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Relate

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Health insurance

The Programme for Government 2011-2016 (see *Relate*, March 2011) includes a commitment to introduce a system of universal health insurance by 2016. The aim of the system is to guarantee equal access to health services to all; in effect, to remove the current distinction between public and private patients.

The Minister for Health established an Implementation Group on Universal Health Insurance in February 2012 with the aim of developing a detailed implementation plan. The initial work of the group is focusing on the following:

- Hospital financing (for example, money-follows-the-patient, Hospital Care Purchase Agency)
- Hospital structures (for example, the establishment of hospital trusts)
- Regulation of hospitals (for example, Patient Safety Authority, licensing)
- Health insurance market (for example, risk equalisation, minimum benefits)
- The design of and legislation for universal health insurance

The group is also helping the Department of Health to draw up a White Paper on universal health insurance. The White Paper will outline details of the model of universal health insurance to be adopted and the estimated costs and financing mechanisms associated with its introduction.

A Universal Primary Care Project Team has also been established to oversee the introduction of universal primary care.

Health Insurance Authority

The Health Insurance Authority (HIA) is the independent regulator of the private health insurance market in Ireland. It provides information on the various health insurance plans and benefits. Website: **hia.ie**.

The private health insurance market

There are currently four open membership insurers offering health insurance in Ireland (for insurance that covers hospital inpatient beds). There are also several restricted membership insurers – they offer health insurance only to people in a particular category, usually in a particular employment.

In September 2012, about 2.1 million people (46% of the population) held health insurance which provided cover for inpatient services at a minimum. One health insurance provider has 57% of all the insured people; it has a much greater proportion of older members than the other providers. The restricted membership schemes have about 4% of the total. A total of €1.92 billion was paid in health insurance premiums in 2011.

The health insurance market is subject to the general principles of open enrolment, community rating, lifetime cover and minimum benefit. This means that the open membership insurers must, in general:

- Accept any adult who wishes to join
- Continue to have you as a member as long as you pay your premium
- Charge all members the same for the same level of cover
- Provide a minimum level of cover

The *Health Insurance Act 1994 (Minimum Benefit) Regulations 1996* (SI 83/1996 as amended by SI 333/2005) set out the minimum level of cover that must be provided by insurers. The *Health Insurance Act 1994 (Open Enrolment) Regulations 2005* (SI 332/2005) set out the waiting periods which insurers may require customers to serve in different circumstances, including in relation to pre-existing conditions. Different conditions apply depending on your age.

New risk equalisation scheme

Risk equalisation is the term used for the method of supporting the principle of community rating.

An Interim Scheme of Age-Related Tax Credits and Community Rating Levy was introduced in 2009 in order to provide direct support to community rating. The effect of this scheme was that the health insurance providers received higher premiums in respect of older customers (those aged 60 and over) but the older customers received a tax credit that exactly matched the extra premium. The net effect was that all customers paid the same for the same level of cover regardless of their age. Their health status was not taken into account at all.

The scheme was funded by an annual levy on the health insurance providers, who could pass on the levy to their customers if they wished. This scheme ended at the end of 2012 and has been replaced by the new risk equalisation scheme. The *Health Insurance (Amendment) Act 2012* provides for the new risk equalisation scheme from 1 January 2013. It applies to the open-membership health insurance providers and not to the restricted membership providers. The new risk equalisation scheme is more complex than the interim scheme. It takes account of sex and health status as well as age.

The scheme involves a transfer of credits to health insurance providers in respect of older and less healthy customers and a stamp duty levied on health insurance providers to pay for the credits. It involves the establishment of a risk equalisation fund from which *risk equalisation credits* will be payable. The health insurance companies pay stamp duty on individual policies to the Revenue Commissioners who transfer the proceeds of the stamp duty to the fund (administered by the Health Insurance Authority.)

There are four rates of stamp duty. The rate that applies to each policy depends on whether the policy provides for advanced cover or non-advanced cover and whether the insured life is that of a child or an adult. The Health Insurance Authority (HIA) will make regulations for the categorisation of health insurance products into *advanced cover* and *non-advanced cover.*

Risk equalisation credits are paid out to the health insurance companies in respect of the premiums of people aged 50 and over. The amount of the credit depends on the person's age, sex and the type of insurance cover. At present, it varies from €600 in the case of a person aged 60-64 to €2,700 in the case of a person aged 85 or over.

