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HEALTH (AMENDMENT) ACT 2013

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Number 31 of 2013

HEALTH (AMENDMENT) ACT 2013

AN ACT TO AMEND THE NURSING HOMES SUPPORT
SCHEME ACT 2009, TO AMEND THE HEALTH ACT 1970,
AND TO MAKE PROVISION FOR RELATED MATTERS.
[24th July, 2013]

BE IT ENACTED BY THE OIREACHTAS AS FOLLOWS:

PART 1

PRELIMINARY AND GENERAL

1.—This Act may be cited as the Health (Amendment) Act 2013. Short title.

2.—(1) Subject to *subsection (2)*, this Act, other than *Part 1* and *sections 5, 6, 7* (but not including *paragraph (e)(ii)* of *section 7*) and *14*, shall come into operation on such day or days as the Minister may appoint by order or orders either generally or with reference to any particular purpose or provision, and different days may be so appointed for different purposes and different provisions. Commencement.

(2) *Sections 13, 15, 16* and *17* shall come into operation on 1 January 2014.

3.—In this Act— Definitions.

“Act of 1970” means the Health Act 1970;

“Act of 2009” means the Nursing Homes Support Scheme Act 2009;

“Minister” means the Minister for Health.

PART 2

AMENDMENT OF NURSING HOMES SUPPORT SCHEME ACT 2009

4.—Section 5 of the Act of 2009 is amended by the substitution of the following for subsection (3): Amendment of section 5 of Act of 2009.

“(3) (a) It shall be a function of the Executive to operate and administer the Scheme.

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- (b) The Executive may enter into an arrangement with a person under which that person may perform any part of the Executive's function arising under paragraph (a) on behalf of the Executive.”.

Amendment of section 10 of Act of 2009. **5.**—Section 10 of the Act of 2009 is amended by the substitution of the following for subsection (2):

“(2) The financial assessment shall be carried out—

- (a) in the case of a person who is not a member of a couple, in accordance with the provisions of Part 1 or Part 1A, as appropriate, and Part 3 of Schedule 1, and
- (b) in the case of a person who is a member of a couple, in accordance with the provisions of Part 2 or Part 2A, as appropriate, and Part 3 of Schedule 1.”.

Amendment of section 13 of Act of 2009.

6.—Section 13 of the Act of 2009 is amended—

- (a) in subsection (3), by the insertion of “(3A),” after “Subject to subsections”, and
- (b) by the insertion, after subsection (3) of the following subsection:

“(3A) Subsection (3) shall cease to have effect as respects a person who makes an application for State support after the coming into operation of *section 6* of the *Health (Amendment) Act 2013.*”.

Amendment of Schedule 1 to Act of 2009.

7.—Schedule 1 to the Act of 2009 is amended—

- (a) in Part 1, by the substitution of the following for paragraph 1:

“Assessment of means of a person who is not a member of a couple where the application for State support is made prior to the relevant day

1. (a) The means of a person who is not a member of a couple shall, subject to Part 3, be assessed on the basis of the rules in this Part.

- (b) This Part applies to applications for State support made prior to the relevant day.”,

- (b) by the insertion, after Part 1, of the following Part:

“PART 1A

Assessment of means of a person who is not a member of a couple where the application for State support is made on or after the relevant day

1. (a) The means of a person who is not a member of a couple shall, subject to Part 3, be assessed on the basis of the rules in this Part.
- (b) This Part applies to applications for State support made on or after the relevant day.

Assessment of income

2. Assess the weekly income following the directions at steps A to E:
 - A. Establish the annual income of the person using the definition of ‘income’.
 - B. Deduct allowable deductions.
 - C. Divide amount produced by step B by 52 to establish net weekly income.
 - D. Take 80 per cent of amount produced by step C (net weekly income) which amount, unless step E applies, is the weekly assessed income.
 - E. Where applying the rule in step C produces a result whereby 20 per cent of net weekly income is less than the minimum retained income threshold, the weekly assessed income is the amount established by step C less the minimum retained income threshold.

Assessment of cash assets

3. Assess the weekly value of the cash assets by following the directions at steps A to F:
 - A. Establish all the cash assets of the person being assessed using the definition of ‘cash assets’ and value each cash asset on the basis of the estimated market value.
 - B. Deduct from the estimated market value of each cash asset the amount of allowable deductions relating to that cash asset to produce the net value of each cash asset.
 - C. Aggregate all net values of cash assets established under step B.
 - D. Deduct general assets deductible amount from the amount produced by step C to produce annual assessed cash assets.
 - E. Take 7.5 per cent of the amount produced by step D to establish the amount of the annual assessed cash assets.

