



seirbhís tacaíochta
cinnteoireachta

decision support service



The Assisted Decision-Making (Capacity) Act 2015

Easy to read Guide



April 2023



Number 64 of 2015

Assisted Decision-Making (Capacity) Act 2015

NEW

The Assisted Decision-Making (Capacity) Act 2015 is a new law that supports the rights of people to make their own decisions.

It is also called “the 2015 Act”.



United Nations Convention on the
Rights of Persons with Disabilities



The UNCRPD:

The 2015 Act helps us to do what it says in the United Nations Convention on the Rights of Persons with Disabilities (UNCRPD).



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What does the 2015 Act do?

- It replaces the wards of court system
- It has guiding principles
- There are new levels of decision supports for people who need help with decision-making now or in the future
- It sets up the Decision Support Service (called the DSS)
- It has codes of practice for people to follow

Why do we need a new law?



CHAP. 22.

An Act to amend the Law in Ireland relating to Commissions of Lunacy, and the proceeding under the same, and the management of the Estates of Lunatics; and to provide for the visiting and the protection of the Property of Lunatics in Ireland; and for other purposes.

[25th May 1871.]

The old law is called the Lunacy Regulation (Ireland) Act 1871.

Under the old law a person could be made a ward of court.

The President of the High Court makes decisions for wards.



CHAP. 22

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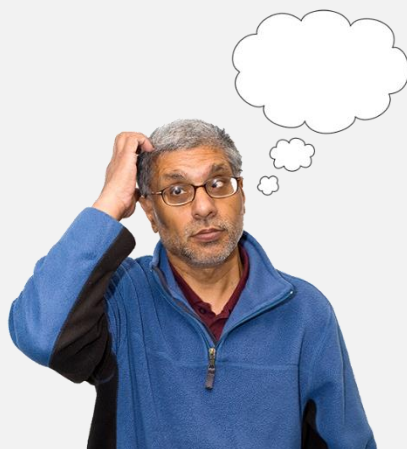
[25th May 1871.]

The new law replaces the old wards of court system for adults.

All adult wards will come out of wardship within 3 years.

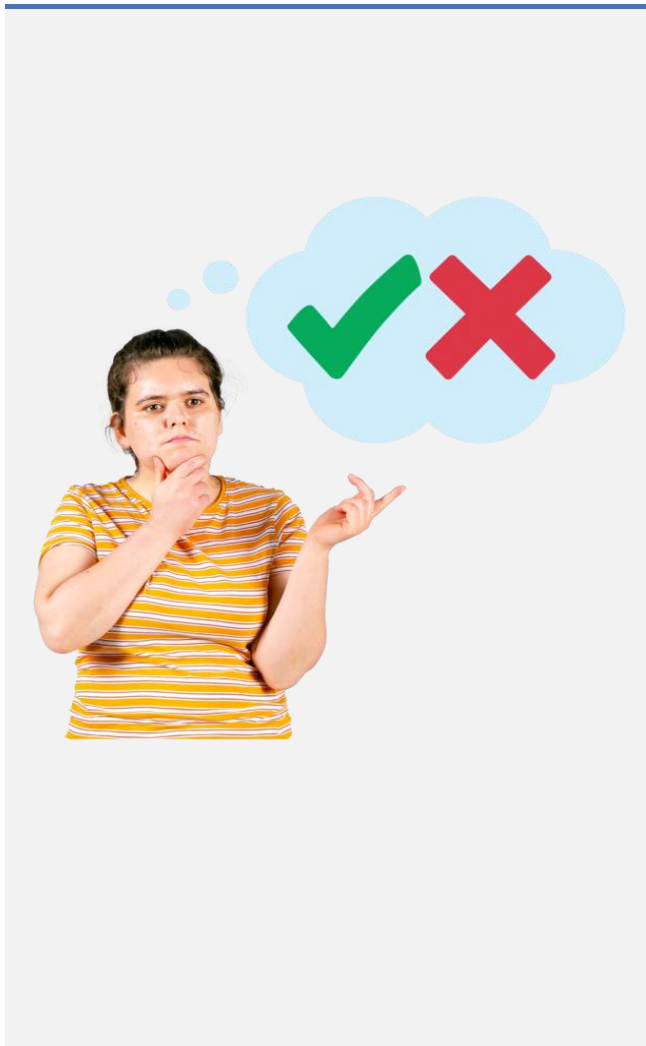
The court will decide whether they need supports under the new Act.

There will be no new adult wards of court.



Decision-Making Capacity

Decision-making capacity is about being able to decide about a particular thing at the time that you need to decide it.



Decision-making capacity is assessed in a way that is called a functional assessment.

