

Lobbying Network: Action 35

Capacity Legislation and ratification of the Disability Convention

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The UN Convention on the Rights of Persons with Disabilities (CRPD), adopted on 13 December 2006, is the most recent United Nations human rights treaty. The Irish Government signed the CRPD in December 2007 but has not yet ratified it. One obstacle to this happening is the delay in introducing new national legislation on legal capacity – the ability to make decisions for one’s self. In order for people with mental health problems in Ireland to enjoy the highest standard of human rights protections this needs to happen **NOW!**

BACKGROUND: WHAT IS THE ISSUE?

Ireland has signed the UN Convention on the Rights of Persons with Disabilities. The next step towards ratification of the Convention is to ensure that Ireland complies with obligations under the Convention.

The enactment of the proposed Mental Capacity Bill is one of the steps required to facilitate the ratification process. The Department of Justice published an outline of the Bill (called a Scheme) in 2008 but publication of the Bill has been repeatedly delayed.

WHY IS THE CRPD IMPORTANT?

The CRPD represents a new era for the protection of the rights of persons with disabilities, which includes persons who experience mental health problems. Representatives and service-users from the mental health sector were closely involved in negotiating the convention throughout its development.

The Convention does not seek to create new rights. Rather its purpose is to promote, protect and ensure the full and equal enjoyment of all human rights and fundamental freedoms by all persons with disabilities and to promote their inherent dignity.

The Convention also incorporates an Optional Protocol that allows individuals to complain to the UN where they believe their rights have been infringed and there are no domestic remedies.

70 countries have ratified the CRPD and 45 have ratified both the CRPD and the Optional Protocol to date, including the UK, Spain, Mexico and Saudi Arabia. Why is Ireland trailing behind?

SPECIFICS: WHAT THE SCHEME SAYS

The purpose of proposed legislation is to reform the laws which protect adults who, are unable to make decisions for themselves or exercise their legal capacity. It is generally agreed that the current wards of court system is outdated and overburdened and it is hoped that the new law will bring Irish law into line with Article 12 CRPD. It also

1. allows for the appointment of personal guardians and updates the law relating to Enduring Powers of Attorney and
2. creates a new administrative structure, the Office of Public Guardian, to oversee personal guardians and persons appointed under Enduring Powers of Attorney.

KEY POINTS:

- The Government must act now to bring its legislation up to date in order to ratify the CRPD
- **ACT NOW** so that there are no more delays.

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WHAT YOU CAN DO:

- **Circulate** this action by distributing to friends and family or leaving copies in public places (such as your community centre, library, work place)
- **Write** a letter to you local TD and the Minister for Justice
- **Tell** your story, by contacting Amnesty International, if you have been affected by these issues and are interested in becoming a spokesperson for mental health and human rights
- **Join** Amnesty and make us stronger by adding to the number of human rights defenders in Ireland (Text JOIN to 51444 or call 01 836 8356)

RESOURCES:

- Template letters, as well as tools and tips for lobbying, are available for download on our online Lobbying Network resource centre at www.amnesty.ie/mentalhealth.

CONTACT DETAILS:

Barry Johnston

Political Affairs Officer (Mental Health)

Amnesty International Ireland
Ballast House
Westmoreland St
Dublin 2

01 863 8300

GOT FEEDBACK?

Send to mentalhealth@amnesty.ie