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**An Bille um Rannpháirtíocht Phobail (Míchumas)  
(Forálacha Ilghnéitheacha), 2019**  
**Community Participation (Disability) (Miscellaneous  
Provisions) Bill 2019**

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*Meabhrán Míitheach*  
*Explanatory Memorandum*

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AN BILLE UM RANNPHÁIRTÍOCHT PHOBAIL (MÍCHUMAS)  
(FORÁLACHA ILGHNÉITHEACHA), 2019  
COMMUNITY PARTICIPATION (DISABILITY)  
(MISCELLANEOUS PROVISIONS) BILL 2019

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EXPLANATORY MEMORANDUM

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*Background*

Ireland ratified the United Nations Convention on the Rights of Persons with disabilities (UN CRPD) in March 2018. This means that Ireland is on a journey towards full inclusion.

*Purpose of Bill*

This Bill aims to contribute to Ireland's implementation of several Articles of the UN CRPD including:

- Article 7 Children with disabilities
- Article 9 Accessibility
- Article 12 Equal recognition before the law
- Article 19 Living independently and being included in the community
- Article 20 Personal mobility
- Article 30 Participation in cultural life, recreation, leisure and sport

**Inclusive Playgrounds**

*Section 1* of the Bill amends section 67 (amenity, recreation and other function) of the Local Government Act 2001 to require Local Authorities to apply the principals of **Universal Design** to the provision of playgrounds and play equipment.

*Section 2* of the Bill amends section 10 (content and development plans) of the Planning and Development Act 2000 to insert “ in accordance with the principals of Universal Design” as defined in the National Disability Authority Act.

Currently, many families cannot enjoy a trip to the playground together as children with disabilities are often excluded from play with their siblings and peers due to the lack of accessible and inclusive play equipment in their local playground. This Bill will provide children with disabilities the opportunity to play side by side with their family, friends and peers by requiring Local Authorities to follow the principals of universal design, which is the recommended approach to achieving inclusive playgrounds.

This will also apply to plans or initiatives which include playgrounds or play equipment as part of any approved scheme or part of a scheme for a **Business Improvement District (BID)**. This will mean that new playgrounds will be inclusive for all children of all abilities. Inclusive play is

not about children with disabilities being able to get in the gate or accessing one piece of “special” play equipment, it is about full participation and “side by side” play.

### **Bus Accessibility**

*Section 3* of the Bill amends section 3 (attachment of conditions to licenses) of the Public Transport Regulation Act 2009 to oblige the authority, when granting, amending or renewing a license to a private operator, on a public route to have the same accessibility standards of public bus operators. The Bill will oblige the National Transport Authority (NTA) to require a private operator operating on a public route shall either maintain or enhance, but may not diminish, accessibility for people with disabilities. This will increase the provision of bus services which are accessible to people with disabilities, providing more opportunities for community participation.

Currently, the NTA can give a licence to a private bus operator to operate on a public route. However, private bus operators are not required to meet the same accessibility standards of public bus operators e.g. Bus Éireann. Accessibility to public transport is vital for the participation of people with disabilities in all aspects of society e.g. education, employment, recreation etc.

### **Personal Advocacy**

*Section 4* of the Bill commences part of section 4 and section 5 of the Citizens Information Act 2007.

Advocacy enables and supports people to seek and receive information and make their wishes and views known to others. It enables people to be involved in decisions that may otherwise be made for them by others. The Bill ensures that advocates supporting people with disabilities to access social services have statutory powers through the appointment of a Director of Personal Advocacy as legislated for in the Citizens information Act 2007. This supports people with disabilities to access social services which are necessary for full participation and inclusion in the community.

### **Accessible Change Facility (“Changing Places”)**

*Section 5* of the Bill amends the Building Regulations 1997 by amending Part M to provide for accessible change facilities (“Changing Places”).

The Bill will require “Changing Places” facilities to be provided in relevant publicly accessible buildings (outlined in the bill) which are newly built or undergo material alterations. The increased provision of “Changing Places” will provide users and their families, friends and carers more choice and flexibility to participate within the public space.

Standard disability toilets are not adequate for the needs of some people with disabilities who require sanitary facilities with extra equipment such as, a hoist and changing bench to allow them, and those who care for them, to use the toilets safely and comfortably. Currently, there are only 11 “Changing Places” facilities in Ireland and many parts of the country have none. Due to the lack of “Changing Places” many people with disabilities must go through the indignity and unhygienic experience of being changed on the floor of a public toilet. Increasing the provision of changing places in the public space will enable people with disabilities and their families to participate and enjoy the day-to-day activities that many of us take for granted.

### *Provisions of the Bill*

*Section 1* of the Bill amends section 10 (content of development plans) of the Planning and Development Act 2000 to insert “in accordance with the principals of Universal Design” as defined in section of the National Disability Authority Act.

*Section 2* of the Bill amends section 67 (amenity, recreation and other functions) of the Local Government Act 2001 to require local authorities to apply the principles of universal design to the provision of playgrounds and play equipment in order to maximise play opportunities for all children. This also applies to the provision of playgrounds and play equipment in respect of plans or initiatives outlined in any approved scheme or part of a scheme for a Business Improvement District (BID). On completion of the provision of playgrounds and play equipment in compliance with the principles of Universal Design, local authorities shall publish a written statement on its website to that effect.

