



Number 28 of 2014

Health (General Practitioner Service) Act 2014



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CONTENTS

Section

1. Definitions
2. Amendment of section 47 of Act of 1970
3. Amendment of section 47A of Act of 1970
4. Amendment of section 58 of Act of 1970
5. Insertion of sections 58B and 58C in Act of 1970
6. Amendment of section 58C of Act of 1970
7. Amendment of Schedule 1 to Nursing Homes Support Scheme Act 2009
8. Election years for purposes of Opticians Act 1956
9. Repeal of section 4 of the Health (Alteration of Criteria for Eligibility) Act 2013
10. Short title, collective citation and commencement

ACTS REFERRED TO

Competition Act 2002 (No. 14)

Health (Alteration of Criteria for Eligibility) Act 2013 (No. 10)

Health (Provision of General Practitioner Services) Act 2012 (No. 4)

Health Act 1970 (No. 1)

Health Acts 1947 to 2013

Medical Practitioners Act 2007 (No. 25)

Nursing Homes Support Scheme Act 2009 (No. 15)

Opticians Act 1956 (No. 17)

Opticians Acts 1956 and 2003



Number 28 of 2014

Health (General Practitioner Service) Act 2014

An Act to amend the Health Act 1970 to provide for the making available of a general practitioner medical and surgical service to persons who are ordinarily resident in the State and who have not attained the age of 6 years; to amend a definition in the Nursing Homes Support Scheme Act 2009; to repeal and replace section 8 of the Opticians Act 1956 to provide for the years which are to be election years for the purposes of that Act; and to provide for related matters. [28th July, 2014]

Be it enacted by the Oireachtas as follows:

Definitions

1. In this Act—
 - “Act of 1970” means the Health Act 1970;
 - “Minister” means the Minister for Health.

Amendment of section 47 of Act of 1970

2. The Act of 1970 is amended by substituting the following for section 47:

“Appeals

47. (1) When, in the administration of section 45, 45A, 46, 58, 58A or 58B, 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 appointed or designated for that purpose by the Director General of the Health Service Executive.
- (2) A person appointed or designated under subsection (1)—
 - (a) may be an employee of the Health Service Executive, and
 - (b) where he or she is such an employee, shall hold a grade that is senior to the grade of the person who made the decision referred to in that subsection.
- (3) The Minister may by regulations provide for the making and determination of appeals under this section.”.

Amendment of section 47A of Act of 1970

3. Section 47A (as amended by section 5 of the Health (Alteration of Criteria for Eligibility) Act 2013) of the Act of 1970 is amended—
- (a) in paragraph (b), by deleting “by him or her”, and
 - (b) by substituting “58, 58A or 58B” for “58 or 58A”.

Amendment of section 58 of Act of 1970

4. Section 58 of the Act of 1970 is amended—
- (a) in subsection (1), by substituting “Subject to subsection (4), the Health Service Executive” for “The Health Service Executive”, and
 - (b) by inserting the following after subsection (3):
 - “(4) For the purposes of this section, a person shall be deemed not to come within a category mentioned in paragraph (a) or (c) of subsection (1) for so long as that person has not attained the age of six years.”.

Insertion of sections 58B and 58C in Act of 1970

5. The Act of 1970 is amended by inserting, after section 58A (inserted by section 7 of the Health (Alteration of Criteria for Eligibility) Act 2013), the following sections:

“General practitioner medical and surgical service for persons under 6 years of age

- 58B.** (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 and has not attained the age of six years.
- (2) The parent or guardian of a person shall, when requested to do so by the Health Service Executive, furnish to the Health Service Executive such information as the Health Service Executive considers necessary for it to establish that the person is, or continues to be, entitled under subsection (1) to the service referred to in that subsection.
 - (3) Where a parent or guardian fails or refuses to furnish the information requested by the Health Service Executive under subsection (2) within such reasonable period as is specified in the request, the Health Service Executive may treat the person concerned as if he or she was not entitled under subsection (1) to the service referred to in that subsection.
 - (4) Insofar as 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.

Agreement for provision of service under section 58B

- 58C.** (1) The Health Service Executive may, subject to this section, enter, on such terms and conditions as it considers appropriate, into an agreement with a relevant medical practitioner for the provision by him or her of relevant services to eligible persons.
- (2) Without prejudice to the generality of the power of the Health Service Executive under subsection (1), an agreement referred to in that subsection shall—
- (a) specify the services referred to in subsection (1) that are to be provided by the relevant medical practitioner, and
- (b) provide that the payment to be made to the relevant medical practitioner for the provision of those services shall be the payment prescribed in respect of those services by regulations under this section in force at the time the services are provided.
- (3) The Minister may, with the consent of the Minister for Public Expenditure and Reform and in accordance with this section, by regulation prescribe the amount or the rate of payment to be made to relevant medical practitioners in respect of the services provided by them under agreements referred to in subsection (1).
- (4) Regulations made under subsection (3) may prescribe different amounts or rates in respect of different services or in respect of the provision of services to different classes of eligible person.
- (5) Prior to making regulations under subsection (3), the Minister or, at the Minister's direction, the Health Service Executive, shall engage in such consultations as the Minister considers appropriate.
- (6) Consultations under subsection (5) shall be completed no later than 60 days after the Minister gives notice of the commencement of the consultations.
- (7) Regulations made under subsection (3) shall prescribe amounts or rates that the Minister considers to be fair and reasonable having regard to the matters the Minister considers appropriate, including either or both of the following:
- (a) any submissions made and views expressed during the consultations under subsection (5);
- (b) the nature of the services concerned and the general nature of expenses and commitments of the relevant medical practitioners providing those services.
- (8) (a) The Minister may define the manner in which consultations under subsection (5) are to be conducted and, in doing so, shall have regard to any agreement entered into between the Minister and representatives of relevant medical practitioners relating to the

conduct of consultations under that subsection.

