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*Number 3 of 2005*

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**HEALTH (AMENDMENT) ACT 2005**

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ARRANGEMENT OF SECTIONS

Section

1. Full eligibility.
2. Appeals.
3. Guidelines.
4. Charges for in-patient services.
5. General practitioner medical and surgical service.
6. Repeal of section 140 of the Social Welfare (Consolidation) Act 1993.
7. Short title and collective citation.

ACTS REFERRED TO

Health Act 1970	1970, No. 1
Health Acts 1947 to 2004	
Health (Amendment) Act 1991	1991, No. 15
Health (Amendment) Act 1996	1996, No. 15
Mental Health Acts 1945 to 2001	
Social Welfare Acts	
Social Welfare (Consolidation) Act 1993	1993, No. 27



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*Number 3 of 2005*

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**HEALTH (AMENDMENT) ACT 2005**

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AN ACT TO AMEND THE HEALTH ACT 1970 AND THE  
SOCIAL WELFARE (CONSOLIDATION) ACT 1993.

[11th March, 2005]

BE IT ENACTED BY THE OIREACHTAS AS FOLLOWS:

**1.**—Section 45 of the Health Act 1970 (as amended by the Health (Amendment) Act 1991) is amended— Full eligibility.

(a) in subsection (1)(a), by inserting “who, in the opinion of the Health Service Executive, are” after “adult persons”, and

(b) by substituting the following for subsection (2):

“(2) In deciding whether or not a person comes within the category mentioned in subsection (1)(a), the Health Service Executive shall have regard to the person’s overall financial situation (including the means of the spouse, if any, of that person in addition to the person’s own means) in view of the person’s reasonable expenditure in relation to himself or herself and his or her dependants, if any.”.

**2.**—Section 47(1) of the Health Act 1970 is amended by substituting “sections 45, 46 or 58” for “sections 45 or 46”. Appeals.

**3.**—Section 47A of the Health Act 1970 (as amended by the Health (Amendment) Act 1991) is amended by substituting “sections 45, 46 and 58” for “sections 45 and 46”. Guidelines.

**4.**—Section 53 of the Health Act 1970 is amended— Charges for in-patient services.

(a) in subsection (2)—

(i) by substituting “Notwithstanding anything in the Health Acts 1947 to 2004 but subject to subsections (3), (4) and (6), the Minister shall” for “The Minister may”, and

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- (ii) in paragraph (a), by substituting “to whom the in-patient services are provided” for “who are not persons with full eligibility”,

and

- (b) by inserting the following after subsection (2):

“(3) A charge imposed under regulations made under subsection (2) on or after the enactment of this subsection is not payable where the in-patient services concerned are provided to—

- (a) a person under 18 years of age,
- (b) a woman in respect of motherhood,
- (c) a person detained involuntarily under the Mental Health Acts 1945 to 2001,
- (d) a person who—
  - (i) is in a hospital for the care and treatment of patients with acute ailments (including any psychiatric ailment), and
  - (ii) requires medically acute care and treatment in respect of any such ailment,

or

- (e) a person who pursuant to section 2 of the Health (Amendment) Act 1996, in the opinion of the Health Service Executive, has contracted Hepatitis C directly or indirectly from the use of Human Immunoglobulin Anti-D or the receipt within the State of another blood product or a blood transfusion.

(4) The Health Service Executive may reduce or waive a charge imposed on a person under regulations made under subsection (2) on or after the enactment of this subsection if the Health Service Executive is of the opinion that, having regard to the financial circumstances of that person (including whether or not that person has dependants), it is necessary to do so in order to avoid undue financial hardship in relation to that person.

(5) For the avoidance of doubt, it is hereby declared that—

- (a) regulations made under subsection (2) and in force immediately before the enactment of this subsection—
  - (i) shall continue in force on and after that enactment and may be amended or revoked, and
  - (ii) subject to paragraph (b), do not apply to persons with full eligibility,

and

(b) such regulations may be amended on or after that enactment to apply, in whole or in part, to persons with full eligibility.

(6) Where in-patient services have been provided to a person for—

- (a) a period of not less than 30 days, or
- (b) periods aggregating not less than 30 days within the previous 12 months,

then—

- (c) a charge imposed under regulations made under subsection (2) on or after the enactment of this subsection for the further provision of any in-patient services to that person shall be charged at a weekly rate, and
- (d) such weekly rate shall not exceed 80 per cent of the maximum of the weekly rate of the old age (non-contributory) pension within the meaning of the Social Welfare Acts.

(7) A period of 30 days referred to in subsection (6) begins to run immediately the person concerned is provided with in-patient services, and irrespective of whether during all or any part of that period the charge referred to in that subsection is not payable by virtue of the operation of subsection (3) or (4).

(8) Notwithstanding section 51, in this section ‘in-patient services’, in relation to any regulations made under subsection (2) on or after the enactment of this subsection, means the institutional services referred to in the definition of ‘in-patient services’ in section 51 only insofar as those institutional services consist of the maintenance of a person.”.

5.—The Health Act 1970 is amended by substituting the following for section 58:

General practitioner medical and surgical service.

“General practitioner medical and surgical service.

58.—(1) The Health Service Executive shall make available without charge a general practitioner medical and surgical service for a person in any of the following categories—

- (a) persons with full eligibility,
- (b) adult persons with limited eligibility for whom, in the opinion of the Health Service Executive, and notwithstanding that they do not come within the category mentioned in section 45(1)(a), it would be unduly burdensome to arrange general practitioner medical and surgical services for themselves and their dependants, and

(c) dependants who are ordinarily resident in the State of the persons referred to in paragraph (b).

(2) In deciding whether or not a person comes within the category mentioned in subsection (1)(b), the Health Service Executive shall have regard to the person's overall financial situation (including the means of the spouse, if any, of that person in addition to the person's own means) in view of the person's reasonable expenditure in relation to himself or herself and his or her dependants, if any.

(3) Insofar as it is considered practicable by the Health Service Executive, a choice of medical practitioner shall be offered under the general practitioner medical and surgical service made available under this section.”.

Repeal of section 140 of the Social Welfare (Consolidation) Act 1993.

**6.**—Section 140 of the Social Welfare (Consolidation) Act 1993 is repealed.

Short title and collective citation.

**7.**—(1) This Act may be cited as the Health (Amendment) Act 2005.

(2) The Health Acts 1947 to 2004 and this Act (insofar as it amends those Acts) may be cited as the Health Acts 1947 to 2005 and shall be construed together as one Act.

(3) *Section 6* and the Social Welfare Acts shall be construed together as one Act.