Decision-making capacity means being able to:

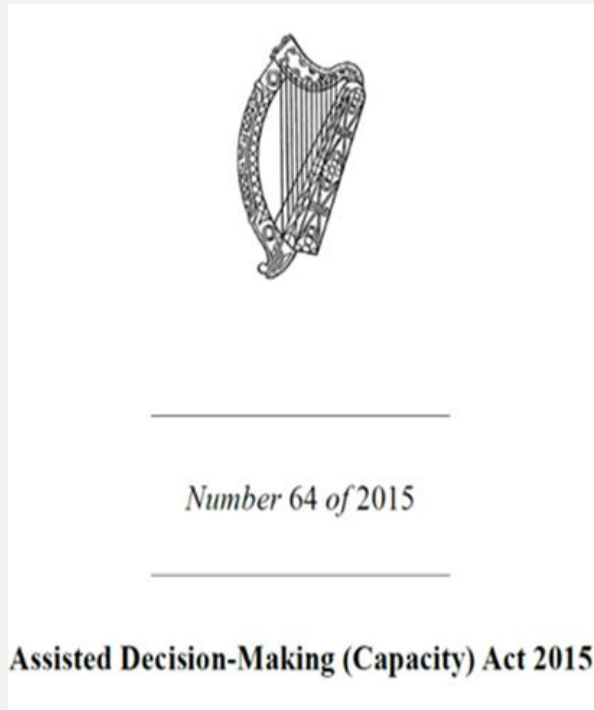
- Understand the information about that decision
- Remember the information long enough to make that decision
- Use the information to make that decision, and
- Tell others about the decision you made



Guiding Principles

What are the Guiding Principles?

These are rules provided by the Act which **decision supporters** and others must follow.



These are some of the guiding principles:

- It is **presumed** that every adult can make their own decisions
- A person must be given **all the help they need so that they can make their own decisions**
- A person's **will and preference must be respected**
- Will and preference mean **what the person would want for themselves**



- If a person wants to make a decision that seems **unwise, that does not mean they are unable to make that decision**
- We must **respect a person's right to decide what happens to them, their body, and their property**
- Act in **good faith and for the benefit of the person**

What sorts of decisions can be supported under the 2015 Act?



Property and Affairs

- **Property**, for example, if you need to buy, sell, or rent a house
- How you **spend your money** and pay your bills and taxes
- **Providing for others**
- **Applying for benefits**
- **Carrying on of business**
- **Legal matters**



Personal Welfare

- Personal Welfare, for example, **deciding where you live and who takes care of you**
- Healthcare, for example, **deciding if you should have medical or dental treatment**
- Deciding about **education or training courses**
- Planning **holidays and social activities**
- Using social services such as **attending day services**

Decisions not covered by the 2015 Act



Decisions that are not covered by the 2015 Act include decisions about:

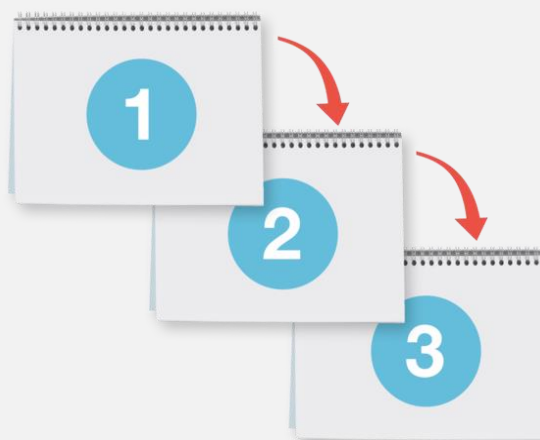
- Making a Will
- Marriage, divorce, or separation
- Adoption
- Sexual Relationships
- Being a member of a jury
- Guardianship

Decision Supporters under the Act



The Act puts in place new types of support. This does not mean that everyone will need one of these arrangements.

That will depend on each person and the decisions that they need to make.



There are 3 different types of decision supports depending on how much help a person needs to make certain decisions.

A person can also plan for a time in the future when they might not be able to make certain decisions themselves.

The DSS calls all the people who help in these different ways 'decision supporters'.

A Decision-Making Assistant is a Decision Supporter



Decision-Making Assistant

A person can choose to have a decision-making assistant to help them by getting information and explaining it to them.

The person still makes their own decisions.

A Co-Decision-Maker is a Decision Supporter



Co-Decision-Maker

If a person wants to make certain decisions jointly with another person, they can choose **someone they trust** to be their co-decision-maker.

The person and their co-decision-maker then make those decisions and sign forms together.

This is called a co-decision-making agreement.

They send this agreement to the DSS.

The DSS checks to make sure that this arrangement is working well.

A Decision-Making Representative is a Decision Supporter



Decision-Making Representative

If a person can't make decisions even with supports, then an application can be made to the court.

The court can make the decision or say who the person's decision-making representative will be.

The court must listen to who the person wants as their decision-making representative.

The court will also say the types of decisions that a decision-making representative is allowed to make.



What can a Decision-Making Representative do?

A decision-making representative can only make decisions that the court sets out in the decision-making representation order.

The decision-making representative must still talk to the person and find out what they want to do.

