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Review of the compliance of the Disability Act 2005 with the UN Convention on the Rights of Persons with Disabilities

for the

Irish Human Rights and Equality Commission

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Introduction

The Disability Act 2005 places a number of obligations on Government Departments, and public bodies in Ireland regarding accessibility of public buildings and communication with disabled people. It also provides for an assessment of disabled people’s health and education needs and the generation of a Service Statement outlining which services will be provided by the State. Since its enactment the Act has been subjected to numerous criticisms of both its content and implementation. In the Programme for Government 2025, the Government of Ireland commits to “reform the Disability Act 2005 in consultation with stakeholders”¹ and in February 2026 the General Scheme of the Disability Amendment Bill 2025 was published.²

This research aims to assess how the Disability Act 2005 complies with the UN Convention on the Rights of Persons with Disabilities (CRPD). In doing so the project explores the States obligations under specific articles of the CRPD, alternative approaches to a Disability Act, and options for reform. The research was commissioned by the Irish Human Rights and Equality Commission as part of their remit as Ireland’s National Human Rights Institution, National Equality Body and the Independent Monitoring Mechanism for Ireland under the United Nations Convention on the Rights of Persons with Disabilities (UNCRPD). It was completed by researchers at the Centre for Disability Law and Policy, University of Galway.

Report Structure

The report has five main sections. The first section explores the background and development of the Disability Act 2005 and provides an overview of the primary critiques since its enactment. Section 2 outlines States Parties obligations under six articles of the CRPD that are of particular relevance to the Disability Act and highlights the main gaps in

¹ Government of Ireland, Programme for Government 2025 - Securing Ireland's Future (January 2025) <https://www.gov.ie/en/department-of-the- taoiseach/publications/programme-for-government-2025-securing-irelands-future/>

² Department of Children, Disability and Equality, Assessment of Needs Process and Proposed Changes (February 2026) <https://www.gov.ie/en/department-of-children-disability-and-equality/publications/from-subject-received-size-categories-aoife-carragher-dcde-fw-dcde-website-aon-1532-1-mb/>

compliance in both the 2005 Act and the Amendment Bill 2025. The third section considers alternative approaches to Disability Acts with a focus on legislation in Portugal, Iceland and Kenya. Finally, the report documents the three options for reform and the advantages and disadvantages of each option as considered by the research team and nine national disabled person's organisations (DPO).

Overview of methodology

This research was primarily completed using a desk based methodology. Archival material gathered in 2009 and 2010 by Professor Eilíonóir Flynn and publicly available records, including parliamentary debates and the report of the Commission on the Status of Persons with Disabilities 1996³, were used to understand the Act's original purpose and the history and development of the legislation. A literature review of academic and grey literature and national and international law and policy was completed to document the existing critiques of the 2005 Act and the alternative approaches to Disability Acts in other jurisdictions. The specific obligations under the CRPD were established with reference to General Comments, concluding observations to States Parties, and individual communication decisions delivered by the UN Committee on the Rights of Persons with Disabilities (CRPD Committee).

In January 2026 the research team held an online feedback session with national disabled person's organisations (DPOs) or disabled persons representative organisations (DPROs). The organisations in attendance were AsIAM, Disabled Women Ireland, Independent Living Movement Ireland, Irish Deaf Society, National Platform of Self Advocates, NeuroPride Ireland, Recovery Experts by Experience and Voice of Vision Impairment. During the session the research team provided an overview of the research conducted and the outlined some of the reform options that could be considered. The organisations provided feedback on their preferred reform options, the advantages or disadvantages they perceived with each and any particular content that would need to be addressed in order to consider it a successful reform or to meet Ireland's obligations under the CRPD. The reform options considered and an overview of the feedback from DPOs/DPROs during the feedback session can be seen in the final section of this report.

³ Commission on the Status of People with Disabilities, A Strategy for Equality (Dublin: Stationery Office, 1996) <https://www.lenus.ie/entities/publication/7d248f91-1a76-4425-8d1a-8e3b0bf202be>

Background and Context

Ireland's Commission on the Status of People with Disabilities proposed in 1996 the development of a Disabilities Act "to set out the rights of persons with a disability, together with the means of redress for those whose rights are denied. The Act should outlaw all discrimination against people with disabilities and should require public and private bodies, employers and educators to make reasonable accommodation to meet their specific needs".⁴ Importantly, the Commission had strong representation from people with disabilities (60% of Commission members were people with disabilities or their family members) and the Commission's report built largely upon submissions and listening meetings where people with disabilities expressed their frustration at the extent of exclusion experienced in all aspects of society.

During the course of the Commission's work the Government drafted equality legislation to prohibit discrimination on the basis of disability as well as on 8 other grounds. The Commission's report criticised the draft of the Employment Equality Bill as it found the Bill's definition of disability to be "wholly inappropriate",⁵ and regretted that the Bill did not reflect the Commission's submissions to the Minister prior to its publication. That Bill was subsequently referred to the Supreme Court by President Robinson and found to be unconstitutional, leading to a lower standard of reasonable accommodation ultimately being set in the subsequent Act.⁶ The development of separate equality legislation meant that the main focus of what would become the Disability Act 2005 shifted towards providing a legal framework for services and supports for disabled people, as well as broader accessibility obligations and placing procedural requirements on a limited number of government departments.

⁴ Commission on the Status of People with Disabilities, *A Strategy for Equality* (Dublin: Stationery Office, 1996) 91.

⁵ Commission on the Status of People with Disabilities, *A Strategy for Equality* (Dublin: Stationery Office, 1996) 79.

⁶ *In re Article 26 of the Constitution and in the matter of the Employment Equality Bill 1996* [1997] 2 I.R. 231 at 363-364.

Since this equality legislation only covered discrete areas (such as employment and provision of goods and services), the Commission on the Status of People with Disabilities also recommended the development of a comprehensive Disabilities Act. The Commission envisaged that the Disabilities Act would prohibit all discrimination in relation to services provided by public and private bodies (including insurance and assurance companies) employment and education.⁷ It also recommended that the Act should adopt a social model of disability, strengthen the principle of reasonable accommodation, override other legislation where necessary to ensure achieve equality and provide effective enforcement mechanisms and access to alternative forms of dispute resolution.⁸ The NDA was cited by the Commission as a potential enforcer of the Disabilities Act, due to its proposed “separate and independent role... focused on audit, co-ordination of best practice, and... position to intervene and evaluate.”⁹

Only one progress report on the implementation of the Commission’s recommendations was ever published by the Department of Justice, Equality and Law Reform in 1999. That report noted that work had begun in the Department on identifying issues which could be covered by a Disabilities Bill.¹⁰ The Department was also considering whether it would be necessary to propose a disability equality amendment to the Constitution in preparation for the Bill. Subsequently, the Disability Bill 2001¹¹ was introduced as a first attempt to progress rights-based legislation for people with disabilities beyond the realm of anti-discrimination

⁷ Commission on the Status of People with Disabilities, *A Strategy for Equality* (Dublin: Stationery Office, 1996) 78.

