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*Number 49 of 2022*

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**Health Insurance (Amendment) Act 2022**

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ACTS REFERRED TO

Companies Act 2014 (No. 38)

Health Insurance Act 1994 (No. 16)

Health Insurance Acts 1994 to 2021

Insurance (No. 2) Act 1983 (No. 29)

Stamp Duties Consolidation Act 1999 (No. 31)



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*Number 49 of 2022*

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## **HEALTH INSURANCE (AMENDMENT) ACT 2022**

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An Act to amend the Health Insurance Act 1994 to specify the amount of premium to be paid from the Risk Equalisation Fund in respect of certain classes of insured persons from 1 April 2023; to make certain other amendments to that Act, including making further provision for the appointment and powers of authorised officers; to make a consequential amendment to the Stamp Duties Consolidation Act 1999; and to provide for related matters. [21st December, 2022]

**Be it enacted by the Oireachtas as follows:**

### **Definition**

1. In this Act, “Principal Act” means the Health Insurance Act 1994.

### **Duration of entrustment act**

2. The Principal Act is amended by the insertion of the following section after section 6A:
  - “6B. (1) The entrustment act shall endure until the relevant date whereupon it shall cease to be in force.
  - (2) The Minister may, after consultation with the European Commission and the Minister for Finance and having regard, if such be the case, of the need to continue the Risk Equalisation Scheme for the purposes of assisting in the achievement of the principal objective and of the period for which the Scheme needs to so continue, make an order specifying a date for the purposes of paragraph (b) of the definition of ‘relevant date’.
  - (3) An order made under subsection (2) shall be laid before each House of the Oireachtas as soon as may be after it is made and, if a resolution annulling the order is passed by either such House within the next 21 days on which the House sits after the order is laid before it, the order shall be annulled accordingly, but without prejudice to the validity of anything previously done thereunder.
  - (4) In this section—  
‘entrustment act’, in relation to paragraph 15 of the European Union framework for State aid in the form of public service compensation (2011) (2012/C 8/03)<sup>1</sup>, means—

<sup>1</sup> OJ C8, 11.1.2012, p.15

- (a) this Part, and
  - (b) section 125A of the Stamp Duties Consolidation Act 1999;
- ‘relevant date’ means—
- (a) subject to paragraph (b), 31 March 2027, or
  - (b) the later date (if any) specified for the purposes of this paragraph in the last order made under subsection (2).”.

**Amendment of section 11C of Principal Act**

3. Section 11C of the Principal Act is amended, in subsection (1)(b), by the substitution of “1 April 2023” for “1 April 2022”.

**Amendment of section 18E of Principal Act**

4. Section 18E of the Principal Act is amended—

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

“(1) Where, in the opinion of the Authority, it is necessary to do so for the purposes referred to in section 18F(1)(a), the Authority may appoint, in writing—

- (a) any of its officers or employees, or
- (b) consultants or advisers engaged under section 23 who, in the opinion of the Authority, have qualifications and experience suitable to satisfactorily exercise the powers conferred upon authorised officers by or under this Act,

to be authorised officers to exercise the powers conferred upon authorised officers by or under this Act.”,

- (b) in subsection (2), by the insertion of “together with a form of personal identification” after “to that person”,

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

“(3) A person’s appointment under subsection (1) as an authorised officer shall cease upon—

- (a) the revocation by the Authority of the appointment,
- (b) if the appointment was for a fixed period, the expiration of that period, or
- (c) if the person’s appointment was in his or her capacity as an officer or employee of the Authority, or as a consultant or adviser engaged under section 23, his or her ceasing, for whatever reason, to be such officer or employee, or such consultant or adviser, as the case may be,

whichever first occurs.”,

and

(d) by the insertion of the following subsections after subsection (3):

“(4) Whenever requested to do so by the Authority, an authorised officer shall, as soon as is practicable after being so requested, give to the Authority a report on the exercise by the officer of all or any of the powers conferred upon authorised officers by or under this Act.

