



An Bille um Aosaigh a Chosaint, 2017
Adult Safeguarding Bill 2017

Mar a tionscnaíodh

As initiated



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MANDATED PERSONS

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ACTS REFERRED TO

Assisted Decision Making (Capacity) Act 2015 (No. 64)
Bankers' Books Evidence Act, 1879
Criminal Justice (Community Service) Act 1983 (No. 23)
Criminal Justice (Theft and Fraud Offences) Act 2001 (No. 50)
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Dentists Act 1985 (No. 9)
Health Act 2007 (No. 23)
Health and Social Care Professionals Act 2005 (No. 27)
Medical Practitioners Act 2007 (No. 25)
Nurses and Midwives Act 2011 (No. 41)
Petty Sessions (Ireland) Act 1851
Postal and Telecommunications Services Act 1983 (No. 24)
Punishment of Incest Act 1908



AN BILLE UM AOSAIGH A CHOSAINT, 2017
ADULT SAFEGUARDING BILL 2017

Bill

entitled

An Act for the purposes of making further and better provision for the care and protection of adults who are at risk, to establish the National Adult Safeguarding Authority, to require certain persons to make reports to the National Adult Safeguarding Authority in respect of adults at risk of abuse or harm in certain circumstances and to provide for related matters. 5

Be it enacted by the Oireachtas as follows: 10

PART 1

PRELIMINARY AND GENERAL

Short title and commencement

1. (1) This Act may be cited as the Adult Safeguarding Act 2017.
- (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 provisions. 15

Definitions

2. In this Act—
 - “Act of 2015” means the Assisted Decision-Making (Capacity) Act 2015; 20
 - “An Post” means the company referred to in section 10(1)(a) of the Postal and Telecommunications Services Act 1983;
 - “abuse” means act, failure to act or neglect, which results in a breach of a person’s constitutional or legal rights, physical and mental health, dignity or general wellbeing, and may include ill-treatment, intimidation, humiliation, overmedication, withholding necessary medication, censoring communications, invasion or denial of privacy, or denial of access to visitors; 25
 - “authorised person” has the meaning assigned to it by *section 13*;
 - “the Authority” means the National Safeguarding Authority established by *Part 2*;

“adult at risk” has the meaning assigned to it in <i>section 6</i> ;	
“Executive” means the Health Service Executive;	
“financial abuse” means, in relation to an adult at risk, an offence against the adult at risk specified in <i>paragraph 9</i> of <i>Schedule 2</i> , or exploitation or undue pressure in connection with wills, property, inheritance and other financial transactions;	5
“harm” means, in relation to an adult at risk—	
(a) assault, ill-treatment or neglect of the adult at risk in a manner that seriously affects or is likely to seriously affect the adult at risk’s health or welfare,	
(b) sexual abuse of the adult at risk,	
(c) financial abuse of the adult at risk,	10
whether caused by a single act, omission or circumstance or a series or combination of acts, omissions or circumstances, or otherwise;	
“Health and Information Quality Authority” means the Health and Information Quality Authority established by the Health Act 2007;	
“ill-treatment” means, in relation to an adult at risk, to cruelly treat the adult at risk, or to cause or procure or allow the adult at risk to be cruelly treated;	15
“mandated person” means a person who is a person specified in <i>Schedule 1</i> ;	
“Minister” means the Minister for Health;	
“National Adult Safeguarding Authority” means the Authority established by <i>Part 2</i> ;	
“neglect” means to deprive an adult of adequate food, warmth, clothing, hygiene, supervision, safety or medical care;	20
“prescribed” means prescribed by regulations made by the Minister under <i>section 3</i> ;	
“service provider”, save where the context otherwise provides, means a provider of a service to an adult at risk by a body established by or under enactment, including the Executive, or by a person under or pursuant to a licence, certificate, designation or other like instrument;	25
“sexual abuse” means, in relation to an adult at risk, an offence against the adult at risk specified in <i>paragraph 1</i> to <i>8</i> inclusive of <i>Schedule 2</i> ;	
“welfare” includes, in relation to an adult at risk, the moral, intellectual, physical, emotional and social welfare of the adult.	30

Regulations

3. (1) The Minister may by regulations provide for any matter referred to in this Act as prescribed or to be prescribed.
- (2) Regulations under this Act may contain such incidental, supplementary and consequential provisions as appear to the Minister to be necessary or expedient for the purposes of the regulations. 35
- (3) Every regulation 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 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.

