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**An Bille Meabhair-Shláinte (Leasú), 2017**  
**Mental Health (Amendment) Bill 2017**

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*Mar a ritheadh ag Dáil Éireann*

*As passed by Dáil Éireann*

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**AN BILLE MEABHAIR-SHLÁINTE (LEASÚ), 2017**  
**MENTAL HEALTH (AMENDMENT) BILL 2017**

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*Mar a ritheadh ag Dáil Éireann*  
*As passed by Dáil Éireann*

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ACTS REFERRED TO

Assisted Decision-Making (Capacity) Act 2015 (No. 64)

Mental Health Act 2001 (No. 25)



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**AN BILLE MEABHAIR-SHLÁINTE (LEASÚ), 2017  
MENTAL HEALTH (AMENDMENT) BILL 2017**

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# Bill

*entitled*

An Act to amend and extend the Mental Health Act 2001; to incorporate certain provisions of the Assisted Decision-Making (Capacity) Act 2015 relating to treatment of patients under the Mental Health Act 2001; to improve the provision of mental health services; to promote the rights of persons subject to the Mental Health Act 2001; and to provide for related matters. 5

**Be it enacted by the Oireachtas as follows:** 10

## **Interpretation**

1. In this Act unless the context otherwise requires—

“Act of 2015” means the Assisted Decision-Making (Capacity) Act 2015;

“Principal Act” means the Mental Health Act 2001.

## **Amendment of section 2 of Principal Act** 15

2. Section 2 of the Principal Act is amended in subsection (1) by substituting the following definition for the definition of “voluntary patient”:

“ ‘voluntary patient’ means a person admitted to an approved centre who has capacity as defined under section 3 of the Act of 2015 and who has given consent to that admission.”. 20

## **Amendment of section 4 of Principal Act**

3. The Principal Act shall be amended by substituting the following section for section 4:

“4. (1) In making a decision under this Act concerning the care or treatment of a person (including a decision to make an admission order in relation to a person), the principles set out in subsections (2) to (6) shall apply. 25

(2) In making such a decision the principal considerations shall be the need to afford the person the highest attainable standard of mental health consistent with least restrictive care, autonomy, privacy, bodily integrity, dignity, equality and non-discrimination and with due respect for the person’s own understanding of his or her mental health. 30

- (3) It shall be presumed that a person has capacity in respect of the matter concerned unless the contrary is shown in accordance with the provisions of this Act.
- (4) A person shall not be considered as unable to make a decision in respect of the matter concerned unless all practicable steps have been taken, without success, to help him or her to do so. 5
- (5) A person shall not be considered as unable to make a decision in respect of the matter concerned merely by reason of making, having made, or being likely to make, an unwise decision.
- (6) Section 4 shall not apply to a person who at the time of the decision is a child.”. 10

**Amendment of section 25 of Principal Act**

4. Section 25 of the Principal Act is amended by inserting the following subsections after subsection (1):

- “(1A) In making a decision under this Act concerning the care or treatment of a child (including a decision to make an admission and detention order in relation to a child pursuant to subsection (6) below), the best interests of the child shall be the principal consideration. 15
- (1B) In making a decision under this Act concerning the care or treatment of a child (including a decision to make an admission and detention order in relation to a child pursuant to subsection (6) below), due regards shall be given to the right of the child to dignity, bodily integrity, privacy, autonomy and the right of the child to be heard having regard to his or her age and maturity as far as practicable including within the examination carried out by the consultant psychiatrist as set out in subsection (2) below and in respect of a decision to make an admission and detention order in relation to a child pursuant to subsection (6) below).” 20 25

**Amendment of section 56 of Principal Act**

5. Section 56 of the Principal Act is amended by substituting the following for subsection (1): 30

- “(1) In this Part ‘consent’, in relation to a voluntary or involuntary patient, means consent obtained freely without threats or inducements, where—
- (a) the consultant psychiatrist responsible for the care and treatment of the patient is satisfied that the patient has capacity within the meaning of section 3 of the Act of 2015, and 35
- (b) the consultant psychiatrist has given the voluntary or involuntary patient adequate information, in a form and language that the patient can understand, on the nature, purpose and likely effects of the proposed treatment.”. 40

**Amendment of section 57 of Principal Act**

6. Section 57 of the Principal Act is amended by substituting the following for subsection (1):

“(1) The consent of a voluntary patient shall be required for treatment.

(2) The consent of an involuntary patient shall be required for treatment 5  
except where, in the opinion of the consultant psychiatrist responsible  
for the care and treatment of the patient, the treatment is necessary as a  
last resort to safeguard the life of the patient, to restore his or her  
health, to alleviate his or her condition, or to relieve his or her  
suffering, and by reason of his or her mental disorder the patient 10  
concerned is incapable of giving such consent.”.

**Short title, commencement and collective citation**

7. (1) This Act may be cited as the Mental Health (Amendment) Act 2017.

(2) The Mental Health Act 2001 and this Act may be cited together as the Mental Health 15  
Acts 2001 and 2017 and shall be construed together as one.

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

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# BILLE

*(mar a ritheadh ag Dáil Éireann)*

*dá ngairtear*

Acht do leasú agus do leathnú an Achta Meabhair-Shláinte, 2001; do chorprú forálacha áirithe den Acht um Chinnteoireacht Chuidithe (Cumas), 2015 a bhaineann le cóireáil a chur ar othair faoin Acht Meabhair-Shláinte, 2001; d'fheabhsú soláthar seirbhísí meabhairshláinte; do dhéanamh cearta daoine atá faoi réir an Achta Meabhair-Shláinte, 2001 a chur chun cinn; agus do dhéanamh socrú i dtaobh nithe gaolmhara.

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*Ritheadh ag Dáil Éireann,*

*14 Iúil, 2017*

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# BILL

*(as passed by Dáil Éireann)*

*entitled*

An Act to amend and extend the Mental Health Act 2001; to incorporate certain provisions of the Assisted Decision-making (Capacity) Act 2015 relating to treatment of patients under the Mental Health Act 2001; to improve the provision of mental health services; to promote the rights of persons subject to the Mental Health Act 2001; and to provide for related matters.

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*Passed by Dáil Éireann,*

*14th July, 2017*

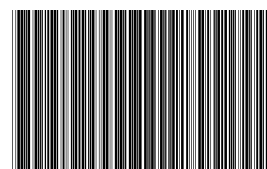
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