- F. Divide amount produced by step E by 52 to produce weekly assessed cash assets.

Assessment of relevant assets

4. Assess the weekly value of the relevant assets by following the directions at steps A to F:

- A. Establish all assets which are relevant assets using the definition of ‘relevant assets’ of the person being assessed and value each relevant asset on the basis of the estimated market value.
- B. Deduct from the estimated market value of each relevant asset the amount of allowable deductions relating to that relevant asset to produce the net value of each relevant asset.
- C. Aggregate all net values of relevant assets to produce total net value of relevant assets.
- D. If the general assets deductible amount has not been fully used in connection with the cash assets assessment apply unused balance by deducting the unused amount from total net value of relevant assets produced by step C.
- E. Take 7.5 per cent of the amount produced by step D or, if step D does not apply, by step C to produce the annual assessed relevant assets amount.
- F. To establish assessed weekly value of relevant assets divide result of step E by 52.”,

(c) in Part 2, by the substitution of the following for paragraph 1:

“Assessment of means of a person who is a member of a couple where the application for State support is made prior to the relevant day

1. (a) The means of a person who is a member of a couple shall, subject to Part 3, be assessed on the basis of the rules in this Part.
- (b) This Part applies to applications for State support made prior to the relevant day.”,

(d) by the insertion, after Part 2, of the following Part:

“PART 2A

Assessment of means of a person who is a member of a couple where the application for State support is made on or after the relevant day

1. (a) The means of a person who is a member of a couple shall, subject to Part 3, be assessed on the basis of the rules in this Part.

- (b) This Part applies to applications for State support made on or after the relevant day.

Assessment of income

2. Assess the weekly income by following the directions at steps A to F:

- A. Establish the annual income of the person and his or her partner using the definition of 'income'.
- B. From the annual income of each of those persons deduct allowable deductions applicable to that person's income to establish net annual income of each member of the couple.
- C. Aggregate the two net annual incomes established under step B.
- D. Divide amount produced by step C by 52 to establish net weekly income.
- E. Take 40 per cent of amount produced by step D and the amount established following that calculation is, unless step F applies, the weekly assessed income.
- F. Where applying the rule in step E produces a result whereby 60 per cent of net weekly income is less than the minimum retained income threshold, the weekly assessed income is the amount established by step D less the amount which is the minimum retained income threshold.

Assessment of cash assets

3. Assess the weekly value of the cash assets by following the directions at steps A to G:

- A. Establish all the cash assets of the person to whom the assessment relates and his or her partner using the definition of 'cash assets' and value each cash asset on the basis of the estimated market value.
- B. Deduct from the estimated market value of each cash asset the amount of allowable deductions relating to that cash asset to produce net value of each cash asset.
- C. Aggregate all net values of cash assets established under step B.
- D. Deduct general assets deductible amount from the amount produced by step C to establish total assessed cash assets.
- E. Take 7.5 per cent of the amount produced by step D to establish the amount of the annual assessed cash assets of the couple.

F. Divide amount established by step E by 2 to establish the amount of the annual assessed cash assets of the person in respect of whom the financial assessment is being carried out.

G. Divide amount established by step F by 52 to produce the assessed weekly cash assets of the person in respect of whom the financial assessment is being carried out.

Assessment of relevant assets

4. Assess the weekly value of the relevant assets by following the directions at steps A to G:

A. Establish all assets which are relevant assets of the person in respect of whom the financial assessment is being carried out and his or her partner using the definition of ‘relevant assets’ and value each relevant asset on the basis of estimated market value.

B. Deduct from the estimated market value of each relevant asset the amount of allowable deductions relating to that relevant asset to produce the net value of each relevant asset.

C. Aggregate all net values of relevant assets established under step B.

D. If the general assets deductible amount has not been fully used in connection with the cash assets assessment then apply the unused balance by deducting the unused amount from the amount established by step C.

E. Take 7.5 per cent of the amount established by step D or, if step D does not apply, by step C to establish the annual assessed relevant assets amount.

F. Divide amount established by step E by 2 to establish the amount of the annual assessed relevant assets of the person in respect of whom the financial assessment is being carried out.