Health status is also taken into account and a *hospital bed utilisation credit* is awarded based on each hospital stay in a hospital bed in private hospital accommodation. In effect, your hospital stay is used as an indicator of health status. This credit is set at €75 at present.

The health insurance provider claims the credits from the Health Insurance Authority – the effect is that the health insurance provider receives a greater amount in respect of people who are older and less healthy.

The levels of the credits and the stamp duty payable will be reassessed annually. The HIA will recommend to the Minister for Finance the levels of stamp duty required to finance the scheme.

The Act provides for the compilation and analysis of more detailed data about health insurance claims and these data will

be used to inform the level of credits to be applied in the future. The Act also gives the HIA a specific role of trying to ensure that the products offered by the health insurance companies are not aimed at segments of the market only.

Date of implementation

Policies taken out or renewed between 1 January 2013 and 30 March 2013 will attract the rate of credit that applied in 2012 – see *Relate*, February 2012 for details. Policies taken out on or after 31 March 2013 will come under the new system.

Who pays

The stamp duty that pays for the risk equalisation credits is paid by the health insurance providers. They may pass this on directly or indirectly to all their customers. The credits are awarded at source so you, as an individual with health insurance, are not directly involved in the process. The scheme is designed to ensure that there is no direct cost to the State.

All health insurance policies already attract a standard rate tax credit that is applied at source. This is a direct subsidy from the State and is applied whether or not the policy holder is a taxpayer. This will continue.

Credit unions

The *Report of the Commission on Credit Unions* was published in April 2012. Among other things, it recommended a stronger regulatory framework for credit unions. It also recommended that the credit union sector should be restructured and that a Credit Union Restructuring Board (ReBo) should be established to facilitate and oversee the restructuring process.

The Minister for Finance has established an implementation group in order to ensure full implementation of the report. The group includes representatives of the credit union movement as well as representatives from the Department of Finance and the Central Bank.

The *Credit Union and Co-operation with Overseas Regulators Act 2012* was passed in December 2012. It implements the main recommendations of the Report. The Act also provides for co-operation between the Central Bank and overseas regulators (we are not looking at those provisions here). It amends the main legislation applying to credit unions – the *Credit Union Act 1997* as amended. Some parts of the Act, in particular, those relating to restructuring and stabilisation, came into effect in December 2012. It is expected that the other parts will come into effect in the near future.

In relation to credit unions, the 2012 Act deals with four main issues: prudential requirements, governance, restructuring and stabilisation.

Prudential requirements

The Act sets out the general prudential principles applying to credit unions in several areas including reserves, minimum liquidity requirements, investments, lending and borrowing. The Central Bank will make regulations setting out standards and procedures.

Lending

The Act provides that the primary consideration when considering a loan application must be the ability of the applicant to repay the loan. The Central Bank may make regulations on the classes of lending in which a credit union may engage as well as on other issues relating to lending. The Central Bank may also make regulations on the investments that credit unions may undertake.

The Registrar of Credit Unions has the power to impose lending restrictions on credit unions. At present, about 57% of all credit unions are subject to such restrictions. In general, this means that there is a maximum amount that can be lent to any one individual. The majority of those subject to restrictions can still make loans of over €20,000 to an individual while a very small number are restricted to loans of less than €5,000. Commercial lending restrictions apply to about 40% of credit unions.

Governance

The Act deals in some detail with the governance of credit unions. It makes distinctions between the boards of credit unions and the executive and sets out who is responsible for what. The main decisions are to be made by the boards and they will oversee the management's day-to-day operation of the business of the union but will not be involved in direct management.

The Act aims to preserve the volunteer ethos of credit unions and provides for the training and development of credit union volunteers, including the training of volunteer directors.

