



Health
Information
and Quality
Authority

An tÚdarás Um Fhaisnéis
agus Cáilíocht Sláinte

Legislative Updates

- Health (Miscellaneous Provisions) (No. 2) Act 2024
- Patient Safety (Notifiable Incidents and Open Disclosure) Act 2023

October 2024

Introduction

- Cited as the Health (Miscellaneous Provisions) (No. 2) Act 2024 – Makes changes to the Health Act 2007
- Cited as the Patient Safety (Notifiable Incidents and Open Disclosure) Act 2023

Different sections or provisions may have different commencement dates.

Agenda

Provisions of the Health (Miscellaneous Provisions)(No. 2) Act 2024

1. Details of Fines and Penalties on the Register
2. Changes to Provisions re Conditions of Registration
3. Changes to Provisions re NOPD and NOD representation timeframes
4. Changes to Provisions re Provision of Information to the Chief Inspector
5. Powers of Entry to Designated Centres which are not registered

Provisions of the Patient Safety (Notifiable Incidents and Open Disclosure) Act 2023

6. Notifications to the Chief Inspector
7. Provisions regarding reporting
8. Reviews of specified incidents by the Chief Inspector

1. Details of Fines and Penalties on the Register

Amendment of Section 49

(Register of designated centres)

Section 49 is amended, in subsection (1)—

(a) in paragraph (f), by the deletion of “and”, and

(b) by the insertion of the following paragraph after paragraph (f):

“(fa) details of any fine or other penalty imposed on the registered provider of the centre by a court under this Act during the period referred to in subsection (2), and”.

What does this mean?

- The register for designated centres must now include **details of any fine or other penalty** imposed on the registered provider of the centre by a court under this Act during the period referred to in subsection 2 which is the period of registration, which is 3 years.
- Not retrospective.

2. Changes to Provisions re Conditions of Registration

New section - Section 51A

(Removal of a condition of registration)

Notwithstanding section 51, the chief inspector may, at any time, remove any condition of the registration of a designated centre where he or she is satisfied that the removal of the condition—

- (a) is appropriate in the circumstances, and
- (b) will not adversely affect the persons who are resident in the designated centre.”

What does this mean?

- Previously a registered provider had to apply to have a condition removed under Section 52.
- The Chief Inspector can now **remove** a condition without the provider applying.
- The grounds for S52 and S51A are the same.
 - *(a) is appropriate in the circumstances, and*
 - *(b) will not adversely affect the persons who are resident in the*
 - *designated centre."*
- Providers must still apply to vary a condition of registration.

3. Changes to Provisions regarding NOPD and NOD representation timeframes

Amendment of Sections 53, 54, 55, 57

(Notice of Proposed Decisions, Right to Respond to a Notice of Proposed Decision and Notice of Decision, Appeals to District Court.

Section 53 amended— (a) in paragraph (b), by the substitution of “conditions,” for “conditions, or”, (b) in paragraph (c)(iii), by the substitution of “centre, or” for “centre,”, and (c) by the insertion of the following paragraph after paragraph (c): “(d) under section 51A, to remove any condition of the registration of a designated centre,”.

Section 54 amended— (a) in subsection (1), by the substitution of “14 days” for “28 days”, and (b) in subsection (2)(b), by the substitution of “14 days” for “28 days”

Section 55 amended— (a) in subsection (1)— (i) in paragraph (b), by the substitution of “conditions,” for “conditions, or”, (ii) in paragraph (c)(iii), by the substitution of “centre, or” for “centre.”, and (iii) by the insertion of the following paragraph after paragraph (c):

“(d) under section 51A, to remove any condition of the registration of a designated centre.”,

(b) in subsection (3)(a), by the substitution of “14 days” for “28 days”, and (c) in subsection (4), by the substitution of “14 days” for “28 days”.

Section 57 amended, in subsection (2)(a), by the substitution of “14 days” for “28 days”.

What does this mean?

- The timelines for providers to make representations on a Notice of Proposed Decision or appeal a Notice of Decision is reduced from 28 calendar days to 14 calendar days.