Service of notices

4. (1) A notice that is required to be served on a person under this Act shall be addressed to the person by name and may be so served in one of the following ways: 5
- (a) by delivering it to the person;
 - (b) by leaving it at the address at which the person ordinarily resides or, in a case in which an address for service has been furnished, at that address;
 - (c) by sending it by post in a pre-paid registered letter to the address at which the person ordinarily resides or, in a case in which an address for service has been furnished, to that address. 10
- (2) For the purposes of this section, a company within the meaning of the Companies Acts shall be deemed to be ordinarily resident at its registered office, and every other body corporate and every unincorporated body of persons, shall be deemed to be ordinarily resident at its principal office or place of business. 15

Guidelines

5. (1) The Authority may issue guidelines for the purpose of providing practical guidance to persons in respect of the protection and welfare of adults at risk.
- (2) The Minister shall publish guidelines issued under *subsection (1)* in such manner (including on the internet) as he or she considers appropriate. 20
- (3) Any guidelines that have been issued by the Minister before the commencement of this subsection for the purpose of providing practical guidance in respect of the protection and welfare of adults at risk, and that are in force immediately before that commencement, shall, on such commencement, be deemed to be guidelines issued under *subsection (1)*. 25

Adult at risk

6. In this Act, an adult at risk means a person, who has attained the age of 18 years who is unable to take care of himself or herself, or is unable to protect him or herself from abuse or harm. 30

PART 2

NATIONAL ADULT SAFEGUARDING AUTHORITY

Establishment of National Adult Safeguarding Authority

7. (1) There is hereby established a body to be known as the National Adult Safeguarding Authority to perform the functions assigned to it by this Act. 35

- (2) The Authority is a body corporate with perpetual succession.
- (3) The Authority may sue and be sued in its corporate name and, with the consent of the Minister and the Minister for Finance, may acquire, hold and dispose of land or an interest in land and any other property.
- (4) The Authority shall provide itself with a seal as soon as may be after the Authority's establishment. 5
- (5) The seal of the Authority shall be authenticated by the signature of—
 - (a) the chairperson of the Authority or of another member of the Board of the Authority authorised by it to act in that behalf, and
 - (b) by the signature of the chief executive officer or of another member of staff of the Authority as may be designated by the chief executive officer. 10
- (6) Judicial notice shall be taken of the seal of the Authority, and any document purporting to be an instrument made by the Authority and to be sealed with the seal of the Authority shall, unless the contrary is shown, be received in evidence and be deemed to be that instrument without further proof. 15

Object of the Authority

- 8. The objects of the Authority are, to promote the safeguarding of adults at risk, and to reduce the abuse and harm of adults at risk.

Functions of Authority

- 9. (1) The functions of the Authority are as follows: 20
 - (a) subject to this Act, and to the extent practicable, to further the Authority's objects;
 - (b) to promote standards in the safety and quality of services provided to adults at risk;
 - (c) to undertake investigations in accordance with *section 10*; 25
 - (d) to promote education, training and public awareness of this Act and matters concerning adults at risk;
 - (e) to provide information to adults at risk in respect abuse and harm that he or she may be suffering;
 - (f) to supervise compliance with the duties imposed by or under this Act; 30
 - (g) to provide information and guidance to service providers, organisations and bodies in the State in relation to their interaction with adults at risk including the carrying out of risk assessments and safety statements;
 - (h) to identify and make recommendations for change of practices of service providers in respect of adults at risk; 35
 - (i) to establish a website on the internet or provide, or arrange for the provision of, other electronic means by which to disseminate information to members of the public relevant to adult at risk which will, in the opinion of the Authority, assist