(5) A person who is an authorised officer immediately before the commencement of *section 4* of the *Health Insurance (Amendment) Act 2022* shall, on that commencement, be deemed to be appointed under subsection (1) as an authorised officer on the same terms and conditions that applied to him or her immediately before that commencement (and, in the case of an appointment for a fixed period made before that commencement, for the unexpired portion of that period left to run after that commencement), and the other provisions of this section shall, with all necessary modifications, be construed accordingly.”.

#### **Amendment of section 18F of Principal Act**

**5.** Section 18F of the Principal Act is amended—

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

“(1) (a) The powers conferred by this section may be exercised in respect of any person to whom this section applies for the purposes of—

- (i) securing the enforcement of the provisions of this Act (including any regulations made under this Act), or
- (ii) enabling or assisting the Minister or the Authority to perform any of their respective functions under this Act.

(b) Subject to subsection (6), the following are persons to whom this section applies (whether they are within or outside the State):

- (i) a registered undertaking;
- (ii) a former registered undertaking;
- (iii) a person who has applied for registration in the Register;
- (iv) a person whom the Authority or an authorised officer reasonably believes is or has been acting as, or claiming or holding itself out to be, a registered undertaking;
- (v) a person who is or has been, or whom the Authority or an authorised officer reasonably believes is or has been, without being registered in the Register, effecting, or offering to effect,

- health insurance contracts in respect of which the person is required to be a registered undertaking;
- (vi) a related undertaking of any of the persons referred to in any of subparagraphs (i) to (v);
  - (vii) a person whom the Authority or an authorised officer reasonably believes may possess or have control of information about a health insurance contract;
  - (viii) any other person whom the Authority or an authorised officer reasonably believes may possess information about a person referred to in any of subparagraphs (i) to (vii);
  - (ix) a person who is, in relation to a person referred to in any of subparagraphs (i) to (viii), a person specified in paragraph (c);
  - (x) a person who is or has been an officer or employee or agent of a person referred to in any of subparagraphs (i) to (ix) or is, in relation to a person who is or has been such an officer, employee or agent, a person specified in paragraph (c).
- (c) The persons referred to in subsection (1)(b)(ix) and (x) are—
- (i) an administrator within the meaning of section 1(1) of the Insurance (No. 2) Act 1983,
  - (ii) an examiner, liquidator, receiver or official assignee, and
  - (iii) a person with functions corresponding to those of any of the persons referred to in subparagraph (i) or (ii) under the law of a state other than the State.”,
- (b) in subsection (2), in paragraphs (c) and (e), by the deletion of “or any person employed by such person”,
- (c) in subsection (6), by the substitution of “any person (not being a person to whom this section applies)” for “an examiner, liquidator, receiver, official assignee or any person who is or has been an officer or employee or agent of a person to whom this subsection applies, or”,
- (d) by the insertion of the following subsection after subsection (11):
- “(11A) An authorised officer may require a person to provide him or her with the person’s name and address where—
- (a) the authorised officer has reasonable grounds for believing that the person—
  - (i) is committing or has committed an offence under this Act, or
  - (ii) has deliberately concealed or destroyed evidence, or is deliberately concealing or destroying evidence, or is likely to deliberately conceal or destroy evidence, of such an offence,



or

- (b) the authorised officer has reasonable grounds for requiring such information for the purpose of applying for a warrant under subsection (8).”,

and

(e) in subsection (12)—

- (i) by the substitution of the following definition for the definition of “person to whom this section applies”:

“ ‘person to whom this section applies’ shall be construed in accordance with subsection (1)(b) and (c);”,

- (ii) in the definition of “personal data”, in paragraph (b), by the substitution of “2018;” for “2018.”, and

- (iii) by the insertion of the following definition after the definition of “personal data”:

“ ‘related undertaking’, in relation to a person (in this definition referred to as the ‘first-mentioned person’), means—