⁸ Commission on the Status of People with Disabilities, *A Strategy for Equality* (Dublin: Stationery Office, 1996) 78-79.

⁹ Commission on the Status of People with Disabilities, *A Strategy for Equality* (Dublin: Stationery Office, 1996) 85.

¹⁰ Department of Justice, Equality and Law Reform, *Towards Equal Citizenship: Progress Report on the Implementation of the Recommendations of the Commission on the Status of People with Disabilities* (Dublin: Stationery Office, 1999) 16.

¹¹ To complement the Disability Bill 2001, two different versions of the Disability Commissioner Bill were also introduced in 2001. These proposed that a Commissioner would be responsible for drawing up a Code of Disability Rights, assisting people with disabilities to make complaints about service provision, advising the Minister on matters affecting people with disabilities and setting guidelines for advocacy service provision. See section 6, Disability Commissioner Bill, 2001 and Disability Commissioner Bill (No. 2) 2001. However, when the Disability Bill was withdrawn, the second Disability Commissioner Bill was also withdrawn, as discussions for a more appropriate legislative framework were commenced involving increased consultation with Irish disability support organisations.

provisions in Ireland. However, this was quickly withdrawn due to dissatisfaction in the disability rights movement with the inclusion of a provision making the entire Act expressly non-justiciable and the imposition of distant deadlines for the implementation of the Bill's various reforms.¹²

The Programme for Government 2002 reaffirmed the commitment to introducing a Disabilities Bill.¹³ Since disability organisations had strongly opposed the first Disability Bill, resulting in its eventual withdrawal, the government was anxious to include some of these key groups in the consultation process, to ensure the success of the next legislative proposal.¹⁴ This led to the establishment of the Disability Legislation Consultation Group (DLCG), comprising representatives from the following disability organisations: Disability Federation of Ireland, Forum of People with Disabilities, Mental Health Ireland, National Association of Mental Handicap Ireland (now Inclusion Ireland), National Parents and Siblings Alliance, National Federation of Voluntary Bodies, Not for Profit Business Association and People with Disabilities Ireland. The groups included in the DLCG were selected by the Minister for Justice, Equality and Law Reform, on the advice of the Chairperson of the National Disability Authority, Angela Kerins. Of these groups, two were DPOs (the Forum and PwDI), one was a parent organisation (NPSA), and the rest represented a combination of service providers (some exclusively involved in the provision of services to people with either physical (NFPBA) or intellectual disabilities (NFVB) and affiliated organisations (DFI, MHI, NAMHI) providing services in a voluntary capacity to disabled people.

As a group, the DLCG identified ten fundamental flaws in the Disability Bill 2004 as follows:

1. The definitions of Disability are too narrow with the use of such terms as "substantial restriction" and "enduring". The definition excludes episodic conditions and early intervention needs.

¹² Editorial, "Disability Bill" Irish Times (22 December 2001).

¹³ Fianna Fáil and the Progressive Democrats, Agreed Programme for Government (Dublin: Stationery Office, 2002) 27.

¹⁴ Disability Legislation Consultation Group, *Equal Citizens: Proposals for Core Elements of Disability Legislation* (Dublin: Stationery Office, 2003), foreword.

2. The Bill must provide a clear right to an independent assessment of need.
3. The Bill must provide for an individual's rights to progressivity on their unmet needs, identified in their independent assessment report. This must be done annually or whenever there is a change of circumstance.
4. The complaints system is too complex. It needs to be simplified and more easily accessible.
5. The appeals system needs to be independent of the Department of Health and Children. This office needs to be sited in another Government Department.
6. The Bill must provide for a clear ring fencing of disability specific resources.
7. The Bill must provide for a clear statutory duty on all Government Departments and public bodies to include people with disabilities in their plans and services with appropriate monitoring and accountability.
8. Public services should include all public services provided in the public system by statutory or non-statutory entities. Also, the sectoral plans section of the Bill does not take account of the wider needs of people with disabilities e.g. the Department of the Environment and Local Government has not addressed housing needs.
9. Clarity is needed on the impact of the Disability Bill on section 14 of the Equal Status Act.
10. Review of legislation after 3 years.¹⁵

A core concern of the DLCG was that the Bill did not provide a right to an assessment; it merely provided a right to apply for an assessment of need. Contrary to the principles set out by the DLCG and the Commission before it, the 2004 Bill (and 2005 Act) did not set out that the assessment of need should take a holistic person-centred approach, as the entire process centres around the impairment, rather than the person, and only refers to 'health and education needs' whereas the DLCG firmly believed that all participatory needs should be taken into account, including "accommodation, independent living, income, education,

¹⁵ Mental Health Ireland, *Mensana News* 12(2) (Dublin: 2004) 7.
http://www.mentalhealthireland.ie/pressreleases/mensananews_12_2.pdf

training, employment, advocacy, health, and social and leisure activities.”¹⁶ More worryingly, the 2004 Bill (and 2005 Act) envisaged separate assessment processes for children where both health and education needs are covered – which is both wasteful in terms of resources and overly intrusive for the children concerned, who are effectively being assessed twice to determine their overall needs. The DLCG reiterated that a specialist Disability Support Service should be established to assist parents and disabled people in applying for assessments of need.¹⁷

Although these criticisms of the 2004 Bill were highlighted by the DLCG and other disability organisations very few amendments were made to the Disability Bill during the enactment process.

The members of the DLCG issued a press release on 6 May 2005, stating:

“This is now a totally flawed and fundamentally inadequate piece of legislation. It fails to meet the needs of the disability sector and we are appalled that the Government is determined to ram it through the Oireachtas in the face of opposition from the very people it was originally designed to benefit ...

If this legislation goes through without major changes on these points, the DLCG and its member organisations will be left with no option but to reassess our future relations and cooperation with Government Departments and agencies. We may also consider a nationwide campaign to alert the general public to the failure of the Government to meet our legislative needs.”¹⁸

When these issues were not incorporated into the drafting process of the Bill, Namhi (now Inclusion Ireland), the Forum of People with Disabilities and the National Parents and Siblings Association left the DLCG. The other 5 groups remained and contributed to the

¹⁶ Disability Legislation Consultation Group, *Equal Citizens: Proposals for Core Elements of Disability Legislation* (Dublin: Stationery Office, 2003), chapter 4.

¹⁷ Disability Legislation Consultation Group, *Equal Citizens: Proposals for Core Elements of Disability Legislation* (Dublin: Stationery Office, 2003), chapter 4.

