



Number 21 of 2008

HEALTH ACT 2008

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ACTS REFERRED TO

Civil Registration Act 2004	2004, No. 3
Health (Miscellaneous Provisions) Act 2001	2001, No. 14
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Number 21 of 2008

HEALTH ACT 2008

AN ACT TO AMEND THE HEALTH ACT 1970, THE HEALTH CONTRIBUTIONS ACT 1979, THE SOCIAL WELFARE CONSOLIDATION ACT 2005 AND THE CIVIL REGISTRATION ACT 2004, TO MAKE PROVISION IN RELATION TO ELIGIBILITY FOR SERVICES UNDER THE HEALTH ACT 1970 AND FOR LIABILITY FOR HEALTH CONTRIBUTIONS AND TO PROVIDE FOR MATTERS CONNECTED THEREWITH.

[12th December, 2008]

BE IT ENACTED BY THE OIREACHTAS AS FOLLOWS:

PART 1

PRELIMINARY AND GENERAL

1.—(1) This Act may be cited as the Health Act 2008 and the Health Acts 1947 to 2007 and this Act may be cited together as the Health Acts 1947 to 2008 and shall be construed together as one.

Short title,
collective citation
and
commencement.

(2) This Act shall come into operation on the first day of January 2009.

PART 2

AMENDMENT TO HEALTH ACT 1970

2.—In this Part, “Act of 1970” means the Health Act 1970.

Interpretation.

3.—(1) Subsection (5A) of section 45 (inserted by section 1 of the Health (Miscellaneous Provisions) Act 2001) of the Act of 1970 is replaced by the following—

Amendment of
section 45 of Act of
1970.

“(5A) Notwithstanding any other enactment, with effect from 2 March 2009 a person also shall have full eligibility for the services under this Part if the person attained the age of 70 years before 1 January 2009 and is ordinarily resident in the State, so long as the person’s gross income does not exceed the relevant gross income limit under section 45A.”.

(2) A person who had full eligibility for the services under Part IV of the Act of 1970 by virtue of section 45(5A) of that Act prior to the coming into operation of *subsection (1)* continues to have full eligibility until 2 March 2009.

Insertion of section 45A in Act of 1970.

4.—The Act of 1970 is amended by inserting the following after section 45:

“Full eligibility.

45A.—(1) Notwithstanding section 45(6), a person in one of the following categories and who is ordinarily resident in the State also shall have full eligibility for the services under this Part:

(a) persons who, on or after 1 January 2009, attain or have attained the age of 70 years, whose gross income does not exceed the relevant income limit and who—

(i) make an application to the Health Service Executive in such form as it may consider appropriate, and

(ii) receive confirmation from the Health Service Executive that they have full eligibility for services under this Part because they have attained the age of 70 years, are ordinarily resident in the State and their gross income does not exceed the relevant gross income limit, so long as their gross income does not exceed that relevant limit;

(b) persons who were married to another person until that other person’s death, or lived with that other person as husband and wife until the other person’s death—

(i) if the surviving persons have attained the age of 70 years at the time of the death,

(ii) if the death occurred on or after 1 January 2009, and

(iii) for a period of 3 years after the death, so long as their gross income does not exceed the gross income limit set out in paragraph (b) of subsection (2) during that period;

and

(c) dependants of the persons referred to in paragraph (a) or section 45(5A).

(2) The Health Service Executive shall provide any necessary supports to any person in the making of an application under subsection (1) where, by reason of any incapacity, such person requests such assistance.

(3) The gross income limits for the purposes of this section and section 45(5A) are the following:

- (a) if a person is not married and is not living together with another person as husband and wife, his or her gross income limit is €700 per week, not including the income from the portion of the person's savings or similar investments whose capital value does not exceed €36,000, and
- (b) if persons are married or live together as husband and wife, their combined gross income limit is €1,400 per week, not including the income from the portion of their savings or similar investments whose capital value does not exceed €72,000.

