Changes to Legislation: as of 13 October 2026, this Act is up to date with all changes known to be in force.



Number 10 *of* 2013

HEALTH (ALTERATION OF CRITERIA FOR ELIGIBILITY) ACT 2013

REVISED

Updated to 25 May 2018

This Revised Act is an administrative consolidation of the *Health (Alteration of Criteria for Eligibility) Act 2013*. It is prepared by the Law Reform Commission in accordance with its function under the *Law Reform Commission Act 1975* (3/1975) to keep the law under review and to undertake revision and consolidation of statute law.

All Acts up to and including *Data Protection Act 2018* (7/2018), enacted 24 May 2018, and all statutory instruments up to and including *Data Protection Act 2018 (Establishment Day) Order 2018* (S.I. No. 175 of 2018), made 24 May 2018, were considered in the preparation of this Revised Act.

Disclaimer: While every care has been taken in the preparation of this Revised Act, the Law Reform Commission can assume no responsibility for and give no guarantees, undertakings or warranties concerning the accuracy, completeness or up to date nature of the information provided and does not accept any liability whatsoever arising from any errors or omissions. Please notify any errors, omissions and comments by email to revisedacts@lawreform.ie.

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ACTS REFERRED TO

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Number 10 *of* 2013

HEALTH (ALTERATION OF CRITERIA FOR ELIGIBILITY) ACT 2013

REVISED

Updated to 25 May 2018

AN ACT TO AMEND THE HEALTH ACT 1970 AND TO MAKE PROVISION IN RELATION TO ELIGIBILITY FOR SERVICES UNDER THAT ACT; TO MAKE PROVISION FOR THE FURNISHING OF PERSONAL DATA IN CERTAIN CIRCUMSTANCES AND TO PROVIDE FOR MATTERS CONNECTED THEREWITH.

[28*th March*, 2013]

BE IT ENACTED BY THE OIREACHTAS AS FOLLOWS:

PART 1

Preliminary and General

Short title, collective citation and commencement.

1.— (1) This Act may be cited as the Health (Alteration of Criteria for Eligibility) Act 2013.

(2) This Act and the Health Acts 1947 to 2011 may be cited together as the Health Acts 1947 to 2013 and shall be construed together as one.

(3) This Act comes 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 or different provisions.

Definition.

2.— In this Act "Minister" means the Minister for Health.

PART 2

Amendment of Health Act 1970

Amendment of section 45A of Health Act 1970.

3.— Section 45A of the Health Act 1970 is amended—

(*a*) in subsection (1) by the deletion of paragraph (*b*),

(*b*) by the insertion after subsection (1) of the following subsection:

"(1A) Where—

(*a*) a person—

(i) was married to another person until that other person's death,

(ii) was living with another person as husband and wife until that other person's death, or

(iii) was a civil partner as respects another person until that other person's death,

and

(*b*) the death of the other person occurred on or after 1 January 2009, and

(*c*) the surviving person had attained the age of 70 years at the time of the death of that other person,

the gross income limit applicable to the surviving person in the 3 years following the death of that other person shall—

(i) as respects the period commencing on 1 January 2009 and ending on 4 April 2013 be the amount specified in subsection (3)(*a*)(ii), and

(ii) with effect from 5 April 2013 be the amount specified in subsection (3)(*b*)(ii),

but such gross income limit shall apply only as respects such part of the 3 year period as the surviving person is not married, is not living together with another person as husband and wife, or does not have a civil partner.",

(*c*) by the substitution of the following for subsection (3):

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

(*a*) in respect of the period commencing on 1 January 2009 and ending on 4 April 2013—

(i) if a person—

(I) is not married, and is not living together with another person as husband and wife, or

(II) does not have a civil partner,

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

(ii) if persons—

(I) are married or live together as husband and wife, or

(II) are civil partners as respects each other,

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,

and

(*b*) with effect from 5 April 2013—

(i) if a person—

(I) is not married, and is not living together with another person as husband and wife, or

(II) does not have a civil partner,

his or her gross income limit is €600 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

(ii) if persons—

(I) are married or live together as husband and wife, or

(II) are civil partners as respects each other,

their combined gross income limit is €1,200 per week, not including the income from the portion of their savings or similar investments whose capital value does not exceed €72,000.",

(*d*) in subsection (4) by the substitution of "increase or decrease" for "increase" wherever it occurs, and

(*e*) by the insertion after subsection (7) of the following subsection:

"(8) In this section 'civil partner' has the same meaning as it has in the Civil Partnership and Certain Rights and Obligations of Cohabitants Act 2010.".

