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*Number 19 of 2016*

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**Health Insurance (Amendment) Act 2016**

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[No. 19.]

*Health Insurance (Amendment) Act 2016.*

[2016.]

ACTS REFERRED TO

Health Insurance Act 1994 (No. 16)

Health Insurance Acts 1994 to 2015

Stamp Duties Consolidation Act 1999 (No. 31)

Taxes Consolidation Act 1997 (No. 39)



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*Number 19 of 2016*

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## **HEALTH INSURANCE (AMENDMENT) ACT 2016**

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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 person from 1 April 2017; to amend that Act to further specify the circumstances in which a registered undertaking may terminate or refuse to renew a health insurance contract; to make certain other amendments to that Act; to make a consequential amendment to the Stamp Duties Consolidation Act 1999; and to provide for related matters.

[26th December, 2016]

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

### **Definition**

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

### **Amendment of section 7AB of Principal Act**

2. Section 7AB of the Principal Act is amended by the substitution of the following subsection for subsection (3):

“(3) (a) A registered undertaking shall not in any calendar year change the benefits payable under a type of relevant contract (non-advanced cover) that it offers in the State such that it becomes a type of relevant contract (advanced cover) except—

(i) in the case of a calendar year before 1 January 2017, with effect from 1 March of that calendar year, and

(ii) in the case of the calendar year 2017 and any subsequent calendar year, with effect from 1 April of each such calendar year.

(b) A registered undertaking shall not in any calendar year change the benefits payable under a type of relevant contract (advanced cover) that it offers in the State such that it becomes a type of relevant contract (non-advanced cover) except—

(i) in the case of a calendar year before 1 January 2017, with effect from 1 March of that calendar year, and

- (ii) in the case of the calendar year 2017 and any subsequent calendar year, with effect from 1 April of each such calendar year.”.

**Amendment of section 7E of Principal Act****3. Section 7E of the Principal Act is amended—**

## (a) in subsection (1)—

- (i) in paragraph (a)(iii), by the substitution of “hospital utilisation” for “hospital bed utilisation”, and

## (ii) in paragraph (b)—

- (I) in subparagraph (i), by the substitution of “specified period (taking into account the objective specified in subparagraph (iii)(II))” for “specified period”, and

## (II) by the substitution of the following subparagraph for subparagraph (iii):

“(iii) (I) subject to subsection (1A), the amounts of the risk equalisation credits that the Authority considers, after having regard to such evaluation and analysis, would need to be afforded, under the Risk Equalisation Scheme, to persons insured by registered undertakings (other than restricted membership undertakings) having regard to the principal objective (in so far as the principal objective relates to relevant contracts), the aim of avoiding overcompensation being made to a registered undertaking or former registered undertaking under the operation of the relevant financial provisions (other than section 470B of the Taxes Consolidation Act 1997), the aim of maintaining the sustainability of the health insurance market and the aim of having fair and open competition in the health insurance market, and

- (II) the objective that the projected net average insurance claim payment per insured person for a relevant age group of insured persons for any period of 12 consecutive months duration should be not less than 125 per cent of the projected net average insurance claim payment per insured person for all age groups of insured persons for that same period, and”,

## (b) in subsection (2)(a)—

- (i) in subparagraph (v), by the substitution of “market,” for “market, and”,

- (ii) in subparagraph (vi), by the substitution of “standards), and” for “standards),”, and

## (iii) by the insertion of the following subparagraph after subparagraph (vi):

“(vii) the objective specified in subsection (1)(b)(iii)(II),”,

and

(c) by the insertion of the following subsection after subsection (3):

“(4) In this section—

‘net’, in relation to the average insurance claim payment per insured person for—

(a) a relevant age group of insured persons, or

(b) all age groups of insured persons,

means after the application of the projected net financial impact of the relevant financial provisions for the 12 consecutive months concerned referred to in subsection (1)(b)(iii)(II);

‘relevant age group of insured persons’ means an age group of insured persons specified in column 1 of Table 2 set out in Schedule 4 in respect of which, in accordance with section 11C, part of the premium payable in respect of such insured person is, or is expected to be, payable from the Fund.”.

#### **Amendment of section 7F of Principal Act**

4. Section 7F of the Principal Act is amended—

(a) by the insertion of the following subsection after subsection (4):

“(4A) (a) The Authority shall take what would constitute a reasonable profit for a registered undertaking in respect of its relevant health insurance business in the State, in respect of the 3 year period from 1 January 2016 to the end of 2018, as being a return on sales, gross of reinsurance and excluding investment income, that does not exceed 4.4 per cent per annum in respect of that business for that 3 year period taken as a whole and as calculated using approved accounting standards and having regard to the European Union framework for State aid in the form of public service compensation (2011) (2012/C8/03).

(b) Paragraph (a) shall, with all necessary modifications, apply to each applicable 3 year period as it applies to the 3 year period referred to in that paragraph.”,

(b) in subsection (5)(b)—

(i) in subparagraph (ii), by the substitution of “of 2013,” for “of 2013, or”, and

(ii) by the insertion of the following subparagraphs after subparagraph (iii):

“(iv) if paragraph (a) of subsection (4A) is applicable, the period from 1 January 2016 to the end of 2018, or

- (v) if paragraph (b) of subsection (4A) is applicable, the period from 1 January of the first year of the applicable 3 year period to the end of the last year of the applicable 3 year period,”

and

- (c) in subsection (14)—

- (i) by the insertion of the following definition:

“ ‘applicable 3 year period’ means—

- (a) the 3 year period from 1 January 2017 to the end of 2019, and
  - (b) the 3 year period from 1 January 2018 to the end of 2020,
- and so on for each succeeding 3 year period;”

- (ii) by the substitution of the following definition for the definition of “reasonable profit”:

“ ‘reasonable profit’—

- (a) shall be construed in accordance with subsection (4) in respect of a 3 year period referred to in paragraph (b) of that subsection and in respect of a relevant 3 year period, and
- (b) shall be construed in accordance with subsection (4A) in respect of a 3 year period referred to in paragraph (a) of that subsection and in respect of an applicable 3 year period;”

and

- (iii) by the substitution of the following definition for the definition of “relevant 3 year period”:

“ ‘relevant 3 year period’ means the following:

- (a) the period from 1 January 2012 to the end of 2014;
- (b) the period from 1 January 2013 to the end of 2015.”

