

Health (Amendment) Bill 2023

Bill No. 20 of 2023

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Abstract

The *Health (Amendment) Bill 2023* provides for the abolition of statutory charges for in-patient / day case care in acute hospitals for people aged over 15 years. Children aged 15 and under have been exempt from these charges since September 2022. The Bill does not propose to alter charges for outpatient / A&E care or charges for private patients in public hospitals.



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Summary

In 2017, the Oireachtas Committee on the Future of Healthcare, in its [Sláintecare Report¹](#), recommended, amongst other things, the removal of inpatient/day case charges for public hospital care. These charges are currently set at a rate of €80 per day, up to a maximum of €800 in any rolling twelve-month period.² They apply, with certain exemptions, to public hospital patients over 15 years of age who do not have medical cards.

The equivalent charges for children aged 15 and under were abolished from September 2022 under the [Health \(Miscellaneous Provisions\) No. 2 Act 2022](#).

The [Health Act 1970³](#) (the Act) is the key legislation setting out eligibility to health services in the State. [Section 53C](#) (1) of the Health Act 1970 provides for the levying of fees for acute in-patient hospital services in public hospitals (those run by or on behalf of the HSE). The remaining sub-sections of Section 53C provide for the amount of, conditions pertaining to and exemptions from these charges.

The [Health \(Amendment\) Bill 2023](#) (the Bill) seeks to amend the Act as follows:

- **Section 1(1)** seeks to repeal section 53C of the [Health Act 1970](#)
- **Section 1(2)** seeks to revoke the [Health \(Acute In-patient Charges\) Regulations 2021](#) (SI No. 213 of 2021).

The effect of the repeal of Section 53C charges would be the abolition of fees for inpatient and day patient care in public hospitals. The SI ([Health \(Acute In-patient Charges\) Regulations 2021](#)) implements subsections (2) and (3) of section 53(C) of the Act and therefore would also be revoked.

Under the Bill, out-patient and A&E charges would be unchanged as would charges for private patients.

The Minister for Health (the Minister) has stated that the proposed legislation is intended to be a “...significant step in ensuring that people have access to affordable healthcare services.”⁴

The Department of Health has said that funding of €20.6m has been provided for in Budget 2023 to alleviate the financial burden of statutory hospital charges (this may not be a full year cost).

There was no pre-legislative scrutiny of the [General Scheme of the Bill](#), which was published on 25 January 2023. The Bill was published on 10 March 2023.

Section 2 of the Bill provides that commencement will be by order of the Minister.

¹ Though commonly known as the *Sláintecare Report*, its official title is [Report of the Oireachtas Committee on the Future of Healthcare](#) (2017).

² Citizens Information webpage – [Charges for Hospital Services](#).

³ See Law Reform Commission Revised Act here: [Revised Acts \(lawreform.ie\), includes amendments to to the Act since enactment to 1 Jan 2023](#).

⁴ Department of Health Press Release (2023) [Abolition of public hospital inpatient charges a step closer as Minister Donnelly receives government approval to publish the Health \(Amendment\) Bill 2023](#), 7 March 2023.

A L&RS Bill Briefing page is also available on this Bill – link to it [here](#) (available internally in the Houses of the Oireachtas only).

Policy and legislative context to the proposal abolition of inpatient/day case hospital charges

This section of the *Bill Digest* provides a brief overview of some of the background to the provisions of the Bill.

This [Health \(Amendment\) Bill 2023](#) follows the enactment of legislation in 2022 which abolished public in-patient and day case charges for children aged under 16 years from September 2022.⁵ This measure was the fulfilment of a commitment in the Programme for Government (PfG), under the heading ‘*Fairer and Affordable Care*’ that the Government would:

“Abolish in-patient hospital charges for children”.⁶

This PfG commitment is part of its plans to implement the recommendations⁷ of the [Report of the Oireachtas Committee on the Future of Healthcare \(2017\)](#) - known as the *Sláintecare Report*. The report presented a plan for healthcare reform with cross-party support.