¹⁸ National Parents and Siblings Alliance, *NPSA Newsletter July 2005*, “Disability Bill 2004 Disability Act 2005” (Dublin: NPSA, 2005) 1.

consultation process in developing departmental Sectoral Plans, establishing departmental consultation groups and monitoring the National Disability Strategy.¹⁹ Overall, it is notable that the concerns raised by the DLCG about the 2004 Bill continue to apply to the 2005 Act – and continue to be raised by disabled people and their representative organisations to this day. The critiques in relation to the definition of disability, approach to the assessment process, complaints and enforcement mechanisms, and oversight and monitoring functions, are particularly relevant in light of Ireland’s obligations under the CRPD which are addressed further below. However, the Act has also been subject to a number of other criticisms in relation to both its content and implementation.

Summary of the critiques of the Disability Act

One of the primary criticisms of the Act is that the definition of disability does not align with the CRPD and its not consistent with how disability is defined across other pieces of legislation in Ireland.²⁰ The requirement for an individual to face a substantial restriction also has the potential to exclude many individuals including those with transient, or cyclical conditions.²¹ The focus, within the definitions, on restrictions which impacts the capacity only to engage in a profession, business, occupation or social and cultural life is adult centred and overlooks key aspects of children’s daily life such as education.²² This is despite the Act providing for assessments of health and education needs. Indeed, the narrow focus on health and education needs is also questioned by commentators who highlight that

¹⁹ However, it should be noted that the requirement included in the final text of the published Disability Act, for Ministers to consult with representatives of people with disabilities (a reference to the DLCG groups) in developing Sectoral Plans, was not something which had been proposed by the DLCG in its report. It appears that some groups felt this should not be the remit of the DLCG, as its terms of reference were simply to devise legislative proposals, and certain groups felt they could not act as a resource for government departments in developing Sectoral Plans when the Act did not reflect the key proposals made in the report.

²⁰ Eilionoir Flynn, ‘Ireland’s Compliance with the Convention on the Rights of Persons with Disabilities: Towards a Rights-Based Approach for Legal Reform’ (2009) 31 Dublin University Law Journal 357.

²¹ Jurgen De Wispelaere and Judy Walsh, ‘Disability Rights in Ireland: Chronicle of a Missed Opportunity’ (2007) 22 Irish Political Studies 517.

²² Catriona Moloney and others, ‘Mind The Gap: Research on Barriers to the Realisation of Rights of Children with Disabilities in Ireland.’ (Ombudsman for Children 2021)

https://www.oco.ie/app/uploads/2021/03/MindTheGap_OCO_NUIG_Disability_Report.pdf

community-based supports such as access to personal assistance may be excluded if they are not considered health related.²³

Beyond the definition of disability the Act's guarantee of a right to an assessment of a person's health and education needs rather than a right to services has faced continuous criticism from its initial enactment.²⁴ This is compounded by the references to 'having regard to the resources available' across the legislation.²⁵ The implementation of the assessment of need process has resulted in lengthy waiting lists and the need for many applicants to take legal action regarding interpretations and implementation procedures in order to have their rights realised.²⁶ The Ombudsman for Children has highlighted that many children aged out of the early intervention services while waiting for their assessment of need and as a result had to begin the process again for school aged assessments.²⁷ Further, the process is diagnosis rather than needs lead and does not take a broad, holistic and human rights approach which would consider the full development needs of the child as required under the UN Convention on the Right of the Child.²⁸

Section 25 of the Act outlines that public buildings should be, as far as practicable, accessible to persons with disabilities. The limitations on this obligation based on cost, practicability and appropriateness were highlighted shortly following the Act's commencement as

²³ De Wispelaere and Walsh (n 18).

²⁴ *ibid.* Disabled Women Ireland, Submission on the List of Issues for Ireland to the 21st Pre-Sessional Working Group of the Committee on Rights of Persons with Disabilities (June 2025).

²⁵ Jennifer Van Aswegen, 'Disabling Discourses and Charitable Model of Disability: Labour Market Activation for People with Disabilities, Ireland – a Critical Policy Analysis' (2020) 35 *Disability & Society* 435.

²⁶ Irish Human Rights and Equality Commission, 'Ireland and the United Nations Convention on the Rights of Persons with Disabilities: Submission to the Committee on the Rights of Persons with Disabilities for the List of Issues Prior to Reporting' (2025) <https://www.ihrec.ie/publications/ireland-and-the-united-nations-convention-on-the-rights-of-persons-with-disabilities-list-of-issues-submission-to-the-committee-prior-to-reporting> accessed 18 February 2026.

²⁷ Ombudsman for Children, 'Unmet Needs: A Report by the Ombudsman for Children's Office on the Challenges Faced by Children in Ireland Who Require an Assessment of Their Needs.' (Ombudsman for Children 2020) https://www.oco.ie/app/uploads/2020/10/15438_OCO_Assessmnet_of_Need_Report_Interactive.pdf

²⁸ Ombudsman for Children, 'Unmet Needs: A Report by the Ombudsman for Children's Office on the Challenges Faced by Children in Ireland Who Require an Assessment of Their Needs.' (Ombudsman for Children 2020)

providing “too wide a margin of discretion” for public bodies²⁹ and not compliant with the CRPD.³⁰ An operational review of the Act found that nature of the obligation to make public buildings accessible for disabled people under section 25 had led to inconsistent level of accessibility across public buildings.³¹ The review also noted that there was little evidence of compliance being monitored by public bodies and the obligations under section 25 were not enforced.³² The focus on public buildings, rather than public amenities more broadly, has also been highlighted as an issue as well as the Acts failure to require wayfinding information to be provided.³³

Beyond access to public building the Act required Government Departments to prepare Sectoral Plans outlining the measures they will put in place while providing services to persons with disabilities. While these plans should be developed in consultation with disabled people, as appropriate, there is no clarity on the level of consultation required or that it should be organisations of persons with disabilities as defined under the CRPD.³⁴ Further, while the Act provided that the Centre for Excellence in Universal Design may develop standards regarding universal design these are not binding and therefore, not enforceable.³⁵ Similarly commentators have underscored the lack of clarity regarding the requirement for the public bodies to communicated with disabled people in an a manner which is accessible for them and if it applies to individual communications or the provision of information more broadly.³⁶

²⁹ Jurgen De Wispelaere and Judy Walsh, ‘Disability Rights in Ireland: Chronicle of a Missed Opportunity’ (2007) 22 Irish Political Studies 517

³⁰ Flynn (n 17).

³¹ National Disability Authority and the Office of Public Works, An Operational Review of the Effectiveness of Section 25 of the Disability Act (Dublin, 2019)

³² National Disability Authority and the Office of Public Works, An Operational Review of the Effectiveness of Section 25 of the Disability Act (Dublin, 2019)

³³ Moloney and others (n 19).