Amendment of section 47 of Health Act 1970.

4.— The Health Act 1970 is amended by the substitution of the following for section 47:

"Appeals.

47.— (1) When, in the administration of section 45, 45A, 46, 58 or 58A, an employee of the Health Service Executive decides that a person does not come within a category specified by or under the relevant section, an appeal shall lie from the decision to a person (who may be an employee of the Health Service Executive) appointed or designated for that purpose by the Minister.

(2) The Minister may by regulations provide for the making and determination of appeals under this section.".

Amendment of section 47A of Health Act 1970.

5.— The Health Act 1970 is amended by the substitution of the following for section 47A:

"Guidelines on 'ordinarily resident in the State'.

47A.— The Minister may issue guidelines to—

(*a*) the Health Service Executive, and

(*b*) persons appointed or designated by him or her under section 47(1),

to assist those persons in making decisions or determining appeals as to whether a person is ordinarily resident in the State for the purposes of section 45, 45A, 46, 58 or 58A.".

Insertion of section 48A in Health Act 1970.

6.— The Health Act 1970 is amended by the insertion, after section 48, of the following section:

"Review of eligibility in certain circumstances.

48A.— (1) A person who by reason of section 45(5A) or section 45A had, prior to the coming into operation of this section, been notified by the Health Service Executive that he or she had full eligibility under this Part, shall, when requested to do so by the Health Service Executive, furnish to the Health Service Executive such information regarding that person's income and assets as the Health Service Executive considers necessary for it to establish if that person has or continues to have full eligibility.

(2) Where a person fails or refuses to furnish the information requested by the Health Service Executive under subsection (1) within such reasonable period as is specified in the request the Health Service Executive may suspend or cancel the full eligibility of such person.

(3) A person who by reason of section 45(5A) or section 45A had, prior to the coming into operation of this section, been notified by the Health Service Executive that he or she had full eligibility under this Part and who by reason of the amendments to section 45A effected by *section 3* of the *Health (Alteration of Criteria for Eligibility) Act 2013* ceases to have such eligibility, shall retain such eligibility until 31 May 2013.".

Insertion of section 58A in Health Act 1970.

7.— The Health Act 1970 is amended by the insertion, after section 58, of the following section:

"General practitioner medical and surgical service for certain persons over 70 years of age.

58A.— (1) The Health Service Executive shall make available without charge a general practitioner medical and surgical service for a person who is ordinarily resident in the State in one of the following categories—

(*a*) persons—

(i) who on or after 5 April 2013, attain or have attained the age of 70 years,

(ii) who have limited eligibility,

(iii) whose gross income does not exceed the relevant gross income limit, and

(iv) 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 qualified for services under this section 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,

and

(*b*) dependants of persons referred to in paragraph (*a*).

(2) The gross income limits for the purposes of this section are the following:

(*a*) if a person—

(i) is not married, and is not living together with another person as husband and wife, or

(ii) does not have a civil partner,

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—

(i) are married or live together as husband and wife, or

(ii) are civil partners as respects each other,

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.

(3) Where—

(*a*) a person—

(i) was married to another person until that other person's death,

(ii) was living with another person as husband and wife until that other person's death, or

(iii) was a civil partner as respects another person until that other person's death,

and

(*b*) the death of the other person occurred on or after 5 April 2013, and

(*c*) the surviving person had attained the age of 70 years at the time of the death of that other person,

the gross income limit applicable to the surviving person in the 3 years following the death of that other person shall be that specified in paragraph (*b*) of subsection (2) for such part of that period as the surviving person is not married, living together with another person as husband and wife, or does not have a civil partner.