G. Divide the amount established by step F by 52 to produce the assessed weekly value of relevant assets of the person in respect of whom the financial assessment is being carried out.”,

(e) in paragraph 1 of Part 3—

(i) in the definition of “assessed weekly means” by the substitution of “Part 1, 1A, 2 or 2A of this Schedule” for “Part 1 or Part 2 of this Schedule”,

(ii) in the definition of “minimum retained income threshold” by the substitution of the following for paragraph (b)(i)(II):

“(II) is habitually resident in a relevant facility or a nursing home, the amount of any contribution required to be paid by the partner pursuant to section 67C(1) of the Health Act 1970,”

and

(iii) by the insertion, after the definition of “relevant business” of the following definition:

“ ‘relevant day’ means the day following the enactment of the *Health (Amendment) Act 2013*;”,

(f) in paragraph 3 of Part 3 by the substitution of “Part 1, 1A, 2 or 2A,” for “Part 1 or Part 2,”

(g) in paragraph 4 of Part 3 by the substitution of “Part 1, 1A, 2 or 2A,” for “Part 1 or Part 2,” and

(h) in paragraph 10 of Part 3—

(i) in subparagraph (b) by the substitution of “subject to subparagraph (c), shall not exceed the amount which is 22.5 per cent of the estimated market value” for “shall not exceed the amount which is 15 per cent of the estimated market value”, and

(ii) by the insertion of the following subparagraph after subparagraph (b):

“(c) Where—

(i) the other member and the relevant person both applied for State support on or after 27 October 2009 and prior to the relevant day, the reference to 22.5 per cent in subparagraph (b) shall be read as a reference to 15 per cent, and

(ii) the other member applied for State support on or after 27 October 2009 and prior to the relevant day and the relevant person applied for State support on or after the relevant day, the reference to 22.5 per cent in subparagraph (b) shall be read as a reference to 18.75 per cent.”.

PART 3

AMENDMENT OF HEALTH ACT 1970

8.—The Act of 1970 is amended by the substitution of the following for section 51:

Amendment of section 51 of Act of 1970.

“In-patient services.

51.—In this Part—

‘acute in-patient services’ means in-patient services provided—

(a) in a hospital for the care and treatment of patients with acute ailments (including psychiatric ailments), and

(b) to persons requiring medically acute care and treatment (including care and treatment in respect of motherhood);

‘in-patient services’ means institutional services provided for persons while maintained in a hospital, convalescent home or home for persons suffering from physical or mental disability or in accommodation ancillary thereto;

‘long-term residential care services’ means long-term residential care services within the meaning of the Nursing Homes Support Scheme Act 2009.”.

Amendment of section 52 of Act of 1970.

9.—Section 52 of the Act of 1970 is amended—

(a) in subsection (1A) by the deletion of “within the meaning of the Nursing Homes Support Scheme Act 2009”,

(b) by the deletion of subsection (2), and

(c) in subsection (3)—

(i) by the substitution of “Where,” for “Subject to section 54, where,”, and

(ii) by the substitution of “does not avail of or waives his or her right to avail of, some part of those services” for “does not avail of, some part of those services”.

Repeal of section 53 of Act of 1970.

10.—Section 53 of the Act of 1970 is repealed.

Amendment of section 53A of Act of 1970.

11.—Section 53A of the Act of 1970 is amended—

(a) by the substitution of the following for subsection (1):

“(1) This section applies where—

(a) in-patient services (not being long-term residential care services) are provided to a person in a hospital for the care and treatment of patients with acute ailments (including any psychiatric ailments) and a registered medical practitioner designated by the Health Service Executive has certified in writing that the person in receipt of such services does not require medically acute care and treatment in respect of any such ailment, or

(b) in-patient services are being provided to a person—

(i) who is a resident in a designated centre for older people (as defined in the Health Act 2007 (Care and Welfare of Residents in Designated Centres for Older People)

Regulations 2009 (S.I. No. 236 of 2009)) at which centre services are provided by or on behalf of the Health Service Executive,

- (ii) who first began to receive those in-patient services on or after 27 October 2009,
- (iii) who is not being provided with State support or ancillary State support under the Nursing Homes Support Scheme Act 2009, and
- (iv) in respect of whom a registered medical practitioner designated by the Health Service Executive has certified in writing that long-term residential care services are required.”,

and

(b) in subsection (2)—

- (i) by the substitution of “section 67C” for “section 53”,

and

- (ii) by the deletion of “within the meaning of the Nursing Homes Support Scheme Act 2009.”.