³⁴ De Wispelaere and Walsh (n 18).

³⁵ Centre for Disability Law and Policy, Submission to the Review of the Operation of the Disability Act 2005 (May 2010)

[https://www.universityofgalway.ie/media/centrefordisabilitylawandpolicy/files/archive/Submission-of-Review-of-the-Operation-of-the-Disability-Act-2005-\(May,-2010\).pdf](https://www.universityofgalway.ie/media/centrefordisabilitylawandpolicy/files/archive/Submission-of-Review-of-the-Operation-of-the-Disability-Act-2005-(May,-2010).pdf)

³⁶ Flynn (n 17).

UNCRPD Specific Obligations

This section outlines the specific obligations of relevance to the Disability Act 2005 in articles 7, 9, 19, 24, 25 and 28 CRPD. These specific articles have been chosen due to their alignment with the topics currently addressed under the 2005 Act. Arguably all articles of the CRPD could be relevant to the Act, we have focused on those that have a primary relevance to the current content of the 2005 Act and excluded from our analysis articles which are more specifically addressed in other legislative acts. For example, the specific obligations under Article 5 – Equality and non-discrimination are primarily addressed in the Equal Status and Employment Equality Acts. The report also focuses on Article 9 – Accessibility and not Article 21 – Freedom of expression and opinion and access to information as we believe Article 9 contains the primary obligations relating to the accessibility of information and communication that is more relevant to the 2005 Act.

Finally, some articles considered below are also relevant to other pieces of legislation. For example, we have included some aspects of Article 24 - Education in our analysis, specifically those which relate to the assessment of educational supports as part of the overall assessment of need. Beyond this we considered that the majority of the obligations under that article are more relevant to the Education for Persons with Special Educational Needs Act. Similarly, there is an argument that Article 25 could be more relevant to the Health Acts, and Article 28 to the Social Welfare Acts. However, given the focus of the Disability Act on the provision of health services, and the process of assessment of need, we included these CRPD articles in our analysis here as we consider them to be essential to the framework and implementation of the 2005 Act.

Article 7 – Children with disabilities

Under Article 7 CRPD, States have an obligation to ensure that the rights of children with disabilities are respected on an equal basis with others. Article 7 specifically outlines a requirement for children with disabilities to have the opportunity to freely express their views on all matters affecting them with access to disability and age-appropriate assistance to enable them to do so. A child's right to freely express their views includes both

participation in personal decision-making and meaningful participation in the laws and policies which impact their lives.

The CRPD and CRC Committees have recognised “the importance of ‘including children with disabilities’ in a systematic way in the elaboration and application of legislation and policies to implement the Convention, as well as in other decision-making processes”.³⁷ States have an obligation to develop consultation and participation processes that are child-friendly, inclusive, transparent and respect children with disabilities’ rights.³⁸ There is no evidence that Ireland made efforts to ascertain the views of disabled children in the development of the Disability Act 2005.

In line with the CRPD, States need to provide ‘adequate and appropriate services and support for children with disabilities, including children with psychosocial and/or intellectual disabilities, to live with their families in their communities’.³⁹ In doing so the Committee places an emphasis on community-based services and supports that aim to support a child’s inclusion in society and are not solely medically based.⁴⁰ Such supports must be available as early as possible in the lives of children with disabilities, be individualised and equally available in rural and urban areas.⁴¹ Assessments of need and service statements under the Disability Act 2005 currently take a medicalised approach to disability, placing a focus on the nature and extent of an individual’s disability and the services they may need to meet their health and education needs.⁴²

The CRPD Committee has also called on States to mainstream the rights of children with disabilities across legislation, policies, and plans, particularly those relating to children and

³⁷ Committee on the Rights of the Child and Committee on the Rights of Persons with Disabilities, ‘Joint Statement: The Rights of Children with Disabilities’ (March 2022).

³⁸ Committee on the Rights of the Child and Committee on the Rights of Persons with Disabilities, ‘Joint Statement: The Rights of Children with Disabilities’ (March 2022).

³⁹ Committee on the Rights of the Child and Committee on the Rights of Persons with Disabilities, ‘Joint Statement: The Rights of Children with Disabilities’ (March 2022); [Finland \(2025\)](#), para 13;

⁴⁰ [Republic of Korea \(2022\)](#), para 15; [Georgia \(2023\)](#), para 16; [Azerbaijan \(2024\)](#), para 15; [Viet Nam \(2025\)](#), para 14.

⁴¹ [Viet Nam \(2025\)](#), para 14; [Georgia \(2023\)](#), para 16.

⁴² Disability Act 2005, s8.

young people.⁴³ Such laws must be based on a human rights model of disability.⁴⁴ They have noted the need to ensure that children with disabilities can access services and supports (e.g. personal assistance) which enable smooth transitions into independent and community-based living in adulthood.⁴⁵ Currently, the Disability Act 2005 provides for service statements to be reviewed.⁴⁶ However, these are based on the initial assessment of need and there is no provision for an updated assessment of need as a child ages or to determine the supports needed at key transition points such as transitioning to independent living in adulthood.

The main gaps in the current Disability Act and proposed Amendment Bill 2025 regarding compliance with Article 7 are as follows:

- There is no legislative requirement on government departments and public bodies to meaningfully include disabled children and their representative organisations in consultation processes e.g. the development of sectoral plans.
- The assessment of need process does not include a requirement that disabled children have the opportunity to freely express their views on the process or outcomes of the assessment (as a matter affecting them). There is no legislative requirement in the Act or Amendment Bill for specific supports to be provided to disabled children during the assessment of need process to ensure they can freely express their views.
- The requirement to make services available early in life to children is focused on ameliorating their disability (current Act) or ameliorating the substantive restriction caused by their disability (Amendment Bill). A CRPD compliant approach would recognise that the barriers facing children are not caused by their impairments and would have a lower threshold for offering support – where

⁴³ Finland (2025) para 13; Canada (2025), para 14; Ukraine (2024), para 15; Singapore (2022), para 14; Kuwait (2019), para 15.

⁴⁴ United Kingdom of Great Britain and Northern Ireland (2017), para 20.

⁴⁵ Kuwait (2019), para 15; United Arab Emirates (2016), para 16.

⁴⁶ Disability Act 2005, s11(9).

support could enhance the participation of the child, rather than only where services can ameliorate the substantive restriction facing the child (Amendment Bill).

Article 9 – Accessibility

Article 9 CRPD outlines that States Parties must take appropriate measures to ensure persons with disabilities can access the built environment, transport, and information and communication technologies. Before outlining State obligations to ensure accessibility under Article 9 in detail, it is important to clarify the legal distinction between the obligation to ensure accessibility and the obligation to provide reasonable accommodation. In General Comment 2, the UN Committee on the Rights of Persons with Disabilities specifies that “[a]ccessibility is related to groups, whereas reasonable accommodation is related to individuals. This means that the duty to provide accessibility is an ex-ante duty.

