Changes to Legislation: as of 3 November 2026, this Act is up to date with all changes known to be in force.

Number 19 *of* 2020

HEALTH (AMENDMENT) ACT 2020

REVISED

Updated to 10 February 2022

This Revised Act is an administrative consolidation of the *Health (Amendment) Act 2020*. 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 the *Electricity Costs (Domestic Electricity Accounts) Emergency Measures Act 2022* (1/2022), enacted 4 March 2022, and all statutory instruments up to and including the *European Union Habitats (Buckroney-Brittas Dunes and Fen Special Area of Conservation 000729) Regulations 2022* (S.I. No. 67 of 2022), made 10 February 2022, 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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HEALTH (AMENDMENT) ACT 2020

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ACTS REFERRED TO

Companies Act 2014 (No. 38)
Health Act 1947 (No. 28)

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HEALTH (AMENDMENT) ACT 2020

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An Act to make further and better provision in relation to the enforcement of regulations under section 31A of the Health Act 1947; for that purpose, to make provision in relation to the prosecution of certain offences consisting of contraventions of those regulations, to provide for the payment of fixed sums by persons alleged to have committed certain such offences in lieu of their being prosecuted for those offences; to provide for the giving of directions by members of the Garda Síochána in certain circumstances; and to provide for matters connected therewith.

[25*th October*, 2020]

WHEREAS the disease known as Covid-19 continues to present a very serious risk to public health, and the transmission thereof has proven difficult to prevent;

WHEREAS the crisis occasioned by the spread of that disease is causing and will continue to cause significant damage to the economy of the State resulting, thus far, in a substantial increase in the number of persons who have become unemployed and a substantial increase in the national debt;

WHEREAS certain measures and prohibitions put in place since the outbreak of that disease relating to the conduct and behaviour of members of society that were aimed at eliminating the disease, reducing the incidence of the disease and limiting its impact on the functioning of society and the economy, have not sufficiently reduced the incidence of the disease;

WHEREAS the measures adopted under section 31A of the Health Act 1947 for the purpose of eliminating, and reducing the incidence of, that disease and limiting its impact on society and the economy require to be supplemented by further measures;

Be it enacted by the Oireachtas as follows:

Definition

1. In this Act "Act of 1947" means the Health Act 1947.

Amendment of section 2 of Act of 1947

2. Section 2 of the Act of 1947 is amended by the insertion of the following definitions:

> " 'fixed penalty provision' shall be construed in accordance with subsection (6C) of section 31A;

'dwelling event provision' shall be construed in accordance with subsection (6D) of section 31A;

'penal provision' means a provision that is stated in regulations under section 31A to be a penal provision for the purposes of this Act;".

Amendment of section 31A of Act of 1947

3. Section 31A of the Act of 1947 is amended—

(a) by the insertion of the following subsections:

"(6C) (a) The Minister may make regulations prescribing such one or more penal provisions as are specified in the regulations to be fixed penalty provisions.

(b) When prescribing a penal provision to be a fixed penalty provision, the Minister shall, in addition to the matters specified in subsection (2), have regard to—

(i) the nature of the act or omission of which the offence under the penal provision concerned consists,

(ii) the extent to which the prescribing of a penal provision as a fixed penalty provision would be of assistance in preventing, interrupting or otherwise retarding the spread of Covid-19, and

(iii) the utility of providing for such additional means of enforcement of penal provisions as part of the effort on the part of the State to—

(I) maintain, and enable the graduated restoration of, the normal functioning of society, or

(II) avoid the imposition of restrictions or further restrictions on society.

(c) The Minister may make regulations prescribing—

(i) the form of a fixed payment notice, or

(ii) the process to be followed by a member of the Garda Síochána when giving a person a fixed payment notice.

(d) The Minister shall, before prescribing a fixed penalty provision in regulations under this section, consult with the Minister for Justice and Equality.

(6D) (a) The Minister may make regulations prescribing such one or more penal provisions as are specified in the regulations to be dwelling event provisions.

(b) When prescribing a penal provision to be a dwelling event provision, the Minister shall, in addition to the matters specified in subsection (2), have regard to—

(i) the risks with regard to the spread of Covid-19 associated with gatherings of persons, particularly indoors or in confined spaces,

(ii) the nature of the act or omission of which the offence under the penal provision concerned consists,

(iii) the extent to which the prescribing of a penal provision to be a dwelling event provision would be of assistance in preventing, interrupting or otherwise retarding the spread of Covid-19, and

(iv) the utility of providing for such additional means of enforcement of penal provisions as part of the effort on the part of the State to—

(I) maintain, and enable the graduated restoration of, the normal functioning of society, or

(II) avoid the imposition of restrictions or further restrictions on society.

(c) The Minister shall, before prescribing a dwelling event provision in regulations under this section, consult with the Minister for Justice and Equality.