(4) 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.

(5) 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 Public Expenditure and Reform, by regulations to take effect on 1 January next following that review, increase or decrease the gross income limits specified for the purposes of this section to reflect any increase or decrease in that index.

(6) In the calculation of gross income for the purposes of this section, 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:

(*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 (8).

(7) In the calculation of gross income for the purposes of this section, income will not be imputed from property comprising an interest in land (whether a family home, a holiday home or any other property), other than the net rental income (calculated as gross rental income, less any cost necessarily incurred and associated with the rental of the property).

(8) The Minister may make regulations prescribing a class or classes of payments not coming within paragraphs (*a*) to (*d*) of subsection (6) but which the Minister considers to be made for a similar purpose as those made under those paragraphs.

(9) 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.

(10) In this section 'civil partner' has the same meaning as it has in the Civil Partnership and Certain Rights and Obligations of Cohabitants Act 2010.".

PART 3

Furnishing of Personal Data in Certain Circumstances

Furnishing of personal data to and by Health Service Executive in certain circumstances.

8.— (1) The Health Service Executive may request—

(*a*) the Minister for Social Protection, or

(*b*) the Revenue Commissioners,

to furnish to it personal data held by that Minister of the Government or the Commissioners, as the case may be, when it requires the personal data for the purpose of assessing or reviewing the eligibility of persons for services provided under the *Health Acts 1947 to 2013*.

(2) The Minister for Social Protection may request the Health Service Executive to furnish to him or her personal data held by the Health Service Executive when he or she requires the personal data for the purpose of calculating the means of persons to assess or review the entitlement of such persons to the receipt of benefits and services provided under the Social Welfare Acts.

(3) The Revenue Commissioners may request the Health Service Executive to furnish to them personal data held by the Health Service Executive when the Commissioners require the personal data for the purpose of assessing or collecting any tax, duty or other charge payable to the Revenue Commissioners.

(4) F2**[**Subject to compliance with the Data Protection Regulation and the Act of 2018 and subject to this section**]**, a person who receives a request made in accordance with *subsection (1)*, *(2)* or *(3)* shall comply with that request and shall do so in accordance with an agreement entered into under *subsection (5)* between the person and the person who made the request.

(5) For the purposes of this section, there shall be entered into between the Health Service Executive and each of the following—

(*a*) the Minister for Social Protection, and

(*b*) the Revenue Commissioners,

an agreement (a "data exchange agreement") which shall specify the procedures to be followed by each party to the agreement with respect to the furnishing of personal data in compliance with a request made under *subsection (1)*, *(2)* or *(3)*.

(6) A data exchange agreement may be varied by the parties to the agreement.

(7) The Health Service Executive shall consult with F2**[**the Data Protection Commission**]** in relation to a data exchange agreement before it is entered into or varied.

(8) F3**[**...**]**

(9) For the avoidance of doubt, it is hereby declared that F2**[**references in this section to personal data shall include references to special categories of personal data (within the meaning of section 2 of the Act of 2018)**]**.

F2**[**(10) In this section—

'Act of 2018' means the Data Protection Act 2018;

'Data Protection Regulation' means Regulation (EU) 2016/679 of the European Parliament and of the Council of 27 April 2016[46] 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);

'personal data' means personal data within the meaning of the Data Protection Regulation.**]**

(11) Nothing in this section shall affect the operation of section 261 or 265 of the Social Welfare Consolidation Act 2005.

[46] OJ No. L 119, 4.5.2016, p.1

Number 10 *of* 2013

HEALTH (ALTERATION OF CRITERIA FOR ELIGIBILITY) ACT 2013

REVISED

Updated to 25 May 2018

About this Revised Act

This Revised Act presents the text of the Act as it has been amended since enactment, and preserves the format in which it was passed.