The board is to have between 7 and 11 members. There will be term limits on directors – a person may not serve more than 12 years in any 15-year period. Certain groups may not serve on credit union boards including:

- Employees
- Close family members of employees or of directors
- Board oversight committee members
- Voluntary assistants
- Directors of other credit unions
- Certain professional advisers to the credit union such as solicitors and auditors.

The board must make the decisions in relation to, among other things:

- Setting out strategy
- Ensuring that there is an effective management team in place
- Approving, reviewing and updating all plans, policies and procedures

The Act also sets out the specific roles of the chair of the board and committees. It sets out the rules on conflicts of interest, risk management and internal audit. It provides for board oversight committees (these are somewhat similar to the supervisory committees that credit unions currently have). Their main function is to provide members with an independent assessment of the board's performance; it must report to the members on whether the board has complied with its requirements. The board oversight committee is entitled to have access to the books and documents of a credit union and its members have the right to attend board meetings.

Restructuring

Restructuring means that credit unions will amalgamate or transfer their activities to another credit union. The aims of restructuring are to:

- Protect the savings of credit union members
- Maintain the stability and viability of credit unions and the sector at large
- Preserve the credit union identity and ethos.

The Act provides for the establishment of the Credit Union Restructuring Board (ReBo) on a statutory basis and provides for the restructuring of the sector over time. ReBo was established on an administrative basis in August 2012. Its role is to help credit unions to restructure by providing help in the preparation of plans and overseeing the implementation of those plans. It may recommend to the Central Bank that an individual credit union be considered for stabilisation. ReBo will be funded by a levy on the sector. The restructuring of the credit unions is expected to be completed by 2015.

Stabilisation

If ReBo recommends that stabilisation funds be provided to an individual credit union, the Central Bank may do so if the credit union is viable and has sufficient reserves. The credit union must comply with all the regulatory requirements and show that it is able to maintain reserves and fund the business for up to three years after the support has been provided.

The Act provides for the establishment of a credit union fund to finance restructuring and stabilisation. That fund has now been established and the Government has provided €250 million to it. The costs of stabilisation will be met entirely by a levy on the credit union sector itself. The stabilisation fund will operate on a more limited basis during the restructuring period.

Credit unions and the Central Bank

Credit unions are regulated by the Registrar of Credit Unions who operates within the Central Bank.

Credit unions are subject to the same rules as banks in a number of areas but are treated differently to banks in other areas. For example, banks need a licence in order to accept deposits; credit unions do not.

Certain parts of the legislation dealing with financial regulation, for example, parts of the Central Bank Acts, apply to the credit unions. The fitness and probity requirements for directors of financial institutions are set out in the *Central Bank Reform Act 2010*. These provisions require Central Bank regulations and a code of practice to be in place before being fully implemented – this is expected to happen from 1 July 2013.

Credit unions are subject to the laws on money laundering in the same way as banks.

Credit unions who want to engage in certain types of business must get authorisation from the Central Bank, for example, under the *Insurance Mediation Regulations 2005*, the *Investment Intermediaries Act 1995* and the *European Community (Payment Services) Regulations 2009*.

The Commission's report recommended that the powers and functions proposed under the *Central Bank (Supervision and Enforcement) Bill 2011* be applied to credit unions. This Bill is currently going through the Oireachtas and it is expected that its provisions will apply to credit unions.

Before introducing regulations that apply to credit unions, the Central Bank will be required to consult the Minister for Finance, the Credit Union Advisory Committee (CUAC) and other credit union bodies. A consultation protocol has been developed by

the Central Bank. The protocol sets out how the Central Bank proposes to engage with credit unions in any formal consultation process. Credit unions will be able to appeal regulatory directions to the Irish Financial Services Appeals Tribunal. Further provisions on appeals are likely to be included in the *Central Bank (Supervision and Enforcement) Bill 2011*.

The *Credit Union and Co-operation with Overseas Regulators Act 2012* gives the Central Bank the power to impose conditions on the registration of a credit union. These conditions may be appealed to the Irish Financial Services Appeals Tribunal.

The *Credit Institutions Resolution Fund Levy Regulations 2012* (SI 381/2012) provides for a levy on credit institutions which is payable to the Resolution Fund under the *Central Bank and Credit Institutions (Resolution) Act 2011*. Credit unions are subject to this levy. Website: **centralbank.ie**.