members of the public to understand the operation of this Act and matters concerning adults at risk;	
(j) to provide advice and make recommendations to the Minister, service providers and mandated persons about adults at risk and the operation of this Act;	
(k) to receive reports from mandated persons under <i>Part 3</i> ;	5
(l) to establish a helpline by which to receive information from any person, including adults at risk, concerning the abuse or harm of adults at risk.	
(2) In carrying out its functions the Authority shall have regard to—	
(a) the policies and objectives of the Government or any Minister of the Government in so far as they may affect or relate to the functions of the Authority,	10
(b) the need to co-operate with and co-ordinate its activities with public authorities, including the Executive and the Health and Information Quality Authority, the performance of whose functions may affect or relate to the functions of the Authority,	
(c) in so far as is reasonably practicable, research, statistics and other information in relation to the health and personal social services provided to adults at risk.	15
(3) The Authority has all the powers as are necessary or expedient for the performance by it of its functions.	
(4) The Authority shall be independent in the exercise of its functions and powers.	
Investigations by Authority	20
10. (1) The Authority may undertake an investigation if the Authority believes on reasonable grounds that there is a risk of abuse or harm of an adult at risk.	
(2) A person who has information that an adult may be subject to abuse or harm may report that information to the Authority.	
(3) The Authority shall not be compelled to disclose the identity of a person who makes a report under <i>subsection (2)</i> .	25
(4) A person who makes a report under <i>subsection (2)</i> shall be immune from suit unless the report is made maliciously and the person making the report knows that the information is false.	
(5) The Minister may, if he or she believes on reasonable grounds that there is a risk of the kind mentioned in <i>subsection (1)</i> , require the Authority to undertake an investigation in accordance with this section.	30
Determining if the adult needs support and assistance	
11. (1) The Authority shall form an opinion as to—	
(i) whether the adult at risk has suffered abuse or harm, or is at risk of suffering abuse or harm, and	35
(ii) if an adult needs support and assistance	

as soon as reasonably practicable.

- (2) Save for in exceptional circumstances, if the adult confirms to the Authority that he or she does not wish any support or assistance to be made available to him or her arising out of an investigation of abuse, the Authority, shall take no further action and shall advise the Director of the Decision Support Service if the adult is a relevant person for the purposes of the Assisted Decision-Making (Capacity) Act 2015. 5
- (3) Subject to *subsection (2)*, if the Authority determines that the adult needs support and assistance, the Authority may do one or more of the following:
 - (a) direct the Executive or local authority to make available health or social care, legal, accommodation or other services including emergency supports; 10
 - (b) assist the adult in obtaining those services;
 - (c) inform the Director of Decision Support Service if the adult is a relevant person for the purposes of the Act of 2015;
 - (d) appoint an independent advocate;
 - (e) take any other action or step which in the opinion of the Authority is appropriate, including referring the matter to the Health Information and Quality Authority. 15
- (4) Notwithstanding *subsection (2)*, if the Authority receives information of an offence having been committed, the Authority shall refer the matter to An Garda Síochána.

Provision of Independent Advocate

12. (1) This section applies in respect of an adult at risk who is the subject of an investigation under *section 10*. 20
- (2) Subject to *subsection (4)* the Authority may, if the condition in *subsection (3)* is met, arrange for a person who is independent (an “independent advocate”) to be available to represent and support the individual.
- (3) The condition is that the Authority considers that, were an independent advocate not to be available, the individual would experience substantial difficulty in doing one or more of the following: 25
 - (a) understanding relevant information;
 - (b) retaining that information;
 - (c) using or weighing that information as part of the process of being involved; 30
 - (d) communicating the individual’s views, wishes or feelings (whether by talking, using sign language or any other means).
- (4) The duty under *subsection (2)* does not apply if the Authority is satisfied that there is a person—
 - (a) who would be an appropriate person to represent and support the individual for the purpose of facilitating the individual’s involvement, 35
 - (b) who is not engaged in providing care or treatment for the individual in a professional capacity or for remuneration, and

- (c) who is not a decision-making assistant, co-decision-maker, decision-making representative, attorney or designated healthcare representative within the meaning of the Act of 2015 as appointed.
- (5) For the purposes of *subsection (4)*, a person is not to be regarded as an appropriate person unless: 5
 - (a) where the individual has capacity or is competent to consent to being represented and supported by that person, the individual does so consent, or
 - (b) where the individual lacks capacity or is not competent so to consent, the Authority is satisfied that being represented and supported by that person would ensure that the individuals will and preference are represented. 10
- (6) This section does not restrict the application of the provisions of the Act of 2015.
- (7) An independent advocate may be selected from a panel established under section 101 of the Act of 2015.

