



An Bille um Míchumas (Leasú), 2026
Disability (Amendment) Bill 2026

Meabhrán Mínitheach
Explanatory Memorandum



AN BILLE UM MÍCHUMAS (LEASÚ), 2026 DISABILITY (AMENDMENT) BILL 2026

EXPLANATORY MEMORANDUM

Purpose and Background of the Bill

The legislative amendments outlined in the Disability (Amendment) Bill 2026 relate to Part 2 of the Disability Act 2005 which sets out the Assessment of Need process. The Bill provides for specific and targeted amendments to certain aspects of the existing Assessment of Need process in order to make the system more effective and efficient, while ensuring that existing statutory rights are unaffected. Over time, this may help to reduce the existing backlog of applications currently in the system. A review of the Disability Act 2005 as a whole has commenced and is being led by the Department of Children, Disability, and Equality.

The Disability Act 2005 (the Principal Act) is a wide-ranging piece of legislation which, since its inception, has sought to improve the quality of life of those in Ireland living with a disability. Part 2 of the Principal Act specifically provides for a statutory right to an assessment of need for a disabled person. This includes a determination of a disability based on the definition of disability as provided for in the Act and, where disability is determined, an assessment of the person's health and education needs (if any) and the services required to meet those needs. The Principal Act does not, however, provide for a statutory right to health and education services.

An assessment of need is performed by an assessment officer appointed by the Health Service Executive ('the Executive'). As specified in the Principal Act, the assessment officer is independent in the discharge of their duties. However, their assessment may be informed by clinical reports and/or educational reports, which they can request in order to determine the health and/or education needs of the applicant.

An application for an Assessment of Need may be made either by or for a person born on or after 1st June 2002. However, an assessment of need is not required for a child or young person to access health services and any individual already accessing health services retains their statutory right to apply for an assessment of need.

However, since its inception, the Assessment of Need process has experienced significant pressures due in large part to increasing public demand for assessments. This demand continues to outpace the capacity of the system to respond, resulting in a growing backlog of applications and significant delays in the provision of assessments of need to children, young people and their families.

Amendments to the Principal Act

The Disability (Amendment) Bill 2026 introduces targeted amendments to Part 2 of the Disability Act 2005 to streamline and enhance key aspects of the Assessment of Need process. The Bill includes eight sections, and the main provisions are as follows:

Section 1: Definition

Section 1 is a standard provision defining the Principal Act as the Disability Act 2005.

Section 2: Amendments to Section 7 of the Principal Act.

Section 2(a) amends the definition of assessment to clarify that the process of assessment includes, firstly, an initial determination by the HSE assessment officer whether the applicant has a disability as defined in Sections 2(1) and 7(1) of the Principal Act and secondly, where this is determined, a determination of the health and education needs (if any) and the health services or education service (if any) required to meet those needs. This amendment makes explicit what was implicit in the Principal Act and is in line with Sections 8(6) and (7)(a) of that Act which provide that a report by a HSE assessment officer must include a determination as to whether the applicant has a disability within the definition as set out in the Principal Act.

Section 2(b) amends the definition of substantial restriction by substituting the word ‘restriction’ for ‘disability’ in the latter part of the definition. This is to ensure a greater focus on identifying relevant needs and the services to meet those needs. This amendment does not impact the general definition of disability as the definition has broader application than Assessment of Need under Part 2 and applies throughout the Principal Act. The change will not reduce rights under Part 2 of the Principal Act.

Section 3: Amendments to Section 8 of the Principal Act.

Section 3(a) clarifies that a request to the National Council for Special Education (NCSE) for assistance in carrying out an assessment of educational need should only occur once the HSE assessment officer has made a determination of disability alongside the existing provision that such a request should only be made where the HSE is of the opinion there may be a need for an education service to be provided to the applicant. This amendment does not interfere with the impartiality of the HSE assessment officer as provided for in Section 8(4) of the Principal Act.

Section 3(b) replaces the wording in Section 8(7)(b)(i) by removing ‘a statement of the nature and extent of the disability’ and replacing it with ‘a statement of the substantial restriction to which the applicant is subject’, reflecting the wording used in the definition of disability in Section 7(2). This amendment brings a focus to the restrictions experienced by an applicant as a result of the disability and the needs arising from the restrictions, as well as a greater alignment with the UN Convention on the Rights of Persons with Disabilities (CRPD) which acknowledges that the interaction of certain impairments with external barriers may give rise to health and education needs. This amendment does not preclude a diagnostic approach where it is deemed necessary by the HSE assessment officer in order to determine an applicant’s health and education needs but it may reduce pressure to carry out exhaustive diagnostic assessments where this is not necessary to determine needs.

Section 4: Amendments to Section 9 of the Principal Act.

Section 4 inserts subsections providing for the withdrawal of an application by an applicant or where an application can be ‘deemed’ to be withdrawn under certain conditions. This addresses a gap in the Principal Act which does not provide for the withdrawal and closure of applications. It also makes provision for the reinstatement of an application, where requested, within 12 months of a withdrawal. It should be noted that the closure of an assessment of need application can only take place under specific grounds including where an applicant expressly chooses to withdraw their application from the system, or where the specific circumstances are such that an application can no longer be progressed by the HSE assessment officer and therefore may be deemed to be withdrawn. These circumstances will be laid out in secondary legislation by the Minister but will likely include where an applicant may be deceased or has permanently relocated outside the State, or where the applicant either does not provide necessary information or ceases to engage in the process within a reasonable timeframe.

These provisions aim to provide greater flexibility to applicants who may not wish to continue with their application or may not be in a position to do so due to personal circumstances. The option to reinstate an application that has been withdrawn recognises that there can be valid reasons for an applicant to withdraw from the process and allows an applicant to re-engage with the process should they so wish or are in a better position to do so within 12 months of the date of withdrawal.

Section 5: Amendments to Section 21 of the Principal Act.

Section 5(a) makes a small amendment to Section 21(a)(v) to reflect the changes made in Section 2(a) above.

Section 5(b) provides for the Minister to make regulations relating to the withdrawal, closure, and reinstatement process. These regulations will specify the circumstances in which an application may be deemed to be withdrawn and subsequently closed, the reinstatement of a withdrawn application under certain circumstances, and the procedures associated with those processes.

Section 6: Insertion of Section 21A into the Principal Act.

Section 6 inserts a new section (21A) which provides for the Minister to request the HSE to prepare, and submit for her approval, guidelines relating to the Assessment of Need process. The section also makes provision for the content, timeline for preparation, and publication of these statutory guidelines. It is intended that these guidelines will provide support to HSE assessment officers in the performance of their functions, particularly in relation to the application of the provisions of the Act which set out the basis for determination of disability.

Section 7: Transitional Provisions.

This section makes provision for the transitional arrangements addressing how the changes introduced in this legislation will affect new and existing applications. The provisions in relation to withdrawal, closure, and reinstatement will apply to all applications, regardless of when they are received. The remaining amendments will apply to applications received after the Act is commenced and those applications received by the HSE before commencement where the assessment process has not yet begun (described in the legislation as a ‘specified step’). Applications received prior to the commencement where the assessment process has started will continue to be managed through the Principal Act as it currently stands.

Section 8: Short Title and Commencement.

Section 8 sets out the short title and makes provision for the commencement order or orders to be made by the Minister.

*An Roinn Leanai, Michumais agus Comhionannais,
Meán Fómhair, 2026.*