The DSS checks to make sure that this arrangement is working well.



The Legal Aid Board

Some people can get legal advice about the different decision support arrangements from the Legal Aid Board.

If someone makes an application to court about your decision-making capacity, you can also get help from the Legal Aid Board.

The Legal Aid Board will help people leaving wardship.

For more information please visit:

www.legalaidboard.ie

Planning Ahead

Enduring Power of Attorney



Enduring Power of Attorney

It is a good idea to plan ahead.

An adult can choose someone they trust called an attorney to make decisions for them at a future time if necessary.

These can be decisions about **their property and affairs and their personal welfare** (excluding medical treatment).

When you make an Enduring Power of Attorney under the new Act, the DSS will keep it in their records.

It will only start to work if you **become unable to make the decisions that are included in this legal document**.

The attorney will be able to make the decisions for you.

If you have already made an Enduring Power of Attorney under the Powers of Attorney Act 1996, we can investigate a complaint about your attorney.

Advance Healthcare Directive



Advance Healthcare Directive

In an advance healthcare directive, a person can write down their wishes about their future medical treatment.

The advance healthcare directive **only starts to work if the person is unable to make those decisions for themselves.**

They can choose a person to make medical treatment decisions for them in the future.



The person they choose is called their '**designated healthcare representative**'.

The designated healthcare representative will make sure that people know about the person's advance healthcare directive.

They will also make sure that the person's wishes are respected.

How will the DSS make sure that decision supporters are doing their job?



We must supervise decision supporters to make sure they are acting as they should.

Co-decision-makers, decision-making representatives and attorneys must send us reports.

We will help them if they are finding this difficult.

If they do not send in their reports, we can follow up with them.



We have help from our team of general visitors and special visitors.

We can ask them to visit the relevant person, the decision supporter, and other people to make sure that everything is being done properly.

The general visitor or special visitor will send us a report along with any documents that we may need.



If we ask a general visitor or a special visitor to visit someone, we will decide what needs to happen after we read their report.

If the decision supporter is not doing their job properly, we will sometimes ask the court to decide what to do.

The court can remove the decision supporter from their role.

DSS Register of Arrangements



We keep a register of decision support arrangements.

The register will have a list of co-decision makers, decision-making representatives, and attorneys.

Some people or organisations can look at this register if they need to and ask us for a copy of the arrangement.

We will keep a record of any person or organisation who has been allowed to look at the register or who has received a copy of an arrangement.

Complaints to the DSS



If any person is unhappy with the way a decision supporter is acting, or how a decision support arrangement has been set up, they can make a complaint to us.

We will look at the complaint to see whether it is more likely than not to be true.

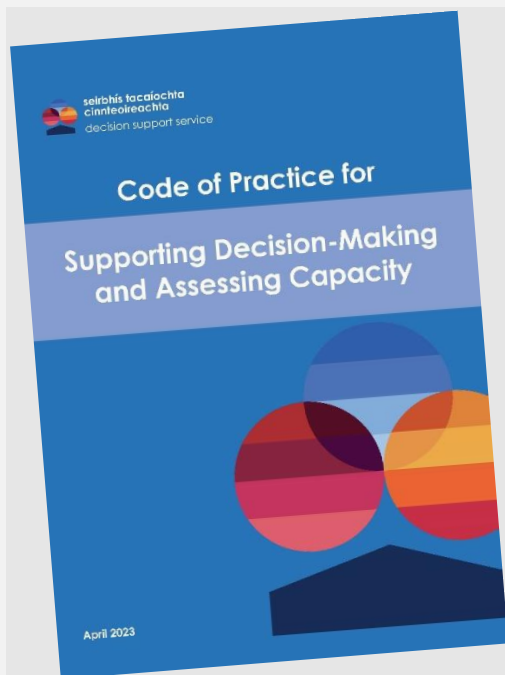
If it is true, we can ask the court to decide what to do.

In some cases, we may try talking to the people involved instead of going to court.

This is called 'Informal Resolution'.

Everyone must agree to 'Informal Resolution' before we can try it.

DSS Codes of Practice



The Codes of Practice are a set of guidelines to tell people how to use the Act. They are on our website.

There is a code for everyone about supporting people to make their own decisions and the right way to assess capacity.

There are also Codes of Practice for:

- Decision supporters
- Healthcare staff
- Lawyers
- Advocates
- Financial services

This means that these people should know how to use and follow the Act.



Our Information and Support Services Team is available to help with any questions about the service.



You can contact us by phone, email, letter or through our website. The phone number is:

01 2119750

We are happy to help with any questions or queries you may have.



The email address is:

queries@decisionsupportservice.ie

Our address is:
Decision Support Service,
Waterloo Exchange
Waterloo Road
Dublin 4
DO4 E5W7



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Our website is:

www.decisionsupportservice.ie

We wish to thank the DSS Stakeholder Forum and others who read this Easy to Read document and provided feedback.

We are very grateful.



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