Appointment by the Authority of authorised persons

- 13. (1) The Authority shall appoint, with the approval of the Minister given with the consent of the Minister for Finance, one or more persons with appropriate qualifications and experience for the purposes of— 15
 - (a) monitoring compliance with the obligations or requirement under this Act,
 - (b) investigations referred to in *section 10* undertaken by the Authority,
 - (c) receiving reports from mandated persons under *Part 3*, 20

and a person so appointed shall be known as an authorised person.
- (2) At the request of an authorised person, the Authority may appoint such other number of persons that the Authority may determine, to assist that authorised person in the performance of the authorised person’s functions and the persons appointed shall be authorised persons for the purposes of *subsection (1)*. 25
- (3) An authorised person shall be paid the remuneration and allowances for expenses that the Authority may determine with the approval of the Minister given with the consent of the Minister for Finance.
- (4) Each authorised person shall be given a certificate of his or her appointment and, when exercising any power conferred on the Authority, shall produce, on request by any person affected, the certificate or a copy of the certificate, together with a form of personal identification. 30

Right of entry and inspection by authorised person

- 14. (1) If an authorised person considers it necessary or expedient for carrying out his or her function, the authorised person may enter and inspect at any time any premises that is not a dwelling within the meaning of *section 15*. 35
- (2) An authorised person, in respect of premises referred to in *subsection (1)*, may—
 - (a) inspect, take copies of or extracts from and remove from the premises any

- documents or records (including personal records) relating to the discharge of its functions by a service provider,
- (b) inspect any other item and remove it from the premises, if an authorised person considers it necessary or expedient for the purposes of carrying out his or her function, 5
- (c) interview in private any person—
- (i) working at the premises concerned, or
- (ii) who at any time was or is in receipt of a service at the premises and who consents to be interviewed, or
- (iii) make any other examination into the state and management of the premises or the standard of any services provided at the premises. 10
- (3) At any time, an authorised person, in respect of premises referred to in *subsection (1)*, may require any person who—
- (a) is in charge of the premises or of services provided at the premises, or
- (b) possesses or is in charge of any records held at the premises or in respect of any services provided at the premises, even if the records are held elsewhere, 15
- (i) to furnish the authorised person with the information the authorised person reasonably requires for the purposes of carrying out if his or her function,
- (ii) to make available to the authorised person any document or record in the power or control of the person described in *paragraph (a) or (b)* of this subsection that, in the opinion of the authorised person, is relevant to the carrying out his or her function. 20
- (4) If a person is required under this section to produce a document or record and that document or record is kept by means of a computer, the authorised person, for premises referred to in *subsection (1)*, may require the person who is required to produce that document or record to produce it in a form which is legible and can be taken away. 25
- (5) If an authorised person, in respect of premises referred to in *subsection (1)*, considers an explanation necessary and expedient for the purposes of carrying out his or her function the authorised person may require a person who is in charge of the premises or possesses or is in charge of any relevant documents or records to provide an explanation of any— 30
- (i) document or record inspected, copied or provided in accordance with this section,
- (ii) other information provided in the course of the investigation, or 35
- (iii) other matters which are the subject of the functions being exercised by the authorised person under this section.

Requirement for occupier’s consent or District Court warrant to enter dwelling

15. (1) In this section “dwelling” includes any part of a premises occupied as a private residence. 40

- (2) Notwithstanding *section 14*, an authorised person, in the performance of functions under that section, may not enter a dwelling other than—
- (a) with the consent of the occupier, or
 - (b) in accordance with a warrant from the District Court issued under *section 16* authorising the entry.