Separate representation in legal transactions

The Law Society of Ireland – the regulatory body for solicitors in Ireland – has made a regulation, *Solicitors (Professional Practice, Conduct and Discipline – Conveyancing Conflict of Interest) Regulation 2012* (SI 375/2012) that came into effect on 1 January 2013.

This Regulation prevents a solicitor from acting for both the seller and the buyer in conveyancing transactions except in certain circumstances. The main exceptions are:

- Where there is a voluntary transfer of a shared home or a family home from its owner to the joint tenancy of that owner and his/her spouse or civil partner
- Where the family or shared home is owned by spouses or civil partners but in a form other than a joint tenancy and they want to transfer it to a joint tenancy
- Where property is held in trust and is being transferred from existing trustees to new trustees or from the trustees to the beneficiary

There are also some exceptions in the case of transfers of property between certain associated companies.

The Law Society has the power, under the Solicitors Acts, to make regulations that are necessary for the carrying out of its functions. These regulations come into effect in the same way as most other regulations and statutory instruments. They are laid before the Houses of the Oireachtas and come into effect unless they are annulled by the Houses. The *Legal Services Regulation Bill 2011*, which is currently before the Oireachtas, proposes to change the regulatory regime for solicitors and barristers and to establish a legal services regulatory authority to oversee both professions (see *Relate*, February 2012).

The Law Society published the *Conveyancing Conflicts Task Force Report* in July 2012. The Task Force had been set up to review existing guidelines and regulations relating to solicitors acting for both parties in conveyancing transactions. The report sets out the arguments for and against the introduction of this regulation and explains why it was decided to introduce it. Website: **lawsociety.ie**.

Regulation of health and social care professionals

The Health and Social Care Professionals Council was established in 2007 under the *Health and Social Care Professionals Act 2005* (The Council calls itself CORU which derives from an Irish word meaning fair, just and proper). For more information, see **coru.ie**.

The *Health and Social Care Professionals (Amendment) Act 2012* provides for some amendments to the 2005 Act. They are mainly concerned with improving the operation of the Council and the registration boards. They also deal with the assessment and recognition in Ireland of qualifications obtained outside Ireland and incorporate the requirements of Directive 2005/36/EC on the recognition of professional qualifications.

The Council has overall responsibility for the regulatory system for health and social care professionals. Since then, it has been setting up registration boards for the 12 professions designated by the Act. They are professions that were not previously regulated: clinical biochemists, dieticians, medical scientists, occupational therapists, orthoptists, physiotherapists, podiatrists, psychologists, radiographers, social care workers, social workers and speech and language therapists.

The legislation allows for the Minister for Health to add other health and social care professionals to the regulatory system but, in general, it is not intended to do this until the designated 12 professions have their registration boards established. However, it has been decided that two existing statutory regulatory bodies

will be incorporated into the Council. This is expected to happen in 2013. The bodies concerned are the Opticians Board which regulates optometrists and dispensing opticians and the Pre-hospital Emergency Care Council which regulates emergency medical technicians, paramedics and advanced paramedics.

So far, five boards have been established – the Social Workers Registration Board, the Radiographers Registration Board, the Dieticians Registration Board, the Occupational Therapists Registration Board and the Speech and Language Therapists Registration Board. It is proposed to establish the Physiotherapists Registration Board in early 2013 and the other six by the end of 2014.

The first task of a registration board is to set up a statutory register for the profession. The Social Workers Registration Board has established its register, held elections and made the necessary regulations on education and training qualifications. It has also adopted a code of professional conduct and ethics. When the register has been established for two years (that is, by 31 May 2013), the social work profession will be fully regulated. From 1 June 2013, all new entrants to the social work profession must be registered. The Radiographers Registration Board is expected to open its register in the near future.

Education and training bodies

Quality and Qualifications Ireland (QQI) was formally established in November 2012 under the *Qualifications and Quality Assurance (Education and Training) Act 2012*. It involves the amalgamation of the National Qualifications Authority of Ireland (NQAI), the Higher Education and Training Awards Council (HETAC) and the Further Education and Training Awards Council (FETAC) – see *Relate*, October 2012. More information is available on **qqi.ie**.