12.—The Act of 1970 is amended by the insertion, after section 53A, of the following sections: Insertion of sections 53B and 53C in Act of 1970.

“Charges for long-term residential care services.

53B.—(1) Charges shall be made for long-term residential care services in accordance with the Nursing Homes Support Scheme Act 2009.

(2) A reference in subsection (1) to long-term residential care services shall be construed as a reference to such services provided to a person who first began to receive those services on or after 27 October 2009.

(3) A person who is required by or under section 67C to make payment of a residential support services maintenance and accommodation contribution shall not be required to pay charges under this section.

(4) In any enactment—

- (a) a reference to section 53(1A) shall be construed as a reference to subsection (1),
- (b) a reference to section 53(1B) shall be construed as a reference to subsection (2),
- (c) a reference to section 53(1C) shall be construed as a reference to subsection (3),

(d) a reference to section 53 other than subsections (1A), (1B) or (1C) shall be construed as a reference to—

(i) section 53C,

(ii) section 67C, or

(iii) to both sections 53C and 67C,

as the context requires,

(e) a reference to a charge under section 53 (other than subsections (1A), (1B) or (1C)) shall be construed as a reference to—

(i) a charge under section 53C,

(ii) a contribution under section 67C, or

(iii) to both a charge under section 53C and a contribution under section 67C,

as the context requires.

Charges for acute in-patient services.

53C.—(1) Charges shall be made for acute in-patient services provided by or on behalf of the Health Service Executive to a person who is a member of a class of persons specified in regulations made under subsection (3) for the purpose of this section.

(2) The daily rate of charge shall be €80 unless a different amount is prescribed in regulations made under subsection (4), in which case the daily rate of charge shall be that different amount.

(3) The Minister may, with the consent of the Minister for Public Expenditure and Reform, make regulations for the purpose of this section, which may—

(a) provide for the imposition of charges for acute in-patient services on persons to whom such services are provided where he or she is a member of a class of persons specified in such regulations,

(b) specify the maximum number of days in respect of which such charges may be imposed by reference to a period of time specified in the regulations.

(4) (a) The Minister, with the consent of the Minister for Public Expenditure and Reform, may by regulations prescribe a different amount than the amount specified in subsection (2).

(b) In prescribing an amount pursuant to paragraph (a) the Minister shall ensure that the amount prescribed does not exceed the amount which is 25 per cent of the average daily cost of providing acute in-patient services to a patient.

(5) Where in regulations made pursuant to subsection (3)(b) the Minister specifies the maximum number of days in respect of which charges are to be imposed, that maximum period shall not be fewer than 7 days and not be greater than 15 days.

(6) In this section ‘average daily cost of providing acute in-patient services to a patient’ means the amount most recently certified by the Director General of the Health Service Executive to the Minister as being the average daily cost of providing acute in-patient services to a patient determined by establishing the total cost of acute in-patient services over a period of 12 months provided by—

(a) the Health Service Executive under sections 52 and 55, and

(b) other persons on behalf of the Health Service Executive pursuant to section 38 of the Health Act 2004,

and dividing that amount by the total number of bed days provided in respect of those services.

(7) For the purposes of this section—

(a) a person shall not be considered as receiving acute in-patient services on a particular day unless that person—

(i) was receiving acute in-patient services in the hospital concerned at midnight on the day concerned, or

(ii) was admitted to and discharged from the hospital concerned on the same day and during the period he or she was an in-patient he or she received acute in-patient services,

(b) a person shall be deemed to have commenced receiving acute in-patient services in the hospital concerned upon a decision being made by a registered medical practitioner having the authority to make such a decision in the hospital concerned that the person should be admitted to the hospital for that purpose,

(c) a person shall be deemed to have ceased receiving acute in-patient services—

- (i) upon a registered medical practitioner having the authority to make such a decision in the hospital concerned determining that the person concerned no longer requires acute in-patient services, or
- (ii) where the person is otherwise discharged as a patient from the hospital.

(8) In determining whether or not a person is required to pay a charge under this section by reference to the number of days in respect of which charges have been imposed on that person in the period (the 'relevant period') specified in the regulations made pursuant to subsection (3)(b), account shall be taken of any day in respect of which charges were imposed on that person pursuant to section 53 (other than in respect of services referred to in section 53(6)) within the relevant period.