The Committee’s Terms of Reference acknowledged “...a need to establish a universal single tier service where patients are treated on the basis of health need rather than on ability to pay.”⁸

The *Sláintecare Report* made wide-ranging recommendations for the development of health services, including expanding capacity (beyond that needed to meet demographic change) alongside expanding entitlement to services.⁹ To achieve the goal of universal access, the Committee recommended the reduction and removal of charges for public healthcare. Of particular relevance to the current Bill is the Committee’s specific call for the removal of inpatient charges for public hospital care, which stated:

“Eliminate charges for access to public hospital care (€800 a year for each patient in public hospital care).”¹⁰

This was discussed in more detail where the Committee noted that:

“People without medical cards and those who opt not to have their care covered by private health insurance are charged €80 per night for public hospital care, capped at €800 per year. In 2016, this was expected to bring in an annual income of €25m for public hospitals.

⁵ Under the [Health \(Miscellaneous Provisions\) No. 2 Act 2022](#).

⁶ [gov.ie - Programme for Government: Our Shared Future \(www.gov.ie\)](#). p.45.

⁷ Further relevant Programme for Government commitments are set out in Appendix One.

⁸ [Committee on the Future of Healthcare Report](#) (Sláintecare report) (2017).

⁹ [Committee on the Future of Healthcare Report](#) (2017) p.51.

¹⁰ [Committee on the Future of Healthcare Report](#) (2017) p.57.

Removal of this charge is another step to achieve one tier access to care in Ireland and increases financial protection for those who currently have to pay these charges.”¹¹

The Minister for Health, Stephen Donnelly, TD has stated that he sees the proposal in the light of extending access towards universal coverage. In a Department of Health press release, issued when he received Cabinet approval to publish the General Scheme of the Bill, the Minister stated:

“This draft legislation, when finalised and enacted, will remove for everybody the existing financial burden of public inpatient charges when accessing care in a public hospital. This measure builds on the abolition of public inpatient charges for children, which I introduced last year, and is another significant step in ensuring that people have access to affordable healthcare services.”¹²

While the Bill provides for the abolition of charges, the Minister has previously highlighted that income from such charges is relied upon in health budgets, as highlighted in a 2022 PQ response as follows:

“Patient charges are a key element of the overall funding envelope of the Irish health system and are taken into account when agreeing the Annual Estimates and the subsequent preparation of the HSE’s annual National Service Plan. These charges typically include:

- Out-patient charges;
- In-patient charges; and
- Long-term stay charges.

Certain cohorts of people may be exempt from some or all of these charges.”¹³

Sláintecare implementation

As noted above, the current Bill seeks to implement the Sláintecare recommendation to remove public in-patient charges (or rather the remaining charges following the exemption applied to children under 16 from September 2022). Successive governments have put in place plans to put into effect the Sláintecare proposals.

The most recent are the:

- Sláintecare Implementation and Action Plan 2021-2023;
- Sláintecare Action Plan 2022; and
- Sláintecare Progress Report 2021.

All of these are available online [here](#).¹⁴

¹¹ [Committee on the Future of Healthcare Report](#) (2017) p.60-61.

¹² Department of Health Press Release (2023) [gov.ie - Minister Donnelly receives government approval to publish the General Scheme of the Health \(Abolition of Public Inpatient Charges\) Bill 2023 \(www.gov.ie\)](#), 24 January 2023.

¹³ PQ response, Dáil Éireann Debate, 26 April 2022. <https://www.oireachtas.ie/en/debates/question/2022-04-26/1753/>

¹⁴ <https://www.gov.ie/en/publication/0d2d60-slaintecare-publications/#slaintecare-action-plan-2022>.