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Warrant

16. (1) Where—

- (a) in relation to any premises referred to in *section 14(1)*, an authorised person is prevented or has reasonable cause to believe there is a likelihood that he or she will be prevented from entering the premises, or
 - (b) the premises constitutes a dwelling,
- an application may be made to the District Court for a warrant under *subsection (2)* authorising the entry.

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- (2) If a judge of the District Court is satisfied on the sworn information of an authorised person that there are reasonable grounds for believing—

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- (a) that an adult is at risk of abuse or harm, or has suffered abuse or harm, or an obligation or requirement under this Act has been breached, and
- (b) that there are any records or that there is anything being used at the premises referred to in *section 14(1)* or *(2)*, which—
 - (i) the authorised person considers it necessary to inspect for the purposes of carrying out his or her function,
 - or
 - (ii) that there is, or such an inspection is likely to disclose, evidence of a contravention of this Act,

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the judge may issue a warrant permitting the authorised person, accompanied by other persons with appropriate qualifications, or by members of An Garda Síochána as may be necessary, at any time or times, within one month after the date of issue of the warrant, on production of the warrant if requested, to enter the premises, if need be by reasonable force, and to perform the functions conferred by or under *section 14*.

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Authorised person may be accompanied by Garda

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17. If an authorised person—

- (a) has reasonable cause to expect any serious obstruction in the performance of functions under this Act, and
- (b) is in possession of a warrant under *section 16(2)*,

the authorised person when performing those functions may be accompanied by a member of An Garda Síochána.

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Prohibition against certain conduct in relation to inspections

18. A person shall not—

(a) refuse to allow a person who is conducting an investigation under *section 10*—

(i) to enter any premises other than a dwelling in accordance with that section or in accordance with a warrant issued by the District Court, or 5

(ii) to enter any dwelling in accordance with that section under and in accordance with a warrant issued by the District Court,

or

(b) obstruct or impede an authorised person conducting an inspection under *section 14* in the exercise of functions under that section, or 10

(c) give to an authorised person conducting such investigation or inspection information that the person giving the information knows, or should reasonably know, to be false or misleading.

Expenses

19. The expenses incurred by the Authority in the administration of this Act shall, to such extent as may be sanctioned by the Minister for Finance, be paid out of moneys provided by the Oireachtas. 15

Annual report

20. (1) Not later than 30 April in each year, the Authority shall prepare and adopt an annual report in relation to the performance of the Authority's functions during the immediately preceding calendar year. 20

(2) An annual report shall include—

(a) a statement of the activities undertaken by the Authority,

(b) other particulars that the Authority considers appropriate or as the Minister may specify, including but not limited to financial statements. 25

(3) As soon as may be but in any event not later than 21 days after adopting the annual report, the Authority shall submit a copy of the annual report to the Minister.

(4) The Minister shall ensure that copies of the annual report are laid before each House of the Oireachtas within 21 days after the Minister receives the report.

(5) The Authority shall ensure that the annual report is published on the internet and in accordance with any other arrangements that the Minister may specify, as soon as practicable after copies of the report are laid before the Houses of the Oireachtas. 30

PART 3

REPORTING

Mandated persons

21. (1) Subject to *subsections (3), (4), (5), (6) and (7)*, where a mandated person knows, believes or has reasonable grounds to suspect, on the basis of information that he or she has received, acquired or becomes aware of in the course of his or her employment or profession as such a mandated person, that an adult at risk—
- (a) has suffered abuse or harm,
 - (b) is suffering abuse or harm,
 - (c) is at risk of suffering abuse or harm,
- he or she shall, as soon as practicable, report that knowledge, belief or suspicion, as the case may be, to the Authority. 10
- (2) Where an adult at risk believes that he or she—
- (a) has suffered abuse or harm,
 - (b) is suffering abuse or harm,
 - (c) is at risk of suffering abuse or harm,
- and discloses that belief to a mandated person in the course of the mandated person's employment or profession as such a person, the mandated person shall, subject to *subsections (5), (6) and (7)*, as soon as practicable, report that disclosure to the Authority. 15 20
- (3) A mandated person shall not be required to make a report to the Authority under *subsection (1)* where the sole basis for the mandated person's knowledge, belief or suspicion is as a result of information he or she has acquired, received or become aware of—
- (a) from— 25
 - (i) another mandated person, or
 - (ii) a person, other than a mandated person, who has reported jointly with a mandated person pursuant to *subsection (6)*,
- that a report has been made to the Authority in respect of the adult at risk concerned by that other person, 30
- (b) pursuant to his or her role, as a member of staff of the Authority, in carrying out an assessment as to whether an adult at risk who is the subject of a report or any other adult at risk has been, is being or is at risk of being harmed, or
 - (c) pursuant to his or her role in assisting the Authority with an assessment as to whether an adult at risk who is the subject of a report or any other adult at risk has been, is being or is at risk of being harmed. 35
- (4) *Subsections (1) and (2)* apply only to information that a mandated person acquires, receives or becomes aware of after the commencement of this section irrespective of

