



An Bille um Bás Díntiúil, 2020
Dying with Dignity Bill 2020

Mar a tionscnaíodh

As initiated



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ACTS REFERRED TO

Criminal Law (Suicide) Act 1993 (No. 11)

Health and Social Care Professionals Act 2005 (No. 27)

Medical Practitioners Act 2007 (No. 25)



AN BILLE UM BÁS DÍNITIÚIL, 2020
DYING WITH DIGNITY BILL 2020

Bill

entitled

An Act to make provision for assistance in achieving a dignified and peaceful end of life to qualifying persons and related matters. 5

Be it enacted by the Oireachtas as follows:

PART 1

PRELIMINARY AND GENERAL

Short title and commencement

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1. (1) This Act may be cited as the Dying with Dignity Act 2020.

(2) This Act shall come into operation on such day or days as the Minister may appoint by order or orders either generally or with reference to any particular purpose or provision and different days may be so appointed for different purposes or different provisions. 15

Interpretation

2. In this Act—

“assisting health care professional” means a registered medical practitioner or registered nurse who has been authorised by the attending medical practitioner to deliver any substance or substances prescribed under *section 7* of this Act; 20

“attending medical practitioner” is the registered medical practitioner from whom a qualifying person has requested assistance to end their life;

“healthcare professional” means a member of any health or social care profession whether or not the profession is a designated profession within the meaning of section 3 of the Health and Social Care Professionals Act 2005; 25

“independent medical practitioner” means a registered medical practitioner who is not a relative or partner of the attending medical practitioner, or colleague in the same practice or clinical team, and who is not the attending medical practitioner;

“Minister” means the Minister for Justice and Equality;

“qualifying person” means a person qualifying under *section 7*;

“registered medical practitioner” has the same meaning as it has in section 2 of the Medical Practitioners Act 2007;

“terminal illness” has the meaning given to it by *section 8*.

Regulations

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3. (1) The Minister may by regulations provide—

(a) for any matter referred to in this Act as prescribed, or

(b) for any matter that appears to the Minister to be necessary or expedient for bringing this Act into operation.

(2) Without prejudice to any provisions of this Act, regulations under this section may contain such incidental, supplementary and consequential provisions as appear to the Minister to be necessary or expedient for the purposes of the regulations. 10

(3) Every regulation made by the Minister under this Act shall be laid before each House of the Oireachtas as soon as may be after it is made and, if a resolution annulling the regulation is passed by either such House within the next 21 days on which that House sits after the regulation is laid before it, the regulation shall be annulled accordingly, but without prejudice to the validity of anything previously done thereunder. 15

Expenses

4. The expenses incurred by the Minister in the administration of this Act shall, to such extent as may be sanctioned by the Minister for Public Expenditure and Reform, be paid out of moneys provided by the Oireachtas. 20

Penalties

5. (1) A person guilty of an offence under *section 14* of this Act shall be liable—

(a) on summary conviction to a class A fine or to imprisonment for a term not exceeding 6 months or to both, or 25

(b) on conviction on indictment, to a fine not exceeding €32,000 or to imprisonment for a term not exceeding 2 years or to both.

(2) A person guilty of an offence under *section 10* or *11* of this Act shall be liable—

(a) on summary conviction to a class A fine or to imprisonment for a term not exceeding one year or to both, or 30

(b) on conviction on indictment, to a fine not exceeding €100,000 or to imprisonment for a term not exceeding 10 years or to both.

PART 2

ASSISTANCE IN DYING

Authorisation of assisted dying

6. (1) Subject to the provisions of this Act, it shall be lawful for a medical practitioner to provide assistance to a qualifying person to end his or her own life in accordance with *section 11* of this Act. 5
- (2) For the purposes of this Act, it shall also be lawful for an assisting healthcare professional to assist a doctor to whom *subsection (1)* applies.

Qualifying persons

7. For the purposes of this Act, a person is a qualifying person if he or she— 10
- (a) is terminally ill,
 - (b) has a clear and settled intention to end his or her own life and has made a declaration to that effect in accordance with *section 9*, and
 - (c) on the day the declaration is made—
 - (i) the individual is aged 18 or over, and 15
 - (ii) is a resident on the island of Ireland and has been for not less than one year.