- (a) if the first-mentioned person is a company, another company that is related within the meaning of section 2(10) of the Companies Act 2014,
- (b) a partnership of which the first-mentioned person is a member,
- (c) if the business of the first-mentioned person and another person have been so carried on that the separate business of each of them, or a substantial part thereof, is not readily identifiable, that other person,
- (d) if the decision as to how and by whom the business of the first-mentioned person and another person shall be managed can be made either by the same person or by the same group of persons acting in concert, that other person,
- (e) a person who performs a specific and limited purpose by or in connection with the business of the first-mentioned person, or
- (f) if provision is required to be made for the first-mentioned person and another person in any consolidated accounts compiled in accordance with the Seventh Council Directive 83/349/EEC of 13 June 1983<sup>2</sup>, that other person.”.

#### **Amendment of Schedule 4 to Principal Act**

6. Schedule 4 to the Principal Act is amended by the substitution of the following Table for Table 2:

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2 OJ L 193, 18.7.1983, p.1

“Table 2

AMOUNTS APPLICABLE ON OR AFTER 1 APRIL 2023

<b>Class of Insured Person</b>	<b>Amount of premium to be paid from Fund</b>
Male aged 50 years and over but less than 55 years on the date the relevant contract (being a relevant contract (non-advanced cover)) is renewed or entered into, as the case may be	Nil
Male aged 50 years and over but less than 55 years on the date the relevant contract (being a relevant contract (advanced cover)) is renewed or entered into, as the case may be	Nil
Female aged 50 years and over but less than 55 years on the date the relevant contract (being a relevant contract (non-advanced cover)) is renewed or entered into, as the case may be	Nil
Female aged 50 years and over but less than 55 years on the date the relevant contract (being a relevant contract (advanced cover)) is renewed or entered into, as the case may be	Nil
Male aged 55 years and over but less than 60 years on the date the relevant contract (being a relevant contract (non-advanced cover)) is renewed or entered into, as the case may be	Nil
Male aged 55 years and over but less than 60 years on the date the relevant contract (being a relevant contract (advanced cover)) is renewed or entered into, as the case may be	Nil
Female aged 55 years and over but less than 60 years on the date the relevant contract (being a relevant contract (non-advanced cover)) is renewed or entered into, as the case may be	Nil
Female aged 55 years and over but less than 60 years on the date the relevant contract (being a relevant contract (advanced cover)) is renewed or entered into, as the case may be	Nil
Male aged 60 years and over but less than 65 years on the date the relevant contract (being a relevant contract (non-advanced cover)) is renewed or entered into, as the case may be	Nil
Male aged 60 years and over but less than 65 years on the date the relevant contract (being a relevant contract (advanced cover)) is renewed or entered into, as the case may be	Nil

<b>Class of Insured Person</b>	<b>Amount of premium to be paid from Fund</b>
Female aged 60 years and over but less than 65 years on the date the relevant contract (being a relevant contract (non-advanced cover)) is renewed or entered into, as the case may be	Nil
Female aged 60 years and over but less than 65 years on the date the relevant contract (being a relevant contract (advanced cover)) is renewed or entered into, as the case may be	Nil
Male aged 65 years and over but less than 70 years on the date the relevant contract (being a relevant contract (non-advanced cover)) is renewed or entered into, as the case may be	€350
Male aged 65 years and over but less than 70 years on the date the relevant contract (being a relevant contract (advanced cover)) is renewed or entered into, as the case may be	€950
Female aged 65 years and over but less than 70 years on the date the relevant contract (being a relevant contract (non-advanced cover)) is renewed or entered into, as the case may be	€200
Female aged 65 years and over but less than 70 years on the date the relevant contract (being a relevant contract (advanced cover)) is renewed or entered into, as the case may be	€525
Male aged 70 years and over but less than 75 years on the date the relevant contract (being a relevant contract (non-advanced cover)) is renewed or entered into, as the case may be	€525
Male aged 70 years and over but less than 75 years on the date the relevant contract (being a relevant contract (advanced cover)) is renewed or entered into, as the case may be	€1,550
Female aged 70 years and over but less than 75 years on the date the relevant contract (being a relevant contract (non-advanced cover)) is renewed or entered into, as the case may be	€400
Female aged 70 years and over but less than 75 years on the date the relevant contract (being a relevant contract (advanced cover)) is renewed or entered into, as the case may be	€1,075
Male aged 75 years and over but less than 80 years on the date the relevant contract (being a relevant contract (non-advanced cover)) is renewed or entered into, as the case may be	€775

