards</td>
<td>65,000</td>
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</table>
An Bille um Scéim Íocaíochta na bhForas Máithreacha agus Naíonán, 2022

BILLE

(mar a tionscnaíodh)

dá ngairtear

Acht do dhéanamh socrú, mar aitheantas ar na himthosca a bhain do daoine áirithe le linn dóibh a bheith ina gcónaí i bhforais áirithe sa Stát, maidir le scéim a bhunáir ar a dtabharfar Scéim Íocaíochta na bhForas Máithreacha agus Naíonán chun íocaíochtaí a dhéanamh le daoine den sórt sin agus chun seirbhísí sláinte a chur ar fáil gan mhuirear don chéanna; do dhéanamh socrú maidir le daoine den sórt sin do dhéanamh iarratais ar íocaíochtaí agus seirbhísí den sórt sin; agus do dhéanamh socrú i dtaobh nithe gaolmhara.

An tAire Leanai, Comhionannais, Michumais, Lánpháirtíochta agus Óige a thíolaic,
17 Deireadh Fómhair, 2022

Mother and Baby Institutions Payment Scheme Bill 2022

BILL

(as initiated)

entitled

An Act to provide, in recognition of the circumstances experienced by certain persons while resident in certain institutions in the State, for the establishment of a scheme to be known as the Mother and Baby Institutions Payment Scheme for the purpose of the making of payments and the making available without charge of health services to such persons; to provide for the making by such persons of applications for such payments and services; and to provide for related matters.

Presented by the Minister for Children, Equality, Disability, Integration and Youth,
17th October, 2022