Terminally ill

8. For the purposes of this Act, a person is terminally ill if that person—
- (a) has been diagnosed by a registered medical practitioner as having an incurable and progressive illness which cannot be reversed by treatment, and the person is likely to die as a result of that illness or complications relating thereto (“a terminal illness”), and 20
 - (b) treatment which only relieves the symptoms of an inevitably progressive condition temporarily is not to be regarded for the purposes of *paragraph (a)* as treatment which can reverse that condition. 25

Declaration

9. (1) For the purposes of this Act, a person has made a valid declaration to end his or her own life if—
- (a) the person has a clear and settled intention to end his or her own life,
 - (b) the person has made and signed a declaration to that effect in the presence of a witness (who must not be a beneficiary of the estate of the person making the declaration) who signed the declaration in the person’s presence, and 30
 - (c) the declaration has been countersigned in accordance with *subsection (3)* by—
 - (i) the registered medical practitioner from whom the person has requested assistance to end their life (“the attending medical practitioner”), 35

- (ii) an independent medical practitioner who is not a relative or partner of, or a colleague in the same practice or clinical team as, the attending medical practitioner, and
 - (iii) neither the attending medical practitioner nor the independent medical practitioner may be a witness for the purposes of *paragraph (a)*. 5
- (2) The attending medical practitioner (but not the independent medical practitioner) may, but need not be, the registered medical practitioner who diagnosed that person as terminally ill or who first informed the person of that diagnosis.
 - (3) Before countersigning a person's declaration under *subsection (1)*, the attending medical practitioner and the independent medical practitioner, having separately examined the person and the person's medical records and each acting independently of the other, must be satisfied that the person— 10
 - (a) is terminally ill,
 - (b) has the capacity to make the decision to end his or her own life, and
 - (c) has a clear and settled intention to end his or her own life which has been reached voluntarily, on an informed basis and without coercion or duress. 15
 - (4) In deciding whether to countersign a declaration under *subsection (3)*, the attending medical practitioner and the independent medical practitioner must be satisfied that the person making it has been fully informed of the palliative, hospice and other care which is available to that person. 20
 - (5) A declaration under this section shall be valid and take effect on the day that it is countersigned by the independent medical practitioner.
 - (6) A person who has made a declaration under this section may revoke it at any time and revocation need not be in writing.

Assessment of capacity 25

10. (1) Subject to *subsections (2) to (5)*, for the purposes of this Act, a person's capacity shall be assessed on the basis of his or her ability to understand the nature and consequences of a decision to be made by him or her in the context of the available choices at the time the decision is made.
- (2) A person lacks the capacity to make a decision if he or she is unable— 30
 - (a) to understand the information relevant to the decision,
 - (b) to retain that information,
 - (c) to use or weigh that information as part of the process of making the decision, or
 - (d) to communicate his or her decision (whether by talking, writing, using sign language, assisted technology, or any other means). 35
- (3) A person is not to be regarded as unable to understand the information relevant to a decision if he or she is able to understand an explanation of it given to him or her in a way that is appropriate to his or her circumstances (whether using simple language, visual aids or any other means).

- (4) The fact that a person is able to retain the information relevant to a decision for a short period only does not prevent him or her from being regarded as having the capacity to make the decision.
- (5) For the purposes of this section, information relevant to a decision shall be construed as including information about the reasonably foreseeable consequences of— 5
 - (a) each of the available choices at the time the decision is made, or
 - (b) failing to make the decision.

Assistance in dying

- 11. (1) An attending medical practitioner who has complied with the conditions specified in this Act may prescribe substance or substances for a qualifying person who has made a valid declaration under *section 9* to enable that person to end their own life. 10
- (2) Such assistance may be provided by the attending medical practitioner to a qualifying person in the following circumstances:
 - (a) the prescription of substance or substances which can be orally ingested by the person; 15
 - (b) in the case of a person for whom it is impossible or inappropriate to ingest orally that substance or substances, by prescribing and providing means of self-administration of that substance or substances; and
 - (c) in the case that it is not possible for the self-administer then the substance or substances may be administered; 20
 with the purpose of enabling that person to end his or her own life.
- (3) Any substance or substances prescribed under *subsection (1)* shall only be delivered to the person for whom they are prescribed—
 - (a) (i) by the attending medical practitioner, or
 - (ii) another registered medical practitioner who has been authorised to do so by the attending medical practitioner, 25
 - (b) after the attending medical practitioner has confirmed that the person has not revoked and does not wish to revoke their declaration, and
 - (c) after a period of not less than 14 days has elapsed since the day on which the person's declaration took effect. 30
- (4) If the attending medical practitioner and an independent medical practitioner agree that a person's death from terminal illness is reasonably expected to occur within one month of the day on which a declaration takes effect, the period specified in *subsection (3)(c)* is reduced to six days.
- (5) In respect of a substance or substances which has been prescribed for a person under *subsection (1)*, the attending medical practitioner may— 35
 - (a) prepare that substance or substances for self-administration by that person,
 - (b) prepare a device which will enable that person to self-administer the medicine,