States parties therefore have the duty to provide accessibility before receiving an individual request to enter or use a place or service.⁴⁷ By contrast, the Committee describes the obligation to provide reasonable accommodation as “an ex nunc duty, which means that it is enforceable from the moment an individual with an impairment needs it in a given situation, for example, workplace or school, in order to enjoy her or his rights on an equal basis in a particular context”.⁴⁸ The Disability Act does place legal obligations on public bodies to ensure accessibility of their buildings and services provided, including information and communication. These provisions are in addition to the prohibitions on disability-based discrimination under the Equality Acts, including the requirements to provide reasonable accommodation by providers of goods and services.

In order to comply with the requirements of Article 9, the Committee requires States to “set accessibility standards, which must be adopted in consultation with organizations of persons with disabilities, and they need to be specified for service-providers, builders and other

⁴⁷ Committee on the Rights of Persons with Disabilities, General Comment No. 2 (2014) – Article 9: Accessibility (CRPD/C/GC/2) para 25.

⁴⁸ *ibid*, para 26.

relevant stakeholders”.⁴⁹ This is one of the areas in which the Disability Act falls short. The main umbrella DPO at the time, the Forum of People with Disabilities, left the Disability Legislation Consultation Group – the main civil society platform for input into the drafting process of the Disability Act, due to the failure of government to guarantee legally justiciable rights in the text of the Act.⁵⁰ Therefore there was ultimately no adoption of accessibility standards within the Act itself which can be described as being in true consultation with DPOs. Moreover, there is no general requirement under the Act that in the making of further regulations setting out accessibility standards in different domains, e.g. buildings and infrastructure, transport, information, and communications – that the Minister responsible must consult with DPOs.

A second issue for compliance is that the Disability Act only makes accessibility requirements for public buildings, services provided by and to public bodies, and information and communication provided by public bodies. This is a far narrower approach to accessibility obligations than those proscribed by the CRPD Committee. General Comment 2 specifies that: “the focus is no longer on legal personality and the public or private nature of those who own buildings, transport infrastructure, vehicles, information and communication, and services. As long as goods, products and services are open or provided to the public, they must be accessible to all, regardless of whether they are owned and/or provided by a public authority or a private enterprise.”⁵¹

By contrast, the Disability Act only extends obligations to buildings, facilities, services and information provided by public bodies, which are defined only as government departments, local authorities, companies financed wholly or partly by the state, and the Health Service Executive. The broader approach of the CRPD, requiring all infrastructure, services, and information which is open or provided to the public, to be accessible to all, would require

⁴⁹ *ibid*, para 29.

⁵⁰ Eilionóir Flynn, *From Rhetoric to Action: Implementing the UN Convention on the Rights of Persons with Disabilities - the use of National Disability Strategies* (2011; Cambridge Disability Law and Policy)

⁵¹ Committee on the Rights of Persons with Disabilities, General Comment No. 2 (2014) – Article 9: Accessibility (CRPD/C/GC/2) para 13.

significant amendments to Part 5 of the Disability Act, similar to the rules on “public accommodations” under the Americans with Disabilities Act 1990.⁵²

General Comment 2 also sets important accessibility requirements for public procurement. It provides that “as part of their review of accessibility legislation, States parties must also consider their laws on public procurement to ensure that their public procurement procedures incorporate accessibility requirements. It is unacceptable to use public funds to perpetuate new inequalities. All new objects, infrastructure, facilities, goods, products and services must be fully accessible for all persons with disabilities.” While in general the Disability Act does extend accessibility obligations to public procurement, there are many possible exemptions, for example: if the provision of access by persons with disabilities to any services provided to the body—(a) would not be practicable, (b) would not be justified having regard to the cost of doing so, or (c) would cause unreasonable delay in making the goods or services available to other persons”.⁵³

Similar exemptions apply to all the accessibility obligations in the Disability Act, including the obligation to make public buildings accessible: “where making the building accessible to persons with disabilities would not be justified, on the grounds of cost, having regard to the use to which the building is put”.⁵⁴ In determining whether these exemptions should apply, the relevant Ministers have an obligation to “consult with such other Ministers of the Government or such other persons as he or she considers appropriate.”⁵⁵ However, there is no explicit obligation here to consult specifically with persons with disabilities and their representative organisations, which leaves a significant gap in terms of CRPD compliance. Arguably, the Public Sector Equality and Human Rights Duty could ameliorate this gap to some extent. However, that duty only requires public bodies to “have regard to the need to eliminate discrimination... promote equality of opportunity ... and protect human rights of the persons to whom it provides services.” Having regard to the needs to protect the human rights of disabled people, if interpreted narrowly by the relevant organisation, might not

⁵² Robert L. Burgdorf Jr, *Equal members of the community: The public accommodations provisions of the Americans with Disabilities Act*. (1991) 64 *Temple Law Review* 551.

⁵³ Disability Act 2005, s27(2).

⁵⁴ Disability Act 2005, s25(4).

⁵⁵ Disability Act 2005, s25(5).

extend so far as to mandate public bodies to ensure the meaningful participation of the representative organisations of disabled people in the determination of their accessibility obligations.

Finally, the General Comment requires that “persons with disabilities who have been denied access to the physical environment, transportation, information and communication, or services open to the public should have effective legal remedies at their disposal”.⁵⁶ The Disability Act does provide for a complaints process which can be initiated by an individual disabled person, or via Access Officers of public bodies, where access has been denied.⁵⁷ These complaints will then be investigated by Inquiry Officers appointed within the relevant public body, and if the complaint is upheld, the Inquiry Officer will write to the head of the public body outlining the steps required to comply with the provision concerned.⁵⁸ This proceeding takes place other than in public and lacks the requirements of the full guarantees of access to justice and the right to an effective remedy required under the CRPD. Legal aid is not available to make accessibility complaints under the Disability Act, and the Act does not permit for appeal from the findings of an Inquiry Officer by the disabled person concerned, not even to the court on a point of law.

The main gaps in the current Disability Act compliance with Article 9 are as follows:

- Accessibility obligations are only placed on public bodies, rather than on both public and private sectors when providing a service that is generally available to the public
- There is no requirement on public bodies or responsible Ministers to meaningfully involve the representative organisations of disabled people in

⁵⁶ Committee on the Rights of Persons with Disabilities, General Comment No. 2 (2014) – Article 9: Accessibility (CRPD/C/GC/2) para 29.

⁵⁷ Disability Act 2005, s38.