(4) The Minister shall, on 1 September of every year, review the most recent information on the consumer price index made available by the Central Statistics Office, and may, with the consent of the Minister for Finance, by regulations to take effect on 1 January next following that review, increase the gross income limits specified for the purposes of this section and section 45(5A) to reflect any increase in that index.

(5) For the purposes of calculating gross income for this section and section 45(5A), all gross income from all sources is to be included except for the gross income arising from the following sources of income, and any subsequent income from the investment of the monies arising from those sources, which are not to be included:

- (a) compensation awards to persons under the Hepatitis C Compensation Tribunal Acts 1997 to 2006;
- (b) compensation awards by way of the Residential Institutions Redress Board established under section 3 of the Residential Institutions Redress Act 2002;
- (c) prescribed repayments made under section 8 of the Health (Repayment Scheme) Act 2006 made—
 - (i) to a living relevant person,
 - (ii) to the spouse or former spouse of a living or deceased relevant person,

(iii) directly to a living child of a relevant person by virtue of section 9(8) of that Act;

(d) *ex-gratia* awards approved by the Lourdes Hospital Redress Board under the terms of the Lourdes Hospital Redress Scheme 2007;

(e) similar awards and payments set out in regulations made under subsection (7).

(6) In the calculation of gross income for the purposes of this section and section 45(5A), income will not be imputed from property (whether a family home, a holiday home or any other property), unless it is rented, and only the net rental income will be included as income, calculated as gross income, less any cost necessarily incurred associated with the rental of the property.

(7) The Minister may make regulations prescribing a class or classes of payments not coming within paragraphs (a) to (d) of subsection (5) but which the Minister considers to be made for a similar purpose as those made under those paragraphs.”.

Amendment of section 47 of Act of 1970.

5.—Section 47 of the Act of 1970 is amended by inserting “, 45A” after “45”.

Amendment of section 47A of Act of 1970.

6.—Section 47A of the Act of 1970 is amended by inserting “, 45A” after “45”.

Amendment of section 49 of Act of 1970.

7.—Section 49 of the Act of 1970 is amended—

(a) by inserting the following subsection:

“(1A) A person who has attained the age of 70 years before 1 January 2009 and who has received confirmation before that date from the Health Service Executive, or has communicated in writing before that date with the Health Service Executive with a view to receiving confirmation from it, that he or she has full eligibility for the services under this Part shall, no later than 2 March 2009—

(a) review his or her gross income from all sources, other than the sources referred to in section 45A(5), and

(b) notify the Health Service Executive if he or she has concluded that that income exceeds the relevant gross income limit set out in section 45A, unless the person has received confirmation from the Health Service Executive that he or she has full eligibility for the services under this Part otherwise than under section 45(5A).”.

(b) in subsection (2), by inserting “or (1A)” after “subsection (1)”.

PART 3

AMENDMENT TO HEALTH CONTRIBUTIONS ACT 1979

<p>8.—Section 4 of the Health Contributions Act 1979 is amended by inserting “and less than the age of seventy years” after “sixteen years”.</p>	<p>Amendment of section 4 of Health Contributions Act 1979.</p>
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PART 4

AMENDMENT TO SOCIAL WELFARE CONSOLIDATION ACT 2005

<p>9.—Paragraph (d) of section 7(2) of the Social Welfare Consolidation Act 2005 is amended by inserting “, 45A” after “45”.</p>	<p>Amendment of section 7 of Social Welfare Consolidation Act 2005.</p>
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<p>10.—Subparagraph (ii) of paragraph (a) of the definition of “relevant purpose” in section 265(1) of the Social Welfare Consolidation Act 2005 is amended by inserting “, 45A” after “45”.</p>	<p>Amendment of section 265 of Social Welfare Consolidation Act 2005.</p>
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PART 5

AMENDMENT TO CIVIL REGISTRATION ACT 2004

<p>11.—Paragraph (i) of section 66(1) of the Civil Registration Act 2004 is amended by inserting “, 45A” after “45”.</p>	<p>Amendment of section 66 of Civil Registration Act 2004.</p>
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