(9) A person shall not be required to pay a charge under this section where the person is—

- (a) a person with full eligibility,
- (b) a woman receiving services in respect of motherhood,
- (c) a child who is not more than six weeks of age,
- (d) a child receiving services in respect of a defect identified at a health examination held pursuant to the service provided under section 66,
- (e) a person receiving services for the diagnosis or treatment of infectious diseases prescribed under Part IV of the Health Act 1947,
- (f) a person receiving services in respect of which service the person is deemed pursuant to section 45(7) to be a person with full eligibility,
- (g) 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.”.

13.—(1) The Act of 1970 is amended by the substitution of the following for section 55: Substitution of section 55 of Act of 1970.

“In-patient services for persons not entitled, or who have waived entitlement, to services under section 52.

55.—(1) (a) The Health Service Executive may, subject to any regulations made under subsection (3), make available in-patient services for persons who—

- (i) do not establish entitlement to such services under section 52, or
- (ii) are deemed under section 52(3) not to have full eligibility or limited eligibility for such services, or to have waived their eligibility for such services.

(b) The Health Service Executive shall make a charge in respect of any such in-patient services which are provided—

- (i) in a hospital specified in the Fifth Schedule, or
- (ii) in a hospital specified in the Sixth Schedule,

in accordance with the table of charges specified in the Fourth Schedule which relate to the hospital concerned.

(2) (a) Where in-patient services are provided by another person on behalf of the Health Service Executive, that person shall make a charge in respect of any such services in accordance with the Fourth Schedule.

(b) A person who makes a charge in accordance with paragraph (a) shall account to the Health Service Executive for all such charges made and monies received in respect of those charges.

(3) (a) The Minister may, for the purposes of subsection (1), make regulations prescribing the manner in which any in-patient services provided under this section are to be made available by the Health Service Executive, including the manner in which hospital beds are to be designated and the circumstances in which beds designated for persons who have full eligibility or limited eligibility may be occupied by persons who do not have such eligibility or are deemed under section 52(3) not to have such eligibility, or to have waived their eligibility for such services.

(b) Paragraph (a) is without prejudice to the operation of section 38 of the Health Act 2004.

(4) (a) The Minister may by regulations prescribe a hospital for the purposes of the Fifth Schedule or the Sixth Schedule and, where the Minister so prescribes, the hospital concerned shall stand specified in the Fifth Schedule or the Sixth Schedule, as the case may be, in accordance with those regulations.

(b) The Minister may by regulations delete a hospital which stands specified in the Fifth Schedule or the Sixth Schedule from the Schedule concerned.

(c) In making regulations—

(i) prescribing a hospital pursuant to paragraph (a), or

(ii) deleting a hospital pursuant to paragraph (b),

the Minister shall have regard to the level of medical complexity of the treatments routinely provided to patients as part of in-patient services at the hospital concerned.

(d) Before making regulations under paragraph (a) or (b), the Minister shall consult with the Health Service Executive.”.

(2) A person who is being provided with services under section 55 of the Act of 1970 prior to the coming into operation of *subsection (1)* shall, where those services continue to be provided after such coming into operation, be liable to pay the charges charged under section 55 of the Act of 1970 as substituted by *subsection (1)* from the date of such coming into operation, whether or not charges were charged or chargeable prior to that date.

Insertion of section 74A in Act of 1970.

14.—The Act of 1970 is amended by the insertion, after section 74 of the following section:

“Recovery of charges and contributions — further provision.

74A.—Any charge which may be made or contribution which may be levied under the Health Acts 1970 to 2013, or by regulations made thereunder, in respect of services provided by a person on behalf of the Health Service Executive pursuant to section 38 of the Health Act 2004, may, in default of payment, be recovered by the person providing the service as a simple contract debt in any court of competent jurisdiction from the person to whom the services were provided.”.

15.—The Act of 1970 is amended by the insertion of the matter in Schedule 1 to this Act as the Fourth Schedule to the Act of 1970. Insertion of Fourth Schedule in Act of 1970.

16.—The Act of 1970 is amended by the insertion of the matter in Schedule 2 to this Act as the Fifth Schedule to the Act of 1970. Insertion of Fifth Schedule in Act of 1970.