An academic paper published in 2021 by Prof. Steve Thomas and colleagues at the Centre for Health Policy and Management, Trinity College Dublin, evaluated the design and progress of the Sláintecare recommendations to mid-2020, with some reflection on the COVID 19 era, particularly as it relates to the expansion of entitlements to achieve universal healthcare. They remarked that:

“What is apparent is that the policy, phasing and timelines have changed as Government has taken up Sláintecare. There has been substantial innovation in terms of a Sláintecare Integration Fund to resource pilots around integrated care, a new GP Contract and plans for citizen engagement and removing private care from public hospitals through the de Buitléir report¹⁵. These all provide a foundation for reform. Nevertheless, the pursuit of lowering access costs to care and entitlements seems to have taken a back seat to other areas of work (on the new regions and their capacity).”¹⁶

The current Bill can be seen as being a measure aimed at lowering access costs.

Pre-legislative scrutiny of the General Scheme of the Bill

There was no pre-legislative scrutiny of the General Scheme of the Bill.

Provisions of the Bill

The [Health Act 1970](#)¹⁷ (the Act) is the key legislation setting out eligibility to health services in the State.

Section 1(1) provides for the repeal of [Section 53C](#) of the Act. Currently this section of the Act provides the legislative basis for charging patients for inpatient and day case care in public hospitals (those provide by or on behalf of the HSE). Section 53C(9) provides for categories of people to be exempted from these charges.

Section 1(2) seeks to revoke the [Health \(Acute In-patient Charges\) Regulations 2021](#) (SI No. 213 of 2021). At present this SI provides the legislative basis for the persons liable for the acute public in-patient charge and sets the maximum number of days for charges at 10 days in each twelve months.

The effect of the repeal of Section 53C would be the abolition of inpatient and day case charges for patients in public hospitals. The revocation of the Statutory Instrument is consequent to the repeal.

Section 2 provides for the short title and commencement of the Bill.

It provides that the proposed legislation must be commenced by the Minister for Health and that different provisions may come into effect on different days.

¹⁵ This refers to the [Report of the Independent Review Group established to examine private activity in public hospitals](#). This Group was chaired by Dr Donal de Buitléir.

¹⁶ Thomas, S *et al* (2021) [Sláintecare implementation status in 2020: Limited progress with entitlement expansion](#) - *Health Policy* (Journal), [Volume 125, Issue 3](#), March 2021, Pages 277-283

¹⁷ See Law Reform Commission Revised Act here: [Revised Acts \(lawreform.ie\)](#)

Private patients

Patients who opt to be treated as private patients in public hospitals are subject to a charging regime set out in the Fourth and Fifth Schedules to the Act. The Bill proposes no changes to the way in which they are charged. A Briefing Note on the Bill provided by the Department of Health to the Oireachtas Library & Research Service stated:

“...patients may opt for private in-patient care in public hospitals. Section 55 of the Health Act 1970 (as amended) provides that the HSE may make available private in-patient services to persons who have waived their eligibility to public in-patient services. Significant statutory private in-patient hospital charges apply for such an episode of care (in summary: €813 or €1,000 per night) depending on the category of hospital and whether the accommodation was provided in a single or multi-occupancy room. Most people choosing to avail of private services in public hospitals use private health insurance to pay for treatment. The abolition of acute public in-patient charges will not apply to private patients.”¹⁸

Outpatient and A&E charges

Charges for people attending hospital emergency departments (€100) and Minor Injury Units (€75) would not be changed by the proposed legislation. These are not payable by certain exempted groups (e.g. medical card holders) and are waived where a person is subsequently admitted to hospital as an in-patient.

Implications of the bill

Financial Implications

How much will the measure cost?

According to the Department of Health, funding of €20.6m has been provided for in Budget 2023 to alleviate the financial burden of statutory hospital charges (this may not be the full-year cost).