- (b) The Minister or, as the case may be, the Health Service Executive shall conduct consultations under subsection (5) in the manner defined under paragraph (a) and with such representatives of relevant medical practitioners or otherwise as the Minister or, as the case may be, the Health Service Executive considers appropriate, and nothing in the Competition Act 2002 shall prevent participation by the Minister, the Health Service Executive or any such representative in such consultations, or the communication and discussion of the outcome of such consultations by the representatives with the relevant medical practitioners they represent.
- (9) Without prejudice to any other provision in such an agreement relating to its termination, an agreement referred to in subsection (1) shall provide that, where an amount or rate of payment prescribed by a regulation under subsection (3) is varied by a subsequent regulation made under that subsection, the relevant medical practitioner concerned may terminate the agreement by giving the Health Service Executive 3 months' notice of the termination.
- (10) An agreement referred to in subsection (1) shall apply between its parties notwithstanding any other contract, arrangement, understanding, expectation, circular or instrument or other document that exists at the time the contract is entered into.
- (11) (a) Notwithstanding subsection (1), the Health Service Executive may, during the period that begins on the date on which this section comes into operation and ends six months after that date, enter into an agreement referred to in that subsection with a registered medical practitioner who is not a relevant medical practitioner, where that registered medical practitioner, at the time the agreement is entered into, is party to an agreement with the Health Service Executive to provide one or more services which may be provided, under the General Medical Services Scheme, to a person entitled under section 58 to have those services made available to him or her.
- (b) A reference in this section (other than in paragraph (a)) to a relevant medical practitioner shall be deemed to include a reference to a registered medical practitioner who has, in accordance with paragraph (a), entered into an agreement referred to in subsection (1).
- (12) In this section—
- ‘eligible persons’ means persons who are entitled under section 58B (inserted by *section 5* of the *Health (General Practitioner Service) Act 2014*) to have relevant services made available to them;

‘General Medical Services Scheme’ has the meaning it has under section 1 of the Health (Provision of General Practitioner Services) Act 2012;

‘registered medical practitioner’ has the same meaning as it has in section 2 of the Medical Practitioners Act 2007;

‘relevant medical practitioner’, subject to subsection (11), means a registered medical practitioner—

- (a) whose name is included in the Specialist Division of the register of medical practitioners established under section 43(2)(b) of the Medical Practitioners Act 2007, and
- (b) who holds a current certificate of registration within the meaning of section 2 of that Act in respect of the medical speciality “General Practice” recognised under section 89(1) of that Act;

‘relevant services’ means the services that constitute the general practitioner medical and surgical service referred to in section 58B(1).”.

Amendment of section 58C of Act of 1970

6. To amend section 58C of the Act of 1970 by inserting the following new subsection:

- “(13) Notwithstanding any other part of this section, the agreement, referred to in subsection (1) shall not:
- (a) include any provision to restrict the criticism of the Health Service Executive, or the Department of Health;
 - (b) impose an obligation upon any general practitioner to limit criticism of the Health Service Executive, or the Department of Health;
 - (c) require any general practitioner to notify the Health Service Executive, or the Department of Health in advance of making a public statement;
 - (d) require any general practitioner to receive prior approval from the Health Service Executive, or the Department of Health, for any public statement they wish to make;
 - (e) require any general practitioner to dilute their natural rights to freedom of expression implicit in article 40.3.1°, of Bunreacht na hÉireann and explicit in article 10.1 in the European Convention on Human Rights.”.

Amendment of Schedule 1 to Nursing Homes Support Scheme Act 2009

7. Schedule 1 to the Nursing Homes Support Scheme Act 2009 is amended, in Part 3, in paragraph 1, in the definition of “transferred asset”, by inserting “, or at any time on or

subsequent to,” after “5 years prior to”.

Election years for purposes of Opticians Act 1956

8. The Opticians Act 1956 is amended by substituting the following for section 8:

“Election years

8. The year 2014 shall not be an election year for the purposes of this Act and the following years shall be election years for those purposes:

- (a) 2015;
- (b) 2019;
- (c) each fifth successive year after 2019.”.

Repeal of section 4 of the Health (Alteration of Criteria for Eligibility) Act 2013

9. Section 4 of the Health (Alteration of Criteria for Eligibility) Act 2013 is repealed.

Short title, collective citation and commencement

10. (1) This Act may be cited as the Health (General Practitioner Service) Act 2014.
- (2) This Act and the Health Acts 1947 to 2013 may be cited together as the Health Acts 1947 to 2014 and shall be construed together as one.
- (3) *Section 8* and the Opticians Acts 1956 and 2003 may be cited together as the Opticians Act 1956 to 2014 and shall be construed together as one.
- (4) 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.