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*Number 1 of 2007*

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## **HEALTH (NURSING HOMES) (AMENDMENT) ACT 2007**

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### **ARRANGEMENT OF SECTIONS**

#### **Section**

1. Insertion of Part heading before section 1.
  2. Amendment of section 2 of Health (Nursing Homes) Act 1990.
  3. Substitution of section 7 of Health (Nursing Homes) Act 1990.
  4. Insertion of Part heading before section 8.
  5. Insertion of Part heading before section 11.
  6. Substitution of section 14 of Health (Nursing Homes) Act 1990.
  7. Repeal of section 3 of Health (Miscellaneous Provisions) Act 2001.
  8. Amendment of Schedule 7 to Health Act 2004.
  9. Revocation of Nursing Homes (Subvention) Regulations 1993.
  10. Amendment of section 2 of Health (Repayment Scheme) Act 2006.
  11. Amendment of Health Act 1970.
  12. Short title, construction, collective citation and commencement.
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ACTS REFERRED TO

Finance Act 2002	2002, No. 5
Health Act 2004	2004, No. 42
Health Act 1970	1970, No. 1
Health Acts 1947 to 2007	
Health (Miscellaneous Provisions) Act 2001	2001, No. 14
Health (Nursing Homes) Act 1990	1990, No. 23
Health (Repayment Scheme) Act 2006	2006, No. 17
Taxes Consolidation Act 1997	1997, No. 39



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## **HEALTH (NURSING HOMES) (AMENDMENT) ACT 2007**

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AN ACT TO AMEND THE HEALTH (NURSING HOMES) ACT 1990 AND TO CONSEQUENTIALLY REPEAL SECTION 3 OF THE HEALTH (MISCELLANEOUS PROVISIONS) ACT 2001, AMEND SCHEDULE 7 TO THE HEALTH ACT 2004, REVOKE THE HEALTH (IN-PATIENT SERVICES) REGULATIONS 1993 AND THE NURSING HOMES (SUBVENTION) REGULATIONS 1993, AMEND SECTION 2 OF THE HEALTH (REPAYMENT SCHEME) ACT 2006 AND AMEND THE HEALTH ACT 1970.

[19th February, 2007]

BE IT ENACTED BY THE OIREACHTAS AS FOLLOWS:

**1.**—The Health (Nursing Homes) Act 1990 is amended by inserting the following immediately before section 1:

Insertion of Part heading before section 1.

### **“PART 1**

#### **PRELIMINARY AND GENERAL”.**

**2.**—Section 2 of the Health (Nursing Homes) Act 1990 is amended—

Amendment of section 2 of Health (Nursing Homes) Act 1990.

(a) in subsection (1)(h)—

(i) by inserting “subject to subsection (3),” before “premises in which”, and

(ii) by deleting “(other than premises in relation to which a payment has been made under section 7)”;

and

(b) by inserting the following after subsection (2):

“(3) No prescribed subvention within the meaning of section 7(1) shall be paid to a dependent person maintained in premises referred to in subsection (1)(h) unless the premises are a registered nursing home.”.

Substitution of  
section 7 of Health  
(Nursing Homes)  
Act 1990.

3.—The Health (Nursing Homes) Act 1990 is amended by substituting the following for section 7:

“PART 2

SUBVENTIONS FOR DEPENDENT PERSONS IN NURSING HOMES

Interpretation  
of Part 2.

7.—(1) In this Part—

‘alternative subvention’ means a higher alternative subvention referred to in section 7C(1)(b);

‘application’ means an application under section 7A(1);

‘applicant’, in relation to an application, means the dependent person who made the application;

‘Executive’ means the Health Service Executive;

‘nursing home’ includes a nursing home in Northern Ireland which is registered under that law of, or that law applicable to, Northern Ireland that is equivalent to this Act;

‘prescribed amount’, in relation to a provision of this Part, means the amount prescribed in regulations made under section 7H in respect of that provision;

‘prescribed percentage’, in relation to section 7B(3)(b)(ii) or (4), means the percentage prescribed in regulations made under section 7H in respect of section 7B(3)(b)(ii) or (4), as the case requires;

‘prescribed subvention’ means the amount of a subvention payable under section 7C(1)(a) as prescribed in section 7H(4);

‘relevant subvention’ means—

(a) a prescribed subvention, or

(b) an alternative subvention;

‘subvention’ means a payment towards the costs of the care and maintenance of a dependent person in a nursing home.

(2) No provision of this Part shall operate to prevent a personal representative (or other representative) of a dependent person who is not of full capacity from acting for or on behalf of the dependent person in relation to any matter to which any provision of this Part relates.

Application  
for prescribed  
subvention.

7A.—(1) Subject to subsection (2), a dependent person may make an application to the Executive for a prescribed subvention.

(2) An application shall be—

- (a) in writing in a form approved by the Executive,
- (b) completed in accordance with such directions and instructions as are specified in the application, and
- (c) accompanied by such documents (including statutory declarations) as are specified in the application.

(3) The Executive may refuse to consider or further consider an application if—

- (a) the application does not comply with subsection (2), or
- (b) the applicant fails to provide the Executive with such information in addition to the information provided by or with the application as the Executive may reasonably require to enable it to determine the application under section 7C(1).

(4) Where the Executive refuses under subsection (3) to consider or further consider an application, it shall, as soon as is practicable after the refusal, give the applicant notice in writing of the decision and the reasons for the decision.

(5) Any person who knowingly gives the Executive information which is false or misleading in a material respect in, with, or in connection with, an application is guilty of an offence and liable on summary conviction to a fine not exceeding €3,000 or imprisonment for a term not exceeding 3 months or both.

Assessment of need for applicant to be maintained in nursing home and of means of applicant.

7B.—(1) Without prejudice to the generality of section 7A(3) but subject to subsections (2) and (3), upon the receipt of an application the Executive shall make arrangements for—

- (a) the need for the applicant to be maintained in a nursing home to be assessed by a person (who may be an employee of the Executive) who, in the opinion of the Executive, is suitably qualified to make that assessment, and a report thereon to be provided to the Executive, and
- (b) the means of the applicant to be assessed by an employee of the Executive, or any person nominated in writing by the Executive, and a report thereon to be provided to the Executive.