New Section 69A

(Transitional provisions in relation to amendment of certain time limits)

12. Insertion of the following section after section 69:

“69A. (1) Where, immediately before the commencement day, a time limit referred to in section 54(1) or (2)(b), 55(3)(a) or (4), or 57(2)(a) has not expired in relation to a person, the time limit concerned, notwithstanding its amendment by section 7(a) or (b), 8(b) or (c), or 9, as the case may be, of the Act of 2024, shall continue to have effect in relation to the person on and after the commencement day as if section 7(a) or (b), 8(b) or (c), or 9, as the case may be, of the Act of 2024 had not been commenced.

(2) In this section—

‘Act of 2024’ means the Health (Miscellaneous Provisions) (No. 2) Act 2024; commencement day’ means—

(a) in relation to the time limit referred to in section 54(1), the day on which section 7(a) of the Act of 2024 comes into operation,

(b) in relation to the time limit referred to in section 54(2)(b), the day on which section 7(b) of the Act of 2024 comes into operation,(c) in relation to the time limit referred to in section 55(3)(a), the day on which section 8(b) of the Act of 2024 comes into operation,

(d) in relation to the time limit referred to in section 55(4), the day on which section 8(c) of the Act of 2024 comes into operation, or

(e) in relation to the time limit referred to in section 57(2)(a), the day on which section 9 of the Act of 2024 comes into operation.”

What does this mean?

- NOPDs and NODs issued before the commencement date which allowed 28 days will continue to have the 28 days to make a representation or appeal.
- If commencement occurs after giving of the NOPD and before giving NOD, the NOPD would have had 28 days but the NOD will only have 14 days.

4. Changes to Provisions regarding Provision of Information to the Chief Inspector

Amendment to Section 65

(Provision of information to Chief Inspector)

The Act is amended by the substitution of the following section for section 65:

“65. (1) The chief inspector may require the registered provider of a designated centre to provide such information as the chief inspector considers necessary to enable the chief inspector to carry out the chief inspector’s functions.

(2) Where the chief inspector requires that information be provided under subsection (1), the registered provider shall provide the information to the chief inspector.

(3) The information to be provided under this section shall be provided in such manner and form, and at such time, as the chief inspector considers appropriate.”

What does this mean?

- This is an enhancement of the current provision where Providers **must** supply the information and in a **manner and form** and at the **time** determined by the Chief Inspector.

Amendment to Section 41

(Functions of the Chief Inspector)

Section 41 of the Principal Act is amended, in subsection (1), by the insertion of the following paragraphs after paragraph (b):

(ba) collect and maintain information relating to specified designated centre of section 65A, in accordance with that section and any regulations made under section 101B,

New Section 65A

(Provision of information to Chief Inspector)

“Submission of information to chief inspector in accordance with regulations under section 101B.
65A. (1) Without prejudice to the generality of section 65, the registered provider of a **specified designated centre** shall submit to the chief inspector such information relating to the designated centre as may be prescribed in regulations under section 101B(1)(a).....”

Please refer to the legislation provided for the full text of this section

What does this mean?

- A new provision for collecting and maintaining of specified information. It is intended this will be an annual collection of data that will need to be at **centre level** but also be able to pull for anonymised published reports and to share with other relevant parties.
- Chief Inspector will be required to gather information for specified designated centres, which currently the definition only applies to Designated Centres for Older People.
- While this provision is commenced it will require regulations before the Chief Inspector can gather this data.

New Section 65B

(Provision of information to Chief Inspector)

“A registered provider of a designated centre shall not submit to the chief inspector information under section 65 or 65A that the registered provider knows or should reasonably know to be false or misleading.”

Amendment to Section 79

(Offences)

“Section 79 of the Principal Act is amended—

(a) ...

(b) (b) in subsection (2)—

(i) in paragraph (a), by the substitution of “56(1), 65 or 65A” for “56(1) or 65”, and

(ii) in paragraph (b), by the insertion of “65B” after “(4),”

What does this mean?

- Failure of provider to submit information as required by Section 65A is an **offence**.
- Submitting false or misleading information (as per Section 65B) is an **offence**.

5. Powers of Entry to Designated Centres which are not registered

Amendment to Section 41

(Functions of the Chief Inspector)

Section 41 of the Principal Act is amended, in subsection (1), by the insertion of the following paragraphs after paragraph (b):

(bb) inspect premises at which the chief inspector has reasonable grounds to believe that a person is carrying on the business of a designated centre which is not registered under this Act.