### **Prohibition of termination of, or refusal to renew, health insurance contracts**

5. The Principal Act is amended by the substitution of the following section for section 9:

“9. (1) A registered undertaking shall not terminate or (irrespective of whether or not the contract provides for its renewal) refuse to renew a health insurance contract without the consent of the other party to the contract except—

- (a) where there has been fraudulent misrepresentation to the undertaking in relation to the contract which has, or could have, resulted in financial loss to the undertaking,
- (b) where the undertaking ceases to carry on health insurance business in the State, or



- (c) subject to subsections (2) to (5), where the undertaking has ceased to offer, in the State, health insurance contracts of the type of that contract.
- (2) Where a registered undertaking refuses to renew a health insurance contract ('non-renewed contract') on the ground referred to in subsection (1)(c) and that contract provides for benefits in respect of hospital in-patient services, it shall, at the same time as such refusal, offer, to the other party to the non-renewed contract, a replacement health insurance contract ('replacement contract') where—
  - (a) subject to subsection (3), the hospital in-patient services for which the benefits are payable under the replacement contract are the same as, or more than, such services for which benefits are payable under the non-renewed contract, and
  - (b) subject to subsection (4), the benefits payable in respect of hospital in-patient services under the replacement contract are the same as, or more than, the level of such benefits payable under the non-renewed contract.
- (3) Subsection (2)(a) shall not apply in the case of a hospital in-patient service—
  - (a) which is no longer available in the State at the time of the refusal referred to in subsection (2), or
  - (b) in respect of which the registered undertaking has ceased to offer (whether before such refusal or with effect on or after the time of such refusal), in the State, any health insurance contract under which benefits are payable in respect of such service.
- (4) (a) Paragraph (b) applies if—
  - (i) the replacement contract provides that the insured person who makes a claim under the contract for payment of benefits in respect of hospital in-patient services provided to the person is liable to pay an amount ('excess amount') towards the provision of such services, and
  - (ii) the excess amount—
    - (I) is not greater than €100 where the non-renewed contract did not provide for an equivalent to the excess amount, or
    - (II) is not greater than €100 more than the equivalent to the excess amount provided in the non-renewed contract.
- (b) The provision in the replacement contract for the payment of the excess amount shall be disregarded for the purposes of subsection (2)(b).

- (5) Without prejudice to the generality of section 8(5), where the second-mentioned contract referred to in that section is the replacement contract, it shall be presumed for the purposes of this section that the services or payment provided for in the replacement contract are the same as those provided for in the first-mentioned contract referred to in section 8(5).”.

#### Amendment of section 11C of Principal Act

6. Section 11C(1)(b) of the Principal Act is amended by the substitution of “1 April 2017” for “1 March 2016”.

#### Amendment of Schedule 4 to Principal Act

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

“TABLE 2

AMOUNTS APPLICABLE ON OR AFTER 1 APRIL 2017

<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

<b>Class of Insured Person</b>	<b>Amount of premium to be paid from Fund</b>
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
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	€850
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	€1,175
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	€525
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	€675
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	€1,250

<b>Class of Insured Person</b>	<b>Amount of premium to be paid from Fund</b>
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	€1,950
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	€1,075
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	€1,500
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	€1,750
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	€2,750
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	€1,425
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	€2,125
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	€2,375
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	€3,750
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	€1,925
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	€2,925

<b>Class of Insured Person</b>	<b>Amount of premium to be paid from Fund</b>
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	€2,975
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	€4,875
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	€2,375
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	€3,700

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

8. 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 2017 and on or before 31 March 2017—
  - (i) €67.00 in respect of an insured person aged less than 18 years insured under a relevant contract which provides for non-advanced cover,
  - (ii) €134.00 in respect of an insured person aged less than 18 years insured under a relevant contract which provides for advanced cover,
  - (iii) €202.00 in respect of an insured person aged 18 years or over insured under a relevant contract which provides for non-advanced cover, and
  - (iv) €403.00 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 2017—
  - (i) €74.00 in respect of an insured person aged less than 18 years insured under a relevant contract which provides for non-advanced cover,

- (ii) €148.00 in respect of an insured person aged less than 18 years insured under a relevant contract which provides for advanced cover,
- (iii) €222.00 in respect of an insured person aged 18 years or over insured under a relevant contract which provides for non-advanced cover, and
- (iv) €444.00 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**

9. (1) This Act may be cited as the Health Insurance (Amendment) Act 2016.
- (2) (a) *Sections 5 and 8* shall come into operation on 1 January 2017.
- (b) *Sections 6 and 7* shall come into operation on 1 April 2017.
- (3) The Health Insurance Acts 1994 to 2015 and this Act (other than *section 8*) may be cited together as the Health Insurance Acts 1994 to 2016 and shall be construed together as one.