- (c) assist that person to ingest or otherwise self-administer the substance or substances, and
 - (d) in the event that the qualifying person cannot self-administer the substance or substances may administer the substance or substances but the decision to self-administer or have administered the substance or substances must be taken by the person for whom the substance or substances has been prescribed. 5
- (6) The attending medical practitioner or assisting health care professional must remain with the person until the person has—
- (a) self-administered the substance or substances or have it or them administered,
 - (b) decided not to self-administer the substance or substances or have it or them administered, 10
- for the purpose of this subsection the attending doctor or healthcare professional is to be regarded as remaining with the person if the attending doctor or assisting healthcare professional is in close proximity to, but not necessarily in the same room as, the person. 15
- (7) The Minister may by regulations specify—
- (a) the substance or substances which may be prescribed under this section,
 - (b) the form and manner in which such prescriptions are to be issued, and
 - (c) the manner and conditions under which such substance or substances are to be dispensed, stored, transported, used and destroyed. 20
- (8) The attending doctor—
- (a) must only deliver any substance or substances prescribed under this section to the person for whom they have been prescribed immediately before their intended use, and
 - (b) in the event that the person decides not to self-administer or have administered the substance or substances, must immediately remove it from that person and, as soon as reasonably practicable, store it safely or return it to the source from which it was dispensed. 25

Amendment of Criminal Law (Suicide) Act 1993

12. (1) A person who provides assistance in accordance with this Act shall not be guilty of an offence. 30
- (2) Section 2 of the Criminal Law (Suicide) Act 1993 is amended by inserting the following subsection after subsection (4):
- “(5) Nothing in this section shall render unlawful the provision of assistance to a person in accordance with the *Dying with Dignity Act 2020*.”. 35

Conscientious objection

13. (1) Subject to *subsections (2) and (3)*, nothing in this Act shall be construed as obliging

any medical practitioner or assisting healthcare professional to participate in anything authorised by this Act to which he or she has a conscientious objection.

- (2) *Subsection (1)* shall not be construed to affect any duty to participate in anything authorised by this Act.
- (3) A person who has a conscientious objection referred to in *subsection (1)* shall make such arrangements for the transfer of care of the qualifying person concerned as may be necessary to enable the qualifying person to avail of assistance in ending his or her life in accordance with this Act. 5

Obligation to keep and provide records

- 14. (1) Where assistance is carried out pursuant to *section 11*, the attending medical practitioner shall keep a record in the prescribed form and manner of the carrying out of the procedure. 10
- (2) Not later than 28 days after the assistance in accordance with this Act has been provided, the attending medical practitioner shall forward, or cause to be forwarded, a copy of that record, or such part of that record as may be prescribed, to the Review Committee in such manner as may be prescribed. 15
- (3) Not later than seven days after the medical procedure has been carried out, the attending medical practitioner:
 - (a) shall make a declaration in the prescribed form and manner confirming that the procedure has been carried out in accordance with this Act; and 20
 - (b) shall forward, or cause to be forwarded, copies of the declaration to the Registrar of Births, Marriages and Deaths and to the Review Committee.
- (4) It shall be an offence for a medical practitioner not to comply with the provisions of this section.

Establishment of Assisted Dying Act Review Committee 25

- 15. (1) The Minister shall, by order, appoint a day to be the establishment day for the purposes of this Act.
- (2) On the establishment day there shall stand established a body to be known as the Assisted Dying Act Review Committee.

An Bille um Bás Dínitiúil, 2020

BILLE

(mar a tionscnaíodh)

dá ngairtear

Acht do dhéanamh socrú maidir le cúnamh do dhaoine cáilitheacha chun deireadh saoil dínitiúil suaimhneach a bhaint amach agus i dtaobh nithe gaolmhara.

*Na Teachtaí Gino Ó Cionaoith, Micheál de Barra,
Risteard Buíd Bairéid, Pól Ó Murchu agus Bríd Nic
Gabhann a thug isteach,*

15 Meán Fómhair, 2020

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*Introduced by Deputies Gino Kenny, Mick Barry,
Richard Boyd Barrett, Paul Murphy and Bríd Smith,*

15th September, 2020

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FOILSEACHÁIN RIALTAIS,
52 FAICHE STIABHNA, BAILE ÁTHA CLIATH 2.
(Tel: 01 - 6476834 nó 1890 213434; Fax: 01 - 6476843)
nó trí aon díoltóir leabhar.

DUBLIN
PUBLISHED BY THE STATIONERY OFFICE
To be purchased from
GOVERNMENT PUBLICATIONS,
52 ST. STEPHEN'S GREEN, DUBLIN 2.
(Tel: 01 - 6476834 or 1890 213434; Fax: 01 - 6476843)
or through any bookseller.

€2.54

ISBN 978-1-4468-6758-7



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