New Section 73A (Right of entry by Chief Inspector premises that are not registered)

New Section 73 B (Circumstances in which District Court may issue warrant for premises that is not registered)

Amendment to Section 76 (Authorised person or Chief Inspector may be accompanied by Garda)

New Section 77B (Prohibition against certain conduct in relation to inspections under section 73A)

Amendment to Section 79 (Offences)

Please refer to the legislation provided for the full text of this section

What does this mean?

- The Chief Inspector now has express statutory powers to carry out an inspection of a centre where there are reasonable grounds to believe a person is carrying on the business of a designated centre not registered by the Chief Inspector.
- Where the Chief Inspector has reasonable grounds for believing that a person is carrying on the business of a designated centre which is not registered under this Act **and** where the Chief Inspector has been prevented or has reasonable cause to believe there is a likelihood that he or she will be prevented from entering the premises, then the Chief Inspector may apply to the District Court for a warrant authorising the entry.

What does this mean?

- Where the Chief Inspector is in possession of a warrant issued under S73B and has reasonable cause to expect serious obstruction in the performance of her functions, the Chief Inspector may be accompanied by a member of an Garda Síochána.
- Prohibits persons from not allowing the Chief Inspector to enter an unregistered designated centre or from obstructing, impeding them or giving them false information during such inspection.
- It makes an offence of not allowing the Chief Inspector to enter an unregistered designated centre or from obstructing, impeding them or giving them false information during such inspection

Patient Safety (Notifiable Incidents and Open Disclosure) Act 2023

6. Notifications to the Chief Inspector

Section 28

(Notification to chief inspector of notifiable incident by certain health services provider)

- (1) Where a health services provider carries on the business of a designated centre and it is satisfied that a notifiable incident, specified in subsection (2), has occurred in the course of the provision by it of a health service to a patient, the health services provider shall notify the chief inspector of that notifiable incident—
 - (a) as soon as practicable, and
 - (b) in any event, not later than 7 days from the day on which the provider was satisfied the incident had occurred.
- (2) For the purposes of subsection (1), all of the following shall be notified in accordance with that subsection:
 - (a) each notifiable incident specified in Part 1 of Schedule 1;
 - (b) in the case of a notifiable incident specified in regulations made under section 8, each such incident specified in any regulations made under that section.
- (3) A notification under this section shall specify the information that is set out in section 27(3).
- (4) The chief inspector shall acknowledge receipt, in writing, of a notification made to it under this section not later than 21 days from receipt of the notification.
- (5) An acknowledgement made under subsection (4) may be made electronically.
- (6) In this Part, “designated centre” means....

Please refer to the legislation provided for the full text of this section

What does this mean?

- It requires providers of both nursing homes and potentially some centres for people with disabilities to submit notifications of specific incidents using the NIMS system to the Chief Inspector within 7 days of the incident.
- The incident requiring reporting are listed in part 1 of schedule 1 of the Patient Safety (Notifiable Incidents and Open Disclosure) Act 2023.
- This notification requirement is in addition to the requirement under the regulations (e.g. the 3 day notifications)
- This section also makes provision for the Chief Inspector's acknowledgement of receipt of the notification.

7. Provisions regarding reporting

New Section 77A

(Reports of Authority or chief inspector)

- (1) The Authority or the chief inspector may prepare and publish a report relating to the functions and activities of the Authority, or the chief inspector, as the case may be.
- (2) A report prepared under subsection (1) may include information on—
 - (a) the monitoring of compliance with standards under section 8(1)(c),
 - (b) any investigation carried out under section 9, and
 - (c) any review carried out under section 41A.
- (3) Where preparing a report providing information in relation to subsection (2), the Authority or the chief inspector as the case may be, shall give to the Executive, the Agency, a service provider, a person carrying on the business of providing a prescribed private health service, or the registered provider of a designated centre or the person in charge of that designated centre if other than its registered provider a draft of the report (in this section referred to as a 'draft report') along with a written notice stating that the person may, not later than 21 days from the date on which the notice was received by him or her, or such further period as the Authority allows, make written submissions to the Authority or the chief inspector on the draft report...

Please refer to the legislation provided for the full text of this section

What does this mean?

- The Act required the Chief Inspector to give a provider 21 days to submit feedback on a report.
- In order to align our processes to this new provision, the submission process is being retired.
- Providers will get a draft report, on which they may provide feedback.
- A new Feedback SOP will be published shortly.
- We are awaiting some changes to our IT system in order to implement the change. You will receive further communication on this.

Thank You



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