**NEWS RELEASE**

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Capacity Bill must respect human rights

New legislation relating to decision-making ability is a welcome improvement on the current 140-year-old law governing capacity, but needs some improvements if it is to adequately protect people’s human rights, a working group of civil society organisations said today (full list at the bottom of the release).

The **Assisted Decision-Making (Capacity) Bill 2013** published in July, is being debated at a public consultation held by the Department of Justice and Equality tomorrow (25/09/13).

Prof Gerard Quinn, Director of the Centre for Disability Law and Policy Centre, NUI Galway, said: “The Bill innovates by introducing ‘assisted decision-making agreements’ which allow people to choose others they trust to help them with making decisions. This is truly ground-breaking and the Government deserves credit for listening to the community and learning from emerging international trends.

“More clarifications will be needed to ensure that these agreements are open to anyone to make, legally binding, and must be respected by others so the Bill can transform lives and reach those who really need it.”

Fiona Crowley, Research and Legal Manager, Amnesty International Ireland, said: “This Bill contains some important amendments to the law on capacity which could really benefit people with mental health problems. However, it needs to be amended to clarify how this Bill will interact with the Mental Health Act 2001, so that there are no gaps in the human rights protection of people with mental health problems.”

Paddy Connolly, CEO Inclusion Ireland said: “The Bill represents an important shift away from ‘best interests’ decision-making towards respect for the will and preferences of persons with disabilities, which is a great improvement.

“However the legislation must prioritise the provision of supports to help an individual make their own decisions, rather than using assessments of mental capacity as a basis for substitute decision-making, which removes decision-making power from the person with a disability.”

Aine Hynes, Irish Mental Health Lawyers Association, said: “We have significant concerns about the scope of powers given to informal decision-makers under the Bill. While it is important to recognise the realities of decisions made on a daily basis by informal carers, the human rights of individuals must also be respected.

Eamon Timmins, Head of Advocacy, Age Action, said: “The law needs to be changed to restrict this kind of informal decision-making, provide safeguards where it does occur, and require that people are given the option of using assisted decision-making agreements instead.”

Brian O’Donnell, CEO National Federation of Voluntary Bodies, said: “It is also crucial that the government provides a timeline for the reform of other areas of law affected by legal capacity but exempted from this Bill, for example, the Criminal Law (Sexual Offences) Act 1993 and the Juries Act 1976, among others.”

A brief document outlining the group’s proposed reforms can be viewed at: <http://nuigalway.ie/cdlp/documents/amendments_to_bill.pdf>

Civil society organisations

Age Action Ireland

Alzheimer’s Society of Ireland

Amnesty International Ireland

Centre for Disability Law & Policy, National University of Ireland Galway

Disability Federation of Ireland

Inclusion Ireland

Irish Advocacy Network

Irish Mental Health Lawyers Association

Mental Health Ireland

Mental Health Reform

National Advocacy Service

Neurological Alliance of Ireland

National Federation of Voluntary Bodies

St Patrick’s University Hospital

**Background**

Ireland is one of just three EU member states yet to ratify the Convention on the Rights of Persons with Disabilities (CRPD) – the other two are Finland and the Netherlands. This Bill has been identified by the Government as a key step to ratifying the CRPD.

In 2012, 15 non-governmental organisations, including Amnesty International, the Centre for Disability Law and Policy, NUI Galway, the Disability Federation of Ireland, the Alzheimer Society of Ireland and Inclusion Ireland (among others) published a document entitled the [*Essential Principles: Irish Legal Capacity Law*](https://mail.nuigalway.ie/owa/redir.aspx?C=839d91af94a840e3aa17a93b1411c107&URL=http%3a%2f%2famnesty.ie%2fsites%2fdefault%2ffiles%2freport%2f2012%2f04%2fPRINCIPLES_WEB.pdf). This was based on best international practice, international human rights standards and on the guiding principles of the CRPD.

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