whether the harm concerned occurred before or after that commencement.

- (5) Subject to *subsection (6)*, a report under *subsection (1)* or *(2)* shall be made by the completion of such form as shall be specified for that purpose by the Authority (in this Act referred to as a “mandated report form”) and may be made by the mandated person— 5
- (a) himself or herself, or
 - (b) jointly with one or more than one other person, irrespective of whether or not the other person is a mandated person.
- (6) Where a mandated person acting in the course of his or her employment or profession knows, believes or has reasonable grounds to suspect that an adult at risk may be at risk of immediate harm and should be removed to a place of safety, he or she may make a report to the Authority under *subsection (1)* or *(2)* other than by means of a mandated report form. 10
- (7) Where a mandated person makes a report under *subsection (6)*, he or she shall in addition, complete a mandated report form as soon as may be but in any event not later than 3 days after the making of the first-mentioned report. 15
- (8) Any of the following matters may be prescribed:
- (a) the procedures that are to apply to a mandated person making a report under this section;
 - (b) the making of a report by a mandated person jointly with one or more than one other person under this section. 20
- (9) The Authority shall make a mandated report form available in such form and manner (including on the internet) as the Authority considers appropriate.
- (10) The obligations imposed on a mandated person under this section are in addition to, and not in substitution for, any other obligation that the person has to disclose information to the Authority (whether or not in his or her capacity as a mandated person), but, subject to *subsection (8)*, this section shall not require the mandated person to disclose that information to the Authority more than once. 25
- (11) Nothing in this section shall operate to affect any other obligation that a person has to disclose information to a member of An Garda Síochána under the Criminal Justice (Withholding of Information on Offences against Children and Vulnerable Persons) Act 2012 or to any other person by or under any other enactment or rule of law. 30

Authorised persons

22. (1) The chief executive officer of the Authority shall authorise in writing such member or members of staff of the Authority under *section 13* as he or she considers appropriate for the purposes of receiving reports under *section 21*. 35
- (2) Where an authorised person receives a report under *section 21*, he or she shall forward, or cause to be forwarded, an acknowledgement in writing stating the date of receipt of the report to the mandated person or persons who made the report.

The Authority may request mandated persons to assist with assessments

23. (1) Where the Authority receives a report from a mandated person or persons under *section 21*, the Authority may, for the purposes of assessing whether an adult at risk who is the subject of that report or any other adult at risk—
- (a) has been harmed, 5
 - (b) is being harmed, or
 - (c) is at risk of being harmed,
- take such steps as it considers requisite and such steps may include a request to any mandated person whom it reasonably believes may be in a position to assist the Authority for those purposes, to give to the Authority such information and assistance as it may reasonably require and is, in the opinion of the Authority, necessary and proportionate in all of the circumstances of the case. 10
- (2) Where the Authority makes a request of a mandated person under *subsection (1)*, the mandated person shall, as soon as practicable, comply with the request.
- (3) If a mandated person furnishes any information (including a report), document or thing to the Authority pursuant to a request made under *subsection (1)*, the furnishing of that information, document or thing shall not give rise to any civil liability in contract, tort or otherwise and nor shall the information, document or thing be admissible as evidence against that person in any civil or criminal proceedings. 15
- (4) The Authority may share information concerning an adult at risk who is the subject of a report under *section 21* with a mandated person who is assisting the Authority with the assessment concerned, however, the sharing of such information shall be limited to such information as is, in the opinion of the Authority, necessary and proportionate in all the circumstances of the case. 20
- (5) Subject to the provisions of this Act, the procedures for carrying out an assessment arising from a report under *section 21* shall be such as the Authority considers appropriate in all the circumstances of the case. 25
- (6) For the purposes of performing its functions under this Part, the Authority shall have the same powers as it has under any enactment in respect of adults at risk who are not receiving adequate care and protection. 30
- (7) The powers conferred on the Authority by this Part in respect of reports under *section 21* are without prejudice to the powers conferred on it under any other enactment in respect of reports received by it, otherwise than under *section 21*, concerning an adult at risk who is not receiving adequate care and protection.
- (8) In this section “assistance”, includes, in relation to a request under *subsection (1)*— 35
- (a) the provision of verbal or written information or reports,
 - (b) attendance at any meeting arranged by the Authority in connection with its assessment under *subsection (1)*, and
 - (c) the production to the Authority of any document or thing.