⁵⁸ Disability Act 2005, s39.

determining whether making buildings accessible to disabled people would be ‘justified’

- There is no recourse to courts or access to legal aid when accessibility complaints are dismissed by Inquiry Officer (even on a point of law), or when public bodies do not comply with the recommendations made by an Inquiry officer to ensure enforcement.
- The General Scheme of the Disability (Amendment) Bill 2025 does not propose any amendments to the access requirements currently in the Disability Act including the gaps in compliance with Article 9 outlined above.

Article 19 – Living independently and being included in the community

The right to live independently and be included in the community under the CRPD is concerned with all forms of barriers that prevent persons with disabilities from living according to their wishes, whether those are legal obstacles or a denial of available alternatives. The right contains three main groups of obligations. First, it requires States Parties to abolish institutions and re-integrate residents into the community. Second, it requires the provision of disability-specific services that enable living in the community, such as personal assistants. Third, States Parties must make services for the general population to be made accessible for persons with disabilities. The details have been clarified mainly by the CRPD Committee’s General Comment No. 5,⁵⁹ and in its concluding observations.

The first part of Article 19 requires States Parties to ensure that persons with disabilities can choose where and with whom they live and are not forced to live in a particular living arrangement. States must prohibit all forms of institutionalisation by law,⁶⁰ and recognise institutionalisation as discrimination against persons with disabilities.⁶¹ The state must implement “a coordinated deinstitutionalisation strategy across all its territories, with

⁵⁹ Committee on the Rights of Persons with Disabilities, General Comment No. 5 (2017) on living independently and being included in the community (CRPD/C/GC/5).

⁶⁰ Dominican Republic (2025), para. 36(a).

⁶¹ European Union (2025), para. 49(e).

timelines and financial resources, and applicable across all institutional settings, such as nursing homes, group homes, residential facilities and psychiatric institutions”.⁶² All forms of institutionalisation based on impairment must be prohibited, including for the purpose of providing rehabilitation.⁶³ Group homes, even if small, are not compliant with Article 19.⁶⁴ The state must cease “investment in the construction and renovation of institutions for persons with disabilities, including in institutions of small size, and divert the funds to the implementation of the deinstitutionalization strategy”.⁶⁵ Funding must not be used “for the construction or maintenance of institutional facilities, including small group homes”.⁶⁶

In the context of Ireland this requires abolishing all forms of institutions and providing all services for persons with disabilities in the community⁶⁷. While this could be achieved through a number of legislative instruments in Ireland, at a minimum the assessment of need process provided in the Disability Act should not result in the provision of an institutionalised service that would constitute a violation of Article 19. To comply with Article 19, the services offered under a service statement must focus on supporting disabled people to participate in their communities, rather than measures that would segregate and isolate disabled people. To ensure compliance with the CRPD, future amendments to the Disability Act could place the policy goals of moving disabled people out of congregated settings on a statutory footing and⁶⁸ ensure that DPOs participate in the design and implementation of de-institutionalisation plans.

The state must also raise awareness “to promote understanding of the right of choice and self-determination of persons with disabilities concerning their living arrangements, the right not to be obliged to live in a particular living arrangement, and the value of inclusion in,

⁶² Finland (2025), para 37(a).

⁶³ Ukraine (2024), para 39.

⁶⁴ European Union (2025), para. 49(d).

⁶⁵ Kazakhstan (2024) , para 42(b).

⁶⁶ European Union (2025), para 49(b).

⁶⁷ Committee on the Rights of Persons with Disabilities, General Comment No. 5 (2017) on living independently and being included in the community (CRPD/C/GC/5) para 16.

⁶⁸ For example, in Bulgaria the Social Services Act establishes a deadline of 2035 for the closure of all institutions for disabled adults (all institutions for disabled children were closed by the end of 2016).

as opposed to segregation from, the community”.⁶⁹ Information on de-institutionalisation must be disseminated to persons with disabilities in accessible formats, including Braille, Easy Read and sign language.⁷⁰ At present, the Disability Act only extends accessibility requirements regarding information and communication to public bodies. Since a large proportion of service providers to disabled people in Ireland are private charitable organisations, they are not obliged by law to make information on independent living accessible to disabled people. The Disability Act at present therefore does not ensure that all persons with disabilities have a legal entitlement to receive accessible information about their right to live in the community. This is a clear gap in terms of compliance with Article 19.

The obligations to provide community-based supports and services supporting independent living, include the provision of affordable and accessible housing,⁷¹ home support, and personal assistance.⁷² The state must “guarantee an enforceable legal right to adequate financial, technical and personal support to live independently in the community”.⁷³ In particular, the right to personal assistance tailored to the needs of persons with disabilities must be guaranteed by law.⁷⁴ At present, the Disability Act does not recognise a legal right to supports designed to further participation in the community. The only legal entitlement it provides is to an assessment of need, and the resulting service statement does not guarantee disabled people that any of the suggested services will actually be provided as this is dependent on budgetary constraints. Therefore, the Disability Act, in failing to recognise a legal right to support for disabled people to participate in their communities, is not compliant with Article 19.

According to the CRPD Committee, the supports provided by States under Article 19 must not impose service fees or waitlists on persons with disabilities.⁷⁵ Costs associated with independent living, such as in-home support, personal assistance and community services,

⁶⁹ Maldives (2025), para 38(b).

⁷⁰ Azerbaijan (2024), para 44(b).

⁷¹ Netherlands (2024), para 44(c).

⁷² Sweden (2024), para 44(a).

⁷³ Austria (2023), para 46(c).

⁷⁴ Viet Nam (2025), para 38(f).

⁷⁵ Finland (2025), para 37(b).

must be covered by the state.⁷⁶ Disability pensions and other monthly social allowance amounts for persons with disabilities must “align with the actual costs of independent living”, and States Parties must implement a system for regularly adjusting these allowances to account for inflation.⁷⁷ State funding must not be ad hoc but sustainable.⁷⁸ To promote social inclusion, the CRPD Committee has also called on States to provide personalised budgets.⁷⁹ To remove barriers in accessing personalised budgets, the state must reduce the complexity of utilising them.⁸⁰ The Committee maintains that the state must not impose forced pooling of disability benefits, as benefit allowances must be based on individual requirements rather than shared accommodation.⁸¹ At present, none of these requirements are met by the Disability Act, since it does not guarantee a legal entitlement to personal assistance or enshrine a mechanism to allocate personalised budgets to disabled people. While personal assistance might be included in the list of services on a service statement following an assessment of need, the disabled person has no legal entitlement to receive that personal assistance according to the Act. To achieve compliance with Article 19 in this respect, an overhaul of the entire aim and operation of the assessment of need process would be required.

To implement these requirements, the Disability Act could introduce person-centred budgeting mechanisms. Individual budgets could be established as the norm under the Act, where the disabled person is in charge of spending decisions. To ensure compliance with Article 19, the disabled person must have access to support in administering the budget, to avoid overcomplicating the budget mechanism and thus making it inaccessible, but the person must make all decisions.⁸² The budgets must be adequately financed, to cover all costs of independent living, and automatically aligned with inflation.⁸³

⁷⁶ Kiribati (2025), para 36(b).