(6E) In proceedings for an offence under this section consisting of a contravention of a dwelling event provision, it shall be presumed, unless the contrary is proved, that the occupier of the dwelling in respect of which the offence is alleged to have been committed was the event organiser.",

(b) by the substitution of the following subsection for subsection (12):

"(12) (a) Subject to paragraph (b), a person guilty of an offence under this section is liable on summary conviction—

(i) in the case of a first such offence, to a fine not exceeding €1,000 or imprisonment for a term not exceeding one month or both,

(ii) in the case of a second such offence, to a fine not exceeding €1,500 or imprisonment for a term not exceeding 3 months or both, and

(iii) in the case of a third or subsequent such offence, to a fine not exceeding €2,500 or imprisonment for a term not exceeding 6 months or both.

(b) Notwithstanding subparagraph (i) or (ii) of paragraph (a), the court may, in respect of an offence to which either of those subparagraphs applies, impose a fine or term of imprisonment or both, to which a person guilty of an offence referred to in subparagraph (iii) of that paragraph would be liable, if the court considers that there were aggravating circumstances in relation to the commission of the first-mentioned offence that warrant the imposition of such fine or term of imprisonment or both.

(c) A court shall take account of the following matters when determining whether or not there existed aggravating circumstances in relation to the commission of an offence:

(i) in the case of an offence relating to the organisation of an event in contravention of a penal provision, the number of persons attending that event;

(ii) the degree of danger to public health that was occasioned by the commission of the offence;

(iii) the extent to which the person guilty of the offence concerned refused to comply with lawful requests or directions of a member of the Garda Síochána.",

and

(c) in subsection (16)—

(i) by the substitution of the following definition for the definition of "event organiser":

" 'event organiser' means—

(a) in relation to an event in a dwelling, a person who arranges, organises or manages the event, or otherwise causes or permits the event to take place, and

(b) in relation to an event in a place other than a dwelling, any person who—

(i) engages in the publicising, arranging, organising or managing of the event, or

(ii) receives some or all of the proceeds (if any), from the event;",

and

(ii) by the insertion of the following definitions:

" 'licence' means, in relation to a dwelling, a licence given to a person by the owner of the dwelling permitting the person to enter and reside in the dwelling (whether or not for valuable consideration);

'occupier' means, in relation to a dwelling—

(a) a person who—

(i) resides in the dwelling, and

(ii) is the owner of the dwelling,

or

(b) a person who resides in the dwelling pursuant to a licence (except where the owner of the dwelling also resides therein);

'owner' means, in relation to a dwelling, any person (other than a mortgagee not in possession) who has an estate or interest in the dwelling;".

Fixed payment notice in respect of certain alleged offences

4. The Act of 1947 is amended by the insertion of the following section:

"31C. (1) Where a member of the Garda Síochána has reasonable grounds for believing that a person has committed an offence consisting of a contravention of a fixed penalty provision, that member may give to the person a notice in writing (in this section referred to as a 'fixed payment notice') in the prescribed form stating—

(a) that the person is alleged to have committed that offence,

(b) particulars of that alleged offence,

(c) that the person may, during the period of 28 days beginning on the date of the notice, make to such person as is specified in the notice at such place as is so specified a payment of such amount as may be prescribed being an amount of not more than €500, accompanied by the notice,

(d) that the person is not obliged to make the payment specified in the notice, and

(e) that a prosecution of the person to whom the notice is given in respect of the alleged offence will not be instituted during the period of 28 days beginning on the date of the notice and, that if the payment specified in the notice is made during that period, no prosecution in respect of the alleged offence will be instituted.

(2) Where a fixed payment notice is given under subsection (1)—

(a) the person to whom it applies may, during the period of 28 days beginning on the date of the notice, make to such person, and at such place, as is specified in the notice the payment specified in the notice, accompanied by the notice,

(b) the person specified in the notice may, upon receipt of the payment, issue a receipt for it and any payment so received shall not be recoverable by the person who made it, and

(c) a prosecution in respect of the alleged offence shall not be instituted in the period specified in the notice, and if the payment so specified is made during that period, no prosecution in respect of the alleged offence shall be instituted.

(3) In proceedings for an offence consisting of a contravention of a penal provision it shall be a defence for the defendant to prove that he or she made a payment, in accordance with this section, pursuant to a fixed payment notice issued in respect of that offence.

(4) Moneys received pursuant to the giving of a fixed payment notice shall be paid into or disposed of for the benefit of the Exchequer.

(5) A fixed payment notice may be given to a person in one of the following ways:

(a) by giving it in person to the person;

(b) by sending it by post to the address at which the person ordinarily resides.