Information obtained by the Authority or other persons pursuant to Act

24. (1) Subject to the provisions of this Act, information shared by the Authority with another person (in this subsection referred to as a “relevant person”) in the course of carrying out an assessment arising from a report under *section 21* shall not be disclosed to a third party by the relevant person, save in accordance with law or under and in accordance with an authorisation under *subsection (2)*. 5
- (2) The Authority may authorise in writing the disclosure of information referred to in *subsection (1)* subject to such conditions (if any) as the Authority considers appropriate and specifies in the authorisation.
- (3) A person who fails to comply with *subsection (1)* shall be guilty of an offence and shall be liable on summary conviction to a class A fine or imprisonment for a term not exceeding 6 months or both. 10
- (4) Where an offence under this section is committed by a body corporate and it is proved that the offence was committed with the consent or connivance, or was attributable to any wilful neglect, of a person who was a director, manager, secretary or other officer of the body corporate, or a person purporting to act in that capacity, that person, as well as the body corporate, shall be guilty of an offence and may be proceeded against and punished as if he or she were guilty of the first-mentioned offence. 15
- (5) Where the affairs of a body corporate are managed by its members, *subsection (4)* applies in relation to the acts and defaults of a member in connection with his or her functions of management as if he or she were a director or manager of the body corporate. 20
- (6) Summary proceedings for an offence under this section may be brought and prosecuted by the Authority.
- (7) Notwithstanding section 10(4) of the Petty Sessions (Ireland) Act 1851, proceedings for an offence under this section may be instituted at any time within 36 months from the date of the offence. 25

SCHEDULE 1.

MANDATED PERSONS

Section 2

The following classes of persons are specified as mandated persons for the purposes of this Act:

1. Registered medical practitioner within the meaning of section 2 of the Medical Practitioners Act 2007. 5
2. Registered nurse or registered midwife within the meaning of section 2(1) of the Nurses and Midwives Act 2011. 10
3. Physiotherapist registered in the register of members of that profession.
4. Speech and language therapist registered in the register of members of that profession.
5. Occupational therapist registered in the register of members of that profession.
6. Registered dentist within the meaning of section 2 of the Dentists Act 1985.
7. Psychologist who practises as such and who is eligible for registration in the register (if any) of members of that profession. 15
8. Social care worker who practises as such and who is eligible for registration in accordance with Part 4 of the Health and Social Care Professionals Act 2005 in the register of that profession.
9. Social worker who practises as such and who is eligible for registration in accordance with Part 4 of the Health and Social Care Professionals Act 2005 in the register (if any) of that profession. 20
10. Emergency medical technician, paramedic and advanced paramedic registered with the Pre-Hospital Emergency Care Council under the Pre-Hospital Emergency Care Council (Establishment) Order 2000 (S.I. No. 109 of 2000). 25
11. Probation officer within the meaning of section 1 of the Criminal Justice (Community Service) Act 1983.
12. Teacher registered with the Teaching Council.
13. Member of An Garda Síochána.
14. A decision-making assistant, co-decision-maker, decision-making representative, attorney or designated healthcare representative, a special visitor or general visitor appointed by or under a provision of the Assisted Decision-Making (Capacity) Act 2015. 30
15. Person employed in any of the following capacities:
 - (a) manager, staff or volunteer of domestic violence shelter;
 - (b) manager, staff or volunteer of homeless provision or emergency accommodation facility; 35
 - (c) manager, staff or volunteer of asylum seeker accommodation (direct provision) centre;
 - (d) addiction counsellor employed by a body funded, wholly or partly, out of

moneys provided by the Oireachtas;