⁷⁷ Viet Nam (2025), para 38(d).

⁷⁸ Viet Nam (2025), para 38(c).

⁷⁹ Azerbaijan (2024), para 44(c).

⁸⁰ Germany (2023), para 44(b).

⁸¹ Germany (2023), para 44(b).

⁸² Committee on the Rights of Persons with Disabilities, General Comment No. 5 (2017) on living independently and being included in the community (CRPD/C/GC/5) para 16.

⁸³ Viet Nam (2025), para 38(d).

If care is provided by family members, the CRPD Committee maintains that the state must extend support also to them.⁸⁴ The state must support persons with disabilities and their families, including but not limited to financial support, “to undertake housing modifications and gain access to assistive devices and technologies” to achieve independent living.⁸⁵ These are currently not adequately captured by the Disability Act.

The state must establish clear mechanisms for coordination between municipal and central government authorities to effectively implement measures on the inclusion of persons with disabilities in the community.⁸⁶ It must also “harmonize regulations and procedures across municipalities and reduce obstacles to ensure that persons with disabilities face minimal disruptions when moving within or between municipalities”.⁸⁷ Disparities among regions and municipalities are an important concern for services for persons with disabilities in Ireland. The Disability Act at present does not guarantee disabled people equality of access to services across the country. This could be achieved in future amendments to the Act by formulating some services as an individual right, as suggested above.

According to the CRPD Committee, independent living services must be provided in the recognised languages of service-users.⁸⁸ In the case of Ireland this would include sufficient provision of services in Irish. The state must also remove barriers to the range of in-home and individualized support to live in the community for migrants and refugees with disabilities and persons with disabilities in refugee-like situations.⁸⁹

Finally, with regard to the third group of obligations under Article 19, the accessibility of general services, the CRPD Committee maintains that States must transform “mainstream services in the community including education, employment, health, leisure, cultural and social activities to be disability inclusive and accessible”.⁹⁰ The obligations include enhancing

⁸⁴ Bellini v. Italy, communication No. 51/2018, 27 January 2023, CRPD/C/27/D/51/2018, para. 7.7.

⁸⁵ Kiribati (2025), para 36(c).

⁸⁶ Dominican Republic (2025), para 36(d).

⁸⁷ Netherlands (2024), para 44(d).

⁸⁸ Finland (2025), para 37(c).

⁸⁹ Israel (2023), para 44(c).

⁹⁰ Maldives (2025), para 38(c).

“referral systems and coordination among healthcare, education, employment, and social support networks to provide comprehensive community-based services for persons with disabilities”.⁹¹ The state must provide “barrier-free access to public facilities and services in the community... including to education, healthcare, public transportation, and other cultural, sport and leisure amenities for children with disabilities, vocational training and employment opportunities”.⁹² The right also includes, having access to all measures and events of political and cultural life in the community, among others public meetings, sports events, cultural and religious festivals and any other activity in which the person with disability wishes to participate.⁹³ The Disability Act as discussed above only places obligations regarding accessibility on public bodies, and since general services offered to persons with disabilities stem from a wide range of public and private providers, further amendments to the Disability Act would be required to ensure compliance with this aspect of Article 19.

The CRPD Committee calls on States to remove segregated services, and ensure availability, accessibility, affordability and adaptability (4A) of services in the community.⁹⁴ The implementation of this obligation requires large-scale re-evaluation of services which currently come within the scope of the Disability Act. All services for the general population must comply with the 4A requirements, not only those provided by public bodies.

A crucial component of promoting the right to independent living is securing housing. The state must “develop safe, accessible and affordable housing in the community, include requirements of persons with disabilities in the eligibility criteria for public housing and for rental subsidies, and ensure that persons with disabilities, including persons with intellectual and/or psychosocial disabilities and persons with disabilities with high support needs, can in law and in fact enter into legally binding rental or ownership contracts.”⁹⁵ Housing shortage

⁹¹ [Ghana \(2024\)](#), para 37(f).

⁹² [Azerbaijan \(2024\)](#), para 44(d).

⁹³ Committee on the Rights of Persons with Disabilities, General Comment No. 5 (2017) on living independently and being included in the community (CRPD/C/GC/5) para 16(b).

⁹⁴ [Georgia \(2023\)](#), para 40(e).

⁹⁵ [Kazakhstan \(2024\)](#), para 42(c).

is a serious concern in Ireland, which has a severe impact on persons with disabilities, leading to their institutionalisation. While the accessibility obligations regarding the development of social housing apply to public bodies under the Disability Act, private housing developers are not covered by the accessibility obligations of the Disability Act, which is a clear gap in compliance with this aspect of Article 19.

To promote independent living, the CRPD Committee maintains that state must also address social stigmatization and discrimination of persons with disabilities, and combat unemployment and underemployment among them.⁹⁶ De-stigmatization requires large-scale measures across the board, ranging from education to employment and service provision. While the Disability Act does include a quota for employment of disabled people, this only extends to the public service, and this also represents a gap in compliance with the obligations outlined under the CRPD.

The main gaps in the current Disability Act regarding compliance with Article 19 are as follows:

- There is no legal entitlement to services and supports designed to further their participation in all aspects of community and society. The only legal entitlement is to an assessment of need, with no guarantee of any of the services in the associated service statement being provided.
- The Act does not guarantee that services in the service statement will further disabled people's opportunities to live independently and be included in their communities. In fact, the services offered, including residential and respite care, may further the isolation and segregation of disabled people from their communities, contravening the requirements of Article 19.
- There is no legal entitlement to personal assistance or personalised budgets or guarantees that services provided will span the full spectrum of participation in social and cultural life. The application of the Act to date suggests that the

⁹⁶ [Ghana \(2024\)](#), para 37(c).

services included in service statements are primarily health services, rather than social supports to enable full participation in accordance with the CRPD.

- The General Scheme of the Disability (Amendment) Bill 2025 does not propose any amendments to the legal entitlements to supports and services currently in the Disability Act including the gaps in compliance with Article 19 outlined above.

Article 24 – Education

Article 24 of the CRPD requires States Parties to recognise the right to education of persons with disabilities. While this article has a wide scope which goes beyond the remit of the Disability Act, it is relevant for the Act particularly in the area of assessments and the provision of early intervention in the case of children. Assessments for education, health, and social service purposes often overlap, and coordination between these sectors is required to ensure that no child’s needs are unmet. In Ireland, assessments under the Disability Act are often used by families to apply for education supports in schools, it is therefore important that the assessment procedures comply with the requirements of the CRPD.