*Section 3* of the Bill commences part of section 4 and section 5 of the Citizens Information Act 2007. The particular part of section 4 to be commenced provides for the extension of the statutory functions of the Citizens Information Board to provide for a personal advocacy service for people with disabilities who meet the criteria of qualifying persons having regard to the financial resources of the Citizens Information Board and whether or not advocacy services are provided elsewhere.

*Section 4* of the Bill amends section 13 (attachment of conditions to licenses) of the Public Transport Regulation Act 2009 to oblige the authority, when granting, amending or renewing a license to a private operator, on a public route to impose conditions that require the applicant or license holder to maintain or enhance, but not diminish, the access to the public bus passenger service by persons with disabilities.

*Section 5* of the Citizens Information Act 2007 that is also to be commenced by this Bill intends to insert section 7A entitled ‘Personal Advocacy Service’, section 7B entitled ‘Application for assignment of personal advocate’, section 7C entitled ‘Appeals’, section 7D entitled ‘Functions of personal advocate’, section 7E ‘Liability for offences by bodies corporate’ and section 7F ‘Arrangement to provide services of personal advocates’ into the Comhairle Act 2000, which provide the details of the personal advocacy service.

These additional details include:

- the provision of a personal advocacy service to qualifying persons by personal advocates who are designated as such by the Chief Executive of the Citizens Information Board
- the appointment by the Citizens Information Board of a Director of the Personal Advocacy Service who shall be responsible for the management and control of the service and who shall be accountable to the Chief Executive for the performance of those functions.
- a definition of a qualifying person. In the case of a person 18 years of age or older, a qualifying person is a person who in the opinion of the Director is, by reason of a disability, unable to obtain or has difficulty in obtaining a particular social service without the assistance or support of a personal advocate and there are reasonable grounds for believing that there is a risk to the person’s health, welfare or safety if he or she is not provided with the social service. A person under 18 years of age is a qualifying person if his or her sole parent or guardian is a qualifying person or if he or she has a disability, or in the opinion of the Director there are reasonable grounds for believing that he or she has a

disability, and the circumstances are such that it would be unreasonable to expect a parent or guardian to act on his or her behalf in obtaining a particular social service without the assistance or support of a personal advocate and, in the Director's opinion, there are reasonable grounds for believing there is a risk to the person's health, welfare or safety if he or she is not provided with the social service in question.

- provision that a person will not be disqualified for assignment of a personal advocate by reason only of the fact that he or she is already in receipt of a social service or services.
- the criteria to which the Board shall have regard in determining the order of priority to be accorded to different qualifying persons, including the needs of qualifying persons to have personal advocates assigned to them, the benefits likely to accrue to qualifying persons of having personal advocates assigned to them and the degrees of risk of harm to their health, welfare or safety if they are not provided with the social service they are seeking to obtain.
- arrangements for making application for the assignment of a personal advocate and for the decision process on that application.
- arrangements for an independent appeals process for a person with a disability who is dissatisfied with a decision regarding his or her eligibility for the Personal Advocacy Service. The legislation provides that the Chief Appeals Officer of the Social Welfare Appeals Office will be appointed by the Minister for Social and Family Affairs to determine such appeals and that similar rules and procedures to those used by the Social Welfare Appeals Office in deciding appeals will be adopted but in a modified form for appeals in relation to the Personal Advocacy Service. This section also contains provisions to enable the Minister for Social and Family Affairs to make any necessary regulations concerning appeals procedures.
- The role of the personal advocate in terms of
  - (a) assisting, supporting and representing the qualified person to apply for and obtain a social service, including an application for an assessment of need or a service specified in a service statement under the provisions of the Disability Act 2005;
  - (b) pursuing any right of review or appeal on behalf of the qualifying person;
  - (c) providing support and training to a qualified person and
  - (d) any member of his or her family, a carer or any other person representing his or her interests in order to promote the best interests of his or her health, welfare and well-being;
  - (e) entering any place that provides day care, residential care or training for the qualifying person to represent his or her interests; and
  - (f) accessing information, attending meetings or consultations, and identifying any person who may assist the qualifying person, subject to the requirements of data protection legislation.
- provision that statutory or voluntary bodies shall co-operate with a personal advocate and provision for offences to apply to persons who obstruct or hinder a personal advocate in his or her work.
- provision enabling the Board, with the approval of the Minister and subject to such terms and conditions as are considered appropriate, to arrange for the functions of personal advocates to be performed by persons other than members of the staff of the Board.

*Section 5* of the Bill amends the Building Regulations 1997 by amending Part M to provide for accessible change facilities ("Changing Places") in

relevant publicly accessible buildings, which are newly built or undergo material alterations. The relevant publicly accessible buildings outlined in the Bill are:

- Shopping centres (30,000 square metres or more)
- Shops (10,000 square metres or more)
- Ticketed events in places of assembly (2,000 persons or more)
- Major roadway service stations
- Sports centres (with sports hall of 1600 square metres or more) or (swimming pool of 25 metres or more)
- Institutional buildings (hospitals, nursing homes, etc.)\* Definition in the Building Regulations: "institutional building" includes a hospital, nursing home, home for old people or for children, school or other similar establishment used as living accommodation or for the treatment, care or maintenance of persons suffering from illness or mental or physical disability or handicap, where such persons sleep on the premises;
- Passenger terminals (state airports, bus or rail interchange facilities, passenger ship harbours)

*Senators John Dolan, Colette Kelleher, Lynn Ruane, Frances Black, Ivana Bacik, Victor Boyhan, Máire Devine, Alice-Mary Higgins*

*Meitheamh, 2019.*