(e) psychotherapist or a person providing counselling who is registered with one of the voluntary professional bodies;

(f) member of the clergy (howsoever described) or pastoral care worker (howsoever described) of a church or other religious community;

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(g) manager, staff or volunteer of any institution where an adult at risk attends or resides;

(h) by An Post;

(i) provider of professional home care services.

16. Foster carer registered with the Executive.

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17. A banker within the meaning of section 9 of the Bankers' Books Evidence Act, 1879.

18. An employee of the Department of Social Protection.

SCHEDULE 2.

OFFENCES FOR PURPOSES OF PARAGRAPH (A) OF DEFINITION OF “SEXUAL ABUSE” AND “FINANCIAL ABUSE” IN SECTION 2

	<i>Section 2</i>	5
1. Rape.		
2. Rape under section 4 of the Criminal Law (Rape) (Amendment) Act 1990.		
3. Sexual assault.		
4. Aggravated sexual assault within the meaning of section 3 of the Criminal Law (Rape) (Amendment) Act 1990.		10
5. An offence under section 1 of the Punishment of Incest Act 1908 (incest by males).		
6. An offence under section 2 of the Punishment of Incest Act 1908 (incest by females of or over 17 years of age).		
7. An offence under section 6(1) of the Criminal Law (Sexual Offences) Act 1993 (soliciting or importuning for purposes of commission of sexual offence).		15
8. An offence under section 5 of the Criminal Law (Human Trafficking) Act 2008 in so far as it relates to an adult at risk who has been trafficked for the purpose of his or her exploitation (soliciting or importuning for purposes of prostitution of trafficked person).		
9. An offence under Part 3 or Part 4 of the Criminal Justice (Theft and Fraud Offences) Act 2001.		20

BILLE

(mar a tionscnaíodh)

dá ngairtear

Acht chun socrú breise agus feabhsaithe a dhéanamh chun cúram agus cosaint a thabhairt d'aoisigh atá i mbaol; chun an t-Údarás Náisiúnta um Chosaint Aosach a bhunú; dá cheangal ar dhaoine áirithe tuarascálacha a thabhairt don t-Údarás Náisiúnta um Chosaint Aosach maidir le haosaigh atá i mbaol drochúsáide nó dochair in imthosca áirithe; agus do dhéanamh socrú i dtaobh nithe gaolmhara.

Na Seanadóirí Colette Kelleher, Lorraine Clifford-Lee, Prionsios Ní Dhuibhe, Alice-Mary Higgins, Diarmuid Ó Buítléir, Victor Boyhan, John P. Dolan, Lynn Ruane, Ivana Bacik, Marie-Louise O'Donnell, a thug isteach,

30 Márta, 2017

BILL

(as initiated)

entitled

An Act for the purposes of making further and better provision for the care and protection of adults who are at risk; to establish the National Adult Safeguarding Authority; to require certain persons to make reports to the National Adult Safeguarding Authority in respect of adults at risk of abuse or harm in certain circumstances; and to provide for related matters.

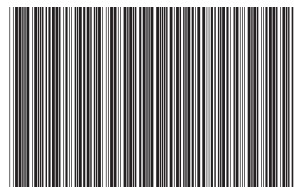
Introduced by Senators Colette Kelleher, Lorraine Clifford-Lee, Frances Black, Alice-Mary Higgins, Jerry Buttimer, Victor Boyhan, John P. Dolan, Lynn Ruane, Ivana Bacik, Marie-Louise O'Donnell,

30th March, 2017

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(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.

€3.05



978-1-4064-6184-8