



**An Bille um an Naoú Leasú is Tríocha ar an
mBunreacht (Ceart chun Sláinte), 2019
Thirty-ninth Amendment of the Constitution
(Right to Health) Bill 2019**

*Meabhrán Mínitheach
Explanatory Memorandum*



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EXPLANATORY MEMORANDUM

Purpose of Bill

The purpose of the Bill is to provide a constitutional status for the right to health under Article 40 of Bunreacht na hÉireann. The contents of the Schedule contain a constitutional amendment establishing a cognisable right to health.

Rationale

Among the various rights enshrined by Bunreacht na hÉireann, the “right to health” is not one of them. One reason is Ireland's longstanding reluctance to constitutionalise socio-economic rights (to mean inclusion in the Constitution as a judicially cognisable provision), those which tend to grant a socio-economic benefit such as housing, health care, education, etc., as opposed to civil-political rights, which are generally negative protections from government abuse. Article 45's Directive Principles of Social Policy make some mention as to the “strength and health of workers, men and women,” (Article 45.4.2°) but these provisions are not justiciable. In truth, the inclusion of Article 45 in the 1937 Constitution demonstrates a desire at the time to distinguish the two types of rights, which are now increasingly blurred. Irish courts have granted a limited right to health for prisoners and children, but there is no acknowledgment of a universally applicable right to health. This provision provides a universally applicable right to health.

Provisions of Bill

The Whereas clauses highlight the capacity for amendment by virtue of Article 46 of Bunreacht na hÉireann.

The Bill comprises of 2 sections and a Schedule.

Section 1

Section 1 of the Bill outlines how Article 40 of Bunreacht na hÉireann will be modified by *Part 1* and *Part 2* of the *Schedule* of the Bill.

Section 2

Section 2 of the Bill provides the short title and collective citations of the Bill.

Schedule

The *Schedule* of the Bill provides the text of the amendment to Article 40 of Bunreacht na hÉireann.

Part 1 – Provides the Irish language text of the amendment.

Part 2 – Provides the English language text of the amendment.

Deputy Michael Harty

Samhain, 2019.