Proposed legislation is currently being discussed by the Oireachtas dealing with education and training structures. The *Education and Training Boards Bill 2012* provides for the replacement of the vocational education committees (VECs) with education and training boards. The *Further Education and Training Bill 2013* provides for the establishment of SOLAS (An tSeirbhísí Oideachais Leanunaigh agus Scileanna). SOLAS will replace FÁS.

We will have further details on these and other education and training developments in a future issue of *Relate*.

Housing legislation

Rented housing standards

The *Housing (Standards for Rented Houses) Regulations 2008* came fully into effect on 1 February 2013. Some of the Regulations came into effect on 1 February 2009 and landlords were given a four-year period to prepare for their full implementation. These standards now apply to all private rented accommodation.

The main change from 1 February 2013 is that all rental accommodation must have its own separate bathroom with toilet and shower/bath and hot and cold water. Traditional bedsitters with shared bathrooms are no longer allowed.

The standards also specify requirements in relation to heating and to facilities for cooking, food storage and laundry. The tenant must be able to control the heating.

The Regulations also deal with matters such as structural repair, heating, ventilation, natural light and safety of gas and electrical supply. The local authorities are responsible for implementing the regulations.

Residential Tenancies (Amendment) (No. 2) Bill 2012

The *Residential Tenancies Act 2004* is the main piece of legislation governing the relationship between landlords and tenants in the private sector. The Act sets out the minimum obligations of both landlord and tenant and provides for the establishment of the Private Residential Tenancies Board (PRTB), which provides a dispute resolution service for landlords and tenants. Landlords pay fees to the PRTB and these are used to fund its services and also to fund the local authorities when they carry out their remit of inspecting rental properties to ensure that they meet the legal standards.

The *Residential Tenancies (Amendment) (No. 2) Bill 2012* is currently being discussed by the Oireachtas. The Bill proposes to amend the 2004 legislation in a number of respects.

Approved housing bodies

The main proposed change is that the legislation would be extended to dwellings provided by approved housing bodies to tenants who are assessed as having a housing need.

There are about 20,000 such dwellings at present. The Bill, as published, provides that there would be an exemption for tenancies in which care and support services are provided to the tenant but the Minister for Housing has said that she intends to restrict this exemption – the precise scope of this restriction is not yet known. Local authority rented accommodation would continue to be exempt from the legislation but dwellings let by local authorities to approved housing bodies would be covered. However, there would be some restrictions on the rights of tenants in approved housing body dwellings. Such tenants would not have the right to assign or sublet their tenancies and there would be no succession rights to such tenancies.

The Minister for Housing has said that the logical next step is to bring local authority tenancies into the same system as private and housing body tenancies but that will take some time.

Other changes

The Bill provides that the name of the PRTB would be changed to the Residential Tenancies Board. This is in recognition of the fact that its activities would no longer be confined to the private sector. Under the Bill, the number of Board members will reduce from 15 to 12 and members of the Board may not be members of the dispute resolution committee. This means that the Board's quasi-judicial functions are separate from its administrative functions.

It also proposes to make the mediation functions of the Board easier to carry out.

It provides for the merger of the Rent Tribunal with the Residential Tenancies Board. The Rent Tribunal was established under the *Housing (Private Rented Dwellings) (Amendment) Act 1983*. The tribunal deals with the terms of the tenancies, including the rent, of dwellings formerly controlled under the Rent Restrictions Acts. The two bodies are already merged on an administrative basis.

The Minister said that she intends to bring forward amendments to the Bill dealing with the illegal retention of deposits, including the possibility of a tenancy deposit protection scheme. The PRTB has compiled a report on rent deposit protection that outlines the issues involved. More information is on **environ.ie**.

Civil Registration (Amendment) Act 2012

The *Civil Registration (Amendment) Act 2012* amends the *Civil Registration Act 2004* by allowing secular bodies to act as solemnisers of marriages. The 2004 Act provided that only the Health Service Executive and religious bodies could apply for registration in the Register of Solemnisers established under the Act.