(6) For the purpose of this section, a company within the meaning of the Companies Act 2014 shall be deemed to be ordinarily resident at its registered office, and every other body corporate and every unincorporated body of persons shall be deemed to be ordinarily resident at its principal office or place of business.".

Power of member of Garda Síochána to give direction

5. The Act of 1947 is amended by the insertion of the following section:

"31D. (1) Without prejudice to the generality of subsection (7) of section 31A, where a member of the Garda Síochána finds a person in a public place and suspects, with reasonable cause, that such person—

(a) intends to enter a dwelling for the purpose of attending an event organised in contravention of a dwelling event provision,

(b) is about to enter a dwelling for that purpose, or

(c) is attempting to enter a dwelling for that purpose,

the member may direct the person to leave immediately that place and the vicinity thereof in a peaceable and orderly manner.

(2) Without prejudice to the generality of subsection (7) of section 31A, where a member of the Garda Síochána suspects, with reasonable cause, that an event in contravention of a dwelling event provision is taking place, he or she may direct the occupier to require and cause all persons attending the event (other than persons for the time being residing in the dwelling) to leave immediately the dwelling and the vicinity of the dwelling in a peaceable and orderly manner.

(3) A member of the Garda Síochána may, for the purposes of the giving of a direction—

(a) attend at the main entrance of a dwelling, and

(b) require the occupier to provide the member with his or her name.

(4) It shall be an offence for any person, without reasonable excuse, to fail to comply with a direction given by a member of the Garda Síochána under this section.

(5) A person guilty of an offence under this section shall be liable on summary conviction to a fine not exceeding €1,000 or imprisonment for a term not exceeding one month or both.".

Short title, commencement and cessation of operation of Act

6. (1) This Act may be cited as the Health (Amendment) Act 2020.

(2) This Act shall come into operation on the day immediately following its passing.

F1**[**(3) This Act continues in operation for the period ending on the later of—

(a) the 31st day of March 2022, or

(b) the date that is specified in a resolution passed by each House of the Oireachtas under *subsection (4)*.

(4) Each House of the Oireachtas may, before the 31st day of March 2022, pass a resolution to continue this Act in operation for such period, not exceeding 3 months, that ends on a date specified in the resolution.**]**

Annotations

Amendments:

F1 Substituted (10.02.2022) by *Health and Criminal Justice (Covid-19) (Amendment) (No. 2) Act 2021* (46/2021), s. 3, commenced as per s. 5(2).

Modifications (not altering text):

C1 Application of Act extended from 10 November 2021 to 9 February 2022 by Resolution of Dáil Éireann: Debates Volume 1013 No. 3, 3 November 2021 - *Health (Amendment) Act 2020*: Motion, and by Resolution of Seanad Éireann: Debates Volume 279 No. 11, 3 November 2021 - *Health (Amendment) Act 2020*: Motion.

Editorial Notes:

E1 Previous affecting provision: subs. (3) substituted and subs. (4) inserted (10.06.2021) by *Health and Criminal Justice (Covid-19) (Amendment) Act 2021* (12/2021), s. 4, commenced as per s. 5(2); substituted as per F-note above.

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HEALTH (AMENDMENT) ACT 2020

REVISED

Updated to 10 February 2022

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

This Act is not collectively cited with any other Act.

Annotations

This Revised Act is annotated and includes textual and non-textual amendments, statutory instruments made pursuant to the Act and previous affecting provisions.

An explanation of how to read annotations is available at www.lawreform.ie/annotations.

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.

Where legislation or a fragment of legislation is referred to in annotations, changes to this legislation or fragment may not be reflected in this revision but will be reflected in a revision of the legislation referred to if one is available.

A list of legislative changes to any Act, and to statutory instruments from 1972, may be found linked from the page of the Act or statutory instrument at www.irishstatutebook.ie.

Acts which affect or previously affected this revision

- *Health and Criminal Justice (Covid-19) (Amendment) (No. 2) Act 2021* (46/2021)
- *Health and Criminal Justice (Covid-19) (Amendment) Act 2021* (12/2021)

All Acts up to and including *Electricity Costs (Domestic Electricity Accounts) Emergency Measures Act 2022* (1/2022), enacted 10 February 2022, were considered in the preparation of this revision.

Statutory instruments which affect or previously affected this revision

None

All statutory instruments up to and including *European Union Habitats (Buckroney-Brittas Dunes and Fen Special Area of Conservation 000729) Regulations 2022* (S.I. No. 67 of 2022), made 10 February 2022, were considered in the preparation of this revision.

Resolutions of the Houses of the Oireachtas which affect this revision

- Resolution of Dáil Éireann: Debates Volume 1013 No. 3, 3 November 2021 - *Health (Amendment) Act 2020*: Motion
- Resolution of Seanad Éireann: Debates Volume 279 No. 11, 3 November 2021 - *Health (Amendment) Act 2020*: Motion