17.—The Act of 1970 is amended by the insertion of the matter in Schedule 3 to this Act as the Sixth Schedule to the Act of 1970. Insertion of Sixth Schedule in Act of 1970.

18.—Section 62 of the Act of 1970 is amended by the substitution of the following for subsection (1): Amendment of section 62 of Act of 1970.

“(1) A health board shall make available medical, surgical and midwifery services for attendance to the health of women in respect of motherhood.

(1A) The services referred to in subsection (1) shall be provided otherwise than as in-patient services.

(1B) A health board shall not charge for the services provided under subsection (1).”.

19.—The Act of 1970 is amended by the insertion, after section 67, of the following sections: Insertion of new sections 67A, 67B, 67C and 67D in Act of 1970.

“Definition of ‘residential support services’.

67A.—(1) In this Part ‘residential support services’ means any health or personal social service excluding—

- (a) acute in-patient services,
- (b) long-term residential care services, and
- (c) out-patient services provided under section 56,

provided by or on behalf of the Health Service Executive under section 7 of the Health Act 2004 or under any other enactment, to a person residing in a—

- (i) hospital,
- (ii) convalescent home,
- (iii) nursing home,
- (iv) home or other category of housing accommodation for persons with a physical, sensory, mental health or intellectual disability,

or in accommodation ancillary thereto, and whose accommodation therein is provided by or on behalf of the Health Service Executive.

(2) A reference in subsection (1) to long-term residential care services shall be construed as a reference to such services provided to a person who first began to receive those services on or after 27 October 2009.

Residential
support
services.

67B.—The Health Service Executive may make available residential support services to persons with full eligibility and persons with limited eligibility.

Residential
support
services
maintenance
and
accommodation
contributions.

67C.—(1) (a) Subject to subsections (3) to (6) and section 67D, a person provided with residential support services, whether provided by the Health Service Executive or on behalf of the Health Service Executive, shall pay a financial contribution, in accordance with regulations made by the Minister under this section, towards the cost of maintenance and accommodation associated with the provision of such residential support services.

(b) In this section and in sections 67B and 67D, a ‘residential support services maintenance and accommodation contribution’ means a contribution required to be paid pursuant to this section and regulations made under subsection (2).

(2) (a) The Minister may, with the consent of the Minister for Public Expenditure and Reform, make regulations—

(i) making it a requirement that persons to whom residential support services are provided, or persons belonging to a specified class or classes of such persons, shall pay a contribution, in specified circumstances, towards the cost of maintenance and accommodation associated with the provision of such residential support services, and

(ii) specifying the amounts of the contributions or the limits to the amount of such contributions.

(b) In specifying amounts of contributions required to be paid in regulations made under paragraph (a), the Minister may specify different amounts by reference to the income of the persons required to pay such contributions.

(c) Regulations relating to the matters specified in paragraph (a) may contain such ancillary or subsidiary provisions as the Minister considers necessary or expedient, including provisions relating to the manner of payment, the persons to whom payments are to be made and the collection of monies due and the disposal of monies received in

respect of contributions required to be made pursuant to such regulations.

(3) (a) The amount of a contribution required to be paid pursuant to regulations made under subsection (2) shall be expressed as a daily amount, which amount shall not exceed 80 per cent of the maximum daily rate of the State pension (non-contributory).

(b) For the purposes of this section—

(i) a person shall be considered as receiving residential support services on a particular day where that person was receiving those services at midnight on the day concerned,

(ii) a reference to the maximum daily rate of the State pension (non-contributory) shall be construed as a reference to one seventh of the maximum weekly rate of State pension (non-contributory), and

(iii) State pension (non-contributory) has the same meaning as it has in the Social Welfare Acts.

(4) A residential support services maintenance and accommodation contribution in respect of a particular day shall be payable where, in the 12 month period ending on that day, the person has previously received residential support services on at least 30 days.

(5) In calculating the number of days on which a person has received residential support services within the 12 month period referred to in subsection (4)—

(a) a day on which a person has received acute in-patient services as defined in section 51 (whether before or after the coming into operation of this section or regulations made under it) unless the person concerned was liable to make payment of a charge under section 55 in respect of those services,

(b) a day on which a person was in receipt of State support within the meaning of the Nursing Homes Support Scheme Act 2009 (whether before or after the coming into operation of this section or regulations made under it), and

(c) a day on which a person received services under this Act provided by or on behalf of the Health Service Executive prior to the coming into operation

of sections 67A, 67C, 67D or this section or regulations made under it, which services would, if those sections and regulations had been in force at the time of the provision of those services, have constituted residential support services,

shall be treated as a day on which the person concerned has been provided with residential support services.