Related legislation

Health Acts 1947 to 2015: this Act is one of a group of Acts included in this collective citation to be construed together as one (*Health (General Practitioner Service) Act 2015*, s. 4(2)). The Acts included in the group are:

- *Health Act 1947* (28/1947)
- *Health Act 1953* (26/1953)
- *Health (Fluoridation of Water Supplies) Act 1960* (46/1960)
- *Health Act 1970* (1/1970)
- *Misuse of Drugs Act 1977* (12/1977), ss. 36 and 42 in so far as it amends the preceding Acts
- *Health (Family Planning) Act 1979* (20/1979)
- *Health (Amendment) Act 1986* (10/1986)
- *Health (Amendment) Act 1987* (3/1987)
- *Health (Nursing Homes) Act 1990* (23/1990)
- *Health (Amendment) Act 1991* (15/1991) other than s. 8
- *Health (Amendment) Act 1994* (11/1994)
- *Health (Amendment) Act 1996* (15/1996)
- *Health (Amendment) (No. 2) Act 1996* (23/1996)
- *Health (Amendment) (No. 3) Act 1996* (32/1996) other than ss. 21 and 22
- *Health (Provision of Information) Act 1997* (9/1997)
- *Health (Eastern Regional Health Authority) Act 1999* (13/1999)
- *Health (Miscellaneous Provisions) Act 2001* (14/2001) except in so far as it relates to the *Tobacco (Health Promotion and Protection) Act 1988*
- *Health Act 2004* (42/2004)
- *Health (Amendment) Act 2005* (3/2005)
- *Irish Medicines Board (Miscellaneous Provisions) Act 2006* (3/2006), Part 5
- *Health (Repayment Scheme) Act 2006* (17/2006)
- *Hepatitis C Compensation Tribunal (Amendment) Act 2006* (22/2006), s. 6
- *Health (Nursing Homes) (Amendment) Act 2007* (1/2007)
- *Health Act 2007* (23/2007)
- *Medical Practitioners Act 2007* (25/2007), s. 57(9)
- *Health Act 2008* (21/2008)
- *Health (Miscellaneous Provisions) Act 2009* (25/2009), s. 64
- *Health (Amendment) Act 2010* (15/2010)
- *Health (Amendment) (No. 2) Act 2010* (20/2010)
- *Child Care (Amendment) Act 2011* (19/2011), ss. 35 and 36

- *Health (Alteration of Criteria for Eligibility) Act 2013* (10/2013)
- *Health (Pricing and Supply of Medical Goods) Act 2013* (14/2013), s. 30
- *Health Service Executive (Governance) Act 2013* (23/2013)
- *Health (Alteration of Criteria for Eligibility) (No. 2) Act 2013* (42/2013)
- *Local Government Reform Act 2014* (1/2014), s. 1(14), the amendment to the *Health (Fluoridation of Water Supplies) Act 1960* provided for in s. 5(6) and Schedule 2 Part 6
- *Health Service Executive (Financial Matters) Act 2014* (17/2014)
- *Health (General Practitioner Service) Act 2014* (28/2014)
- *Health (General Practitioner Service) Act 2015* (19/2015)

Acts previously included in the group but now repealed are:

- *Health Act 1954* (23/1954)
- *Health and Mental Treatment Act 1957* (16/1957), s. 1
- *Health and Mental Treatment (Amendment) Act 1958* (37/1958)
- *Health (Homes For Incapacitated Persons) Act 1964* (8/1964)
- *Health and Mental Treatment (Amendment) Act 1966* (2/1966), s. 1
- *Health (Mental Services) Act 1981* (17/1981)
- *Health (Family Planning) (Amendment) Act 1985* (4/1985)
- *Health (Amendment) Act 2004* (19/2004)

Annotations

This Revised Act is not annotated and only shows textual amendments. An annotated version of this revision is also available which shows textual and non-textual amendments and their sources. It also shows editorial notes including statutory instruments made pursuant to the Act and previous affecting provisions.

Material not updated in this revision

Where other legislation is amended by this Act, those amendments may have been superseded by other amendments in other legislation, or the amended legislation may have been repealed or revoked. This information is not represented in this revision but will be reflected in a revision of the amended legislation if one is available. A list of legislative changes to any Act, and to statutory instruments from 1985, may be found linked from the page of the Act or statutory instrument at www.irishstatutebook.ie.