Looking at the level of revenue raised by inpatient charges in the past, a HSE response to a Parliamentary Question in 2022 indicated that in 2019 statutory charges raised €23.4m¹⁹ and the [HSE Annual Accounts for 2021](https://www.hse.ie/eng/about/personal/pq/2022-pq-responses/january-2022/pq-1350-22-colum-burke.pdf) put the figure²⁰ at €22.5m (following a drop off to about €20.6m in 2020²¹). However, this would have included monies raised from charges to under 16 year olds which were abolished last year.

¹⁸ Department of Health (2023) *Briefing Note for the Oireachtas Library Service – Health (Amendment) Bill 2023*. 14 March 2023.

¹⁹ <https://www.hse.ie/eng/about/personal/pq/2022-pq-responses/january-2022/pq-1350-22-colum-burke.pdf>

²⁰ Defined as Income from Inpatient Charges – see pg. 157.

²¹ Accounts for 2020 were affected by the emergence of Covid-19 and related measures and their impact on health services. <https://www.hse.ie/eng/services/publications/corporate/hse-annual-report-and-financial-statements-2020.pdf>.

Potential savings

Regarding impact on patients, the proposed legislation, if passed, could be expected to save public hospital inpatients approximately €20m per year (based on Budget figures and figures above).

In terms of organisational savings, it is possible that the abolition of the charges will result in savings on the costs of their administration. This includes the cost of issuing invoices and collecting monies due. At present the HSE has a statutory obligation to levy and collect these charges and there is a National Framework Regulation in place setting out policy and procedures on debt collection.²² The issue of debt collection by public hospitals has been the focus of parliamentary questions and the Irish Cancer Society has called for an end to their use for cancer patients.²³

Other implications

In terms of impact on health insurance, there has been some speculation that the abolition of charges could see some people with 'entry-level' health insurance (that covers care in public hospitals) cancel their policies.²⁴

The VHI is reported as saying the abolition of inpatient charges would have a "negligible" impact on its claims costs, while Laya Healthcare said any move to get rid of hospital fees would be positive and would be passed on to members.²⁵

²² HSE response to PQ referred to it by the Minister: <https://www.hse.ie/eng/about/personalpq/pq/2022-pq-responses/march-2022/pq-17052-22-david-cullinane.pdf>

²³ For example see HSE responses to PQs: <https://www.hse.ie/eng/about/personalpq/pq/2021-pq-responses/october-2021/pq-50378-21-catherine-murphy.pdf> and <https://www.hse.ie/eng/about/personalpq/pq/2021-pq-responses/february-2021/pq-8978-21-emer-higgins.pdf>; See also [Irish Cancer Society, Pre Budget Submission 2023](#).

²⁴ <https://www.independent.ie/business/personal-finance/health-insurance/scrapping-hospital-charges-could-see-thousands-dropping-their-health-insurance-41685972.html>

²⁵ <https://www.independent.ie/business/personal-finance/health-insurance/scrapping-hospital-charges-could-see-thousands-dropping-their-health-insurance-41685972.html>

Appendix 1: Extract from the [*Programme for Government – Our Shared Future*](#) (2020)

Fairer and Affordable Care

Over the lifetime of the Government, we will seek to expand universal access to health care in a manner that is fair and affordable. Over the term of the Government, we will:

- Increase homecare hours and introduce a Statutory Homecare Scheme.
- Extend free GP care to more children.
- Extend free GP care to carers in receipt of the Carer's Support Grant.
- Abolish in-patient hospital charges for children.
- Extend free dental care to more children. Introduce baby boxes for all new parents.
- Reduce prescription charges and the Drug Payment Scheme threshold.
- Increase the income threshold on medical cards for people over 70.
- Extend discretionary medical cards to those with a terminal illness.
- Introduce a cap on the maximum daily charge for car parking for patients and visitors at all public hospitals, where possible. Introduce flexible passes in all public hospitals for patients and their families.
- Establish a National Medicines Agency, promoting national prescribing to reduce the cost of medicines, including via generic prescription, where appropriate, and to set a fair price for drug reimbursement.
- Retain access to private health services, ensuring choice for those accessing health care.

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