(6) Subsection (5) applies notwithstanding that—

- (a) the person concerned is a person to whom subsection (7) applies as respects one or more than one of the days, or
- (b) the Health Service Executive has, pursuant to guidelines approved under section 67D, as respects the person concerned waived, in whole or in part, the amount of the contribution payable.

(7) A residential support services maintenance and accommodation contribution shall not be payable where the residential support services are provided to—

- (a) a person under 18 years of age,
- (b) a woman receiving services in respect of motherhood,
- (c) a person detained involuntarily under the Mental Health Acts 2001 to 2009,
- (d) a person detained in a designated centre under the Criminal Law (Insanity) Act 2006,
- (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,
- (f) a person in respect of the treatment of infectious diseases prescribed under Part IV of the Health Act 1947,
- (g) a person who pays charges which are charged under section 53A, or
- (h) a person in receipt of State support or ancillary State support within the

meaning of the Nursing Homes Support Scheme Act 2009.

Waiver of residential support services maintenance and accommodation contributions.

67D.—(1) (a) The Health Service Executive may waive (in whole or in part) the obligation of a person to make payment of a residential support services maintenance and accommodation contribution.

(b) The Health Service Executive shall not exercise the power referred to in paragraph (a) unless, having regard to the financial circumstances of the person concerned, it is satisfied that—

(i) it is necessary to do so in order to avoid undue financial hardship on the part of the person concerned or his or her dependants,

(ii) it is necessary to do so, or that doing so would be of significant benefit, in advancing the medical, therapeutic, rehabilitative or health-related needs of the person concerned (including, where a care plan has been prepared for that person by or on behalf of the Health Service Executive, needs relating to meeting objectives specified in such a care plan), or

(iii) it is reasonable to do so having regard to the extent to which the person concerned provides for his or her own maintenance.

(2) The Health Service Executive shall exercise the power referred to in subsection (1) in accordance with such guidelines as stand approved by the Minister pursuant to this section.

(3) Where the Health Service Executive exercises the power under subsection (1), it shall in each case record in writing the basis for the decision to exercise that power.

(4) The Health Service Executive shall prepare guidelines relating to the exercise of the power referred to in subsection (1), and where requested to do so by the Minister shall prepare revised guidelines.

(5) Guidelines prepared by the Health Service Executive under subsection (4) shall be submitted by the Health Service Executive to the Minister.

(6) Where guidelines are submitted to the Minister pursuant to subsection (5), the Minister may—

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- (a) with the consent of the Minister for Public Expenditure and Reform, approve the guidelines concerned,
- (b) with the consent of the Minister for Public Expenditure and Reform, approve the guidelines concerned subject to specified amendments, or
- (c) refuse to approve the guidelines concerned.

(7) Where guidelines stand approved under this section, the Minister may revoke such guidelines.

(8) The Health Service Executive shall publish or cause to be published, in such manner as it considers appropriate, guidelines standing approved by the Minister pursuant to this section.”.

SCHEDULE 1

Section 15.

INSERTION OF FOURTH SCHEDULE IN HEALTH ACT 1970

“FOURTH SCHEDULE Section 55.

CHARGES PAYABLE IN RESPECT OF IN-PATIENT SERVICES PROVIDED UNDER SECTION 55.

Column (1)	Column (2)	Column (3)	Column (4)	Column (5)
Reference Number	Hospital Category	Daily charge for in-patient services where overnight accommodation provided in a single occupancy room	Daily charge for in-patient services where overnight accommodation provided in a multiple occupancy room	Daily charge for day case in-patient services where overnight accommodation not provided
1.	Hospital specified in Fifth Schedule	€1,000	€813	€407
2.	Hospital specified in Sixth Schedule	€800	€659	€329

The amount of charges payable by a person to whom in-patient services are provided pursuant to section 55 shall be calculated in accordance with the Table by reference to—

- (a) which of the type of in-patient services specified in columns (3), (4) or (5) of the Table are provided to the person, and
- (b) which of the categories of hospital specified in column (2) of the Table the in-patient services are provided to the person.”.

Section 16.