<b>Class of Insured Person</b>	<b>Amount of premium to be paid from Fund</b>
Male aged 75 years and over but less than 80 years on the date the relevant contract (being a relevant contract (advanced cover)) is renewed or entered into, as the case may be	€2,300
Female aged 75 years and over but less than 80 years on the date the relevant contract (being a relevant contract (non-advanced cover)) is renewed or entered into, as the case may be	€575
Female aged 75 years and over but less than 80 years on the date the relevant contract (being a relevant contract (advanced cover)) is renewed or entered into, as the case may be	€1,650
Male aged 80 years and over but less than 85 years on the date the relevant contract (being a relevant contract (non-advanced cover)) is renewed or entered into, as the case may be	€900
Male aged 80 years and over but less than 85 years on the date the relevant contract (being a relevant contract (advanced cover)) is renewed or entered into, as the case may be	€2,725
Female aged 80 years and over but less than 85 years on the date the relevant contract (being a relevant contract (non-advanced cover)) is renewed or entered into, as the case may be	€625
Female aged 80 years and over but less than 85 years on the date the relevant contract (being a relevant contract (advanced cover)) is renewed or entered into, as the case may be	€1,950
Male aged 85 years and over on the date the relevant contract (being a relevant contract (non-advanced cover)) is renewed or entered into, as the case may be	€1,000
Male aged 85 years and over on the date the relevant contract (being a relevant contract (advanced cover)) is renewed or entered into, as the case may be	€3,000
Female aged 85 years and over on the date the relevant contract (being a relevant contract (non-advanced cover)) is renewed or entered into, as the case may be	€700
Female aged 85 years and over on the date the relevant contract (being a relevant contract (advanced cover)) is renewed or entered into, as the case may be	€2,050

”.

**Amendment of section 125A of Stamp Duties Consolidation Act 1999**

7. Section 125A of the Stamp Duties Consolidation Act 1999 is amended by the substitution of the following definition for the definition of “specified rate”:

“ ‘specified rate’ means—

(a) in respect of relevant contracts renewed or entered into on or after 1 January 2023 and on or before 31 March 2023—

(i) €41 in respect of an insured person aged less than 18 years insured under a relevant contract which provides for non-advanced cover,

(ii) €135 in respect of an insured person aged less than 18 years insured under a relevant contract which provides for advanced cover,

(iii) €122 in respect of an insured person aged 18 years or over insured under a relevant contract which provides for non-advanced cover, and

(iv) €406 in respect of an insured person aged 18 years or over insured under a relevant contract which provides for advanced cover,

and

(b) in respect of relevant contracts renewed or entered into on or after 1 April 2023—

(i) €36 in respect of an insured person aged less than 18 years insured under a relevant contract which provides for non-advanced cover,

(ii) €146 in respect of an insured person aged less than 18 years insured under a relevant contract which provides for advanced cover,

(iii) €109 in respect of an insured person aged 18 years or over insured under a relevant contract which provides for non-advanced cover, and

(iv) €438 in respect of an insured person aged 18 years or over insured under a relevant contract which provides for advanced cover.”.

**Short title, commencement, collective citation and construction**

8. (1) This Act may be cited as the Health Insurance (Amendment) Act 2022.

(2) (a) This Act (other than *sections 2, 3 and 6*) shall come into operation on 1 January 2023.

(b) *Sections 2, 3 and 6* shall come into operation on 1 April 2023.

- (3) The Health Insurance Acts 1994 to 2021 and this Act (other than *section 7*) may be cited together as the Health Insurance Acts 1994 to 2022 and shall be construed together as one.