A secular body that wishes to be a marriage solemniser must meet a number of conditions and continue to meet them on a continuous basis. It must be:

- In existence for at least five years
- An organised group of people who have secular, ethical and humanist beliefs in common, have a minimum of 50 people and meet on a regular basis
- Recognised by the Revenue Commissioners as a charity and cannot have the making of profit as one of its main purposes

The Act deems a list of organisations not to be secular bodies. These include chambers of commerce, organisations that are political, sporting or athletic, trade union or representative in nature and bodies that promote purposes that are unlawful, are contrary to public policy or morality, in support of terrorism or terrorist activities or for the benefit of an organisation of which membership is unlawful.

The Act includes provisions for appeal against a refusal of recognition as a solemniser.

Proposed legislation

Water Services Bill 2013

The *Water Services Bill 2013*, which is currently being discussed by the Oireachtas, provides for the establishment of Irish Water. Irish Water will be a State-owned company and a subsidiary of Bord Gáis. It will be responsible for installing domestic water meters in dwellings that are connected to the public water supply and for the collection of domestic water charges when such charges are introduced. Water charges are expected to be introduced in 2014. Further legislation will be introduced later in 2013 to give Irish Water responsibility for the provision of water supplies and for wastewater services. This is currently the responsibility of local authorities.

The Bill also provides that the Commission for Energy Regulation (CER) will be the regulator for water services. Further legislation will give it the power to decide on the amount of the proposed water charges.

The Citizens Information Board provides independent information, advice and advocacy on public and social services through citizensinformation.ie, the Citizens Information Phone Service and the network of Citizens Information Services. It is responsible for the Money Advice and Budgeting Service and provides advocacy services for people with disabilities.

Head office
Ground Floor
George's Quay House
43 Townsend Street
Dublin 2

t 0761 07 9000
f 01 605 9099
e info@ciboard.ie
w citizensinformationboard.ie

The CER is already the regulator for the electricity and gas industries but it does not decide the level of charges in these industries. The Bill proposes to give the CER the power to prepare for the functions it will be given in the future in relation to the setting of water charges and the specification of minimum standards of service.

Installation of meters

The installation of domestic water meters is expected to start later in 2013 and to take up to three years to complete. Before the installation of meters, the local authorities (the 34 city and county councils who are currently the water authorities) will survey the domestic water connections at the external boundary of households connected to public water supplies.

The Bill proposes to give Irish Water the necessary powers to install meters. These powers include the power to lay pipes and to interrupt water supplies. Planning permission will not be needed for laying pipes. Protocols about the activities of Irish Water will be agreed with the Department of Transport, Tourism and Sport and the local authorities and will cover matters such as traffic management and the quality of footpath and road reinstatement.

Irish Water will create a database of the names and addresses of domestic customers. The Bill proposes to give it the power to collect such information from other public and commercial bodies, for example, local authorities, electricity providers, the Revenue Commissioners, the Private Residential Tenancies Board and the Department of Social Protection.

Freedom of Information legislation

The Government has agreed in principle to extend the Freedom of Information (FOI) legislation to a range of public sector and publicly funded bodies. At present, the legislation applies to about 500 bodies. These include a number of voluntary bodies that are publicly funded. It is intended to extend the legislation to about 100 other bodies. In some cases, this will be subject to conditions.

Among the bodies that are expected to be covered are the Gardaí, public financial bodies such as the National Treasury Management Agency (NTMA) and the National Assets Management Agency (NAMA), the Central Bank, public bodies with regulatory, quasi-judicial and investigative functions (for example, the Office of the Refugee Applications Commissioner and the Refugee Appeals Tribunal) and vocational educational committees (soon to be renamed education and training boards).

A General Scheme of a Freedom of Information Reform Bill is currently before an Oireachtas Committee.

Correction

In the February 2013 issue of *Relate* it was stated that "For example, the maximum rent level for a couple with two children in Dublin Fingal is €825 a week. The lowest maximum level for such a family is €375 in Leitrim." The correct wording is: "For example, the maximum rent level for a couple with two children in Dublin Fingal is €825 a month. The lowest maximum level for such a family is €375 a month in Leitrim."

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