SCHEDULE 2

INSERTION OF FIFTH SCHEDULE IN HEALTH ACT 1970

“FIFTH SCHEDULE Section 55.

EACH OF THE HOSPITALS SPECIFIED HEREUNDER
IS SPECIFIED AS A HOSPITAL FOR THE PURPOSES
OF THIS SCHEDULE.

The Adelaide and Meath Hospital, Dublin, incorporating the
National Children’s Hospital, Tallaght, Dublin.
Beaumont Hospital, Beaumont, Dublin.
Children’s University Hospital, Temple Street, Dublin.
Connolly Hospital Blanchardstown, Blanchardstown, Dublin.
Coombe Women and Infants University Hospital, Dublin.
Cork University Hospital and Cork University Maternity
Hospital, Cork.
Kilcreene Orthopaedic Hospital, Kilcreene, Kilkenny.
Mid-Western Regional Hospital, Dooradoyle, Limerick.
Mid-Western Regional Maternity Hospital, Limerick.
Mid-Western Regional Orthopaedic Hospital, Croom, County
Limerick.
Mater Misericordiae University Hospital, Dublin.
Mercy University Hospital, Cork.
National Maternity Hospital, Holles Street, Dublin.
Our Lady of Lourdes Hospital, Drogheda, County Louth.
Our Lady’s Children’s Hospital, Crumlin, Dublin.
Our Lady’s Hospice, Blackrock, County Dublin.
Our Lady’s Hospice, Harold’s Cross, Dublin.
Peamount Hospital, Newcastle, County Dublin.
Rotunda Hospital, Dublin.
Royal Victoria Eye and Ear Hospital, Dublin.
Sligo General Hospital.
South Infirmary-Victoria University Hospital, Cork.
St. James’s Hospital, James’s Street, Dublin.
St. Luke’s Hospital, Rathgar, Dublin.
St. Michael’s Hospital, Dun Laoghaire, Dublin.
St. Vincent’s Hospital, Fairview, Dublin.
St. Vincent’s University Hospital, Elm Park, Dublin.
University Hospital Galway and Merlin Park University
Hospital, Galway.
Waterford Regional Hospital, Waterford.

A hospital specified for the purposes of this
Schedule shall continue to stand specified notwithstanding that
the name or title of the hospital is altered or the location at
which the hospital provides in-patient services is altered.”.

SCHEDULE 3

Section 17.

INSERTION OF SIXTH SCHEDULE IN HEALTH ACT 1970

“SIXTH SCHEDULE Section 55.

EACH OF THE HOSPITALS SPECIFIED HEREUNDER
IS SPECIFIED AS A HOSPITAL FOR THE PURPOSES
OF THIS SCHEDULE.

Bantry General Hospital, Bantry, County Cork.
Cappagh National Orthopaedic Hospital, Dublin.
Cavan General Hospital, Cavan, County Cavan.
Ely Hospital, Wexford.
Incorporated Orthopaedic Hospital of Ireland, Clontarf, Dublin.
Kerry General Hospital, Tralee, County Kerry.
Letterkenny General Hospital, Letterkenny, County Donegal.
Louth County Hospital, Dundalk, County Louth.
Mallow General Hospital, Mallow, County Cork.
Mayo General Hospital, Castlebar, County Mayo.
Midland Regional Hospital, Mullingar, County Westmeath.
Midland Regional Hospital, Portlaoise, County Laois.
Midland Regional Hospital, Tullamore, County Offaly.
Mid-Western Regional Hospital, Ennis, County Clare.
Mid-Western Regional Hospital, Nenagh, County Tipperary.
Monaghan General Hospital, Monaghan, County Monaghan.
Naas General Hospital, Naas, County Kildare.
Our Lady’s Hospital, Manorhamilton, County Leitrim.
Our Lady’s Hospital, Navan, County Meath.
Portiuncula Hospital, Ballinasloe, County Galway.
Roscommon Hospital, Roscommon, County Roscommon.
South Tipperary General Hospital, Clonmel, County Tipperary.
St. Columcille’s Hospital, Loughlinstown, Dublin.
St. John’s Hospital, Limerick.
St. Joseph’s Hospital, Raheny, Dublin.
St. Luke’s Hospital, Kilkenny.
Wexford General Hospital, Wexford.

A hospital specified for the purposes of this Schedule shall continue to stand specified notwithstanding that the name or title of the hospital is altered or the location at which the hospital provides in-patient services is altered. ”.