The CRPD Committee has emphasised that needs assessments of children with disabilities must not be only of a medical nature,⁹⁷ and must not subject the children to formal categorisation such as whether their disabilities are considered “minor” or “major”.⁹⁸ Assessments must be individualised,⁹⁹ human-rights-based,¹⁰⁰ participatory,¹⁰¹ intersectional,¹⁰² and they must also include assessments of necessary accommodations.¹⁰³ The assessment bodies must have responsibility to identify and provide personalised support necessary for the inclusion of children with disabilities.¹⁰⁴ They must also not be

⁹⁷ Andorra (2023), para 49(c).

⁹⁸ Mongolia (2015), para 38.

⁹⁹ Togo (2023), para 48(a).

¹⁰⁰ Mongolia (2023), para 48(a).

¹⁰¹ Georgia (2023), para 50(b).

¹⁰² Zambia (2024), para 48(e).

¹⁰³ Andorra (2023), para 50(a).

¹⁰⁴ Tunisia (2023), para 44(d).

one-off, but regularly repeated to ensure that children receive the appropriate support and attention.¹⁰⁵ Support requirements and reasonable accommodations but be identified early, so that children with disabilities can benefit from them as much as possible.¹⁰⁶

The CRPD Committee has not established specific rules how early assessment and intervention procedures must be drawn up, or how similar procedures across different sectors must be harmonised. There is a great degree of overlap between obligations under Article 24 and other articles of the CRPD, such as 28, 25, 27, 19, and others. In that regard, it is important to stress the overlapping theme, that the purpose of the assessments is not finding a diagnosis, but identifying the person's needs and the support available.

While the main gaps regarding Ireland's compliance with Article 24 CRPD require a comprehensive analysis of the EPSEN Act, the assessment processes for disabled children in particular as proscribed by the Disability Act also fails to comply with Article 24 obligations in the following ways:

- The fact that disabled children would be potentially required to undergo two separate parallel assessment processes – one under the Disability Act, and a separate process under EPSEN, to determine their support needs, is overly bureaucratic and overly complex, and the process is not child-centred.
- Neither the Disability Act nor the General Scheme of the Amendment Bill include 'participation in education' as one of the recognised forms of substantive restriction that must be present to meet the criteria of a qualifying disability which would entitle a person to an assessment of need. While arguably the existence of EPSEN could address this gap, the failure to commence EPSEN in practice means that Ireland is not meeting its obligations under Article 24 to provide a legal entitlement to supports in education for disabled people.

¹⁰⁵ [Malawi \(2023\)](#), para 50(c).

¹⁰⁶ [Azerbaijan \(2024\)](#), para 54(d).

- The goal of the assessment of need process, as clarified in the General Scheme of the Amendment Bill, will be first to establish whether or not the individual is a person with disabilities in the meaning of the Act. This will entail a diagnostic process as the first step in the assessment of need. This runs counter to the obligations outlined by the CRPD Committee under Article 24 in respect of assessments, which must not be aimed at establishing a diagnosis, but rather at identifying the person’s needs and the support required to meet those needs.

Article 25 – Health

Article 25 of the CRPD requires States Parties to recognise that persons with disabilities have the right to the enjoyment of the highest attainable standard of health without discrimination on the basis of disability. To fulfil this goal, the CRPD Committee emphasise that persons with disabilities must have access to essential healthcare services on an equal basis with others.¹⁰⁷ This includes, for example, increasing the participation of persons with disabilities in public health programmes such as screenings for cervical cancer, breast cancer, and bowel cancer.¹⁰⁸ In particular, the state must tackle waiting lists to access healthcare services.¹⁰⁹ It must also allocate resources on “specialized services in the field of disability, focusing on the secondary prevention of the emergence of new impairments and the aggravation of existing disabilities”.¹¹⁰ In addition, they must include the use of “assistive and adaptive technology”.¹¹¹

The Disability Act must ensure that persons with disabilities have access to all health services available for the general population. This must include equal access to public health programs such as screening, and also specific services to prevent the deterioration of

¹⁰⁷ [Iraq \(2019\)](#), para 45.

¹⁰⁸ [Denmark \(2024\)](#), para 68.

¹⁰⁹ [Netherlands \(2024\)](#), para 56(d).

¹¹⁰ [Bolivia \(2016\)](#), para 58.

¹¹¹ [Israel \(2023\)](#), para 53(b).

impairments. The Disability Act’s implementation must be accompanied with sufficient funding to ensure that there are no waiting lists, which are a major concern currently.

Non-discrimination in the provision of healthcare requires addressing the special situation of persons with disabilities in public health emergencies. In situations like the COVID-19 pandemic, persons with disabilities must have access to health services available to the general population, and must enjoy “priority access to diagnostic, vaccination and recovery treatment”.¹¹² Medical rationing in public health emergencies like COVID-19 are a cause for serious concern in Ireland, which is not addressed in the Disability Act. The CRPD requires priority for persons with disabilities in certain areas (diagnosis, vaccination, recovery), which must be regulated by law and could be addressed in future reform of the Act. The CRPD Committee is not prescriptive about which specific national laws should be amended to address these issues, and it is possible that such changes could be included in other legislation instead of the Disability Act, such as the Health Acts.

Health services must be designed with the active participation of persons with disabilities to ensure that they are accessible and culturally appropriate.¹¹³ Participation is required at all levels, including “in the planning, design, monitoring and evaluation of accessibility, care processes and working methods in healthcare”¹¹⁴ and “in the development of health-related legislations and policies”.¹¹⁵ Persons with disabilities must also be actively involved in the design and delivery of training of healthcare professionals on human rights approaches to disability in the provision of health services.¹¹⁶ Taking a disability-inclusive approach to public health initiatives is an important principle in the CRPD. This means that disabled people and their organisations must be involved in all stages of planning. This has not been the case in Ireland, where, for example, the rollout of a public health system through Sláintecare has not been designed in partnership with disabled people. The Disability Act does not mandate the involvement of disabled people and their representative

¹¹² Singapore (2022), para 50(d).

¹¹³ Canada (2025), para 50.

¹¹⁴ Sweden (2024), para 55(b).

¹¹⁵ Malawi (2023), para 51(c).

¹¹⁶ Dominican Republic (2025), para 46(c).

organisations in the planning and delivery of healthcare services. While the Act does require the Department of Health to develop a Sectoral Plan to “include information concerning the services provided to persons with disabilities”¹¹⁷ there is no explicit obligation on the Department in the 2005 Act or the Amendment Bill ensure the meaningful participation of disabled people and their representatives in the development of that Plan, or its monitoring. The Act does empower the relevant Minister to “consult with such persons representative of persons with disabilities as he or she considers appropriate.”¹¹⁸

Specific healthcare protocols to persons with disabilities must be designed “based on a cross-cutting gender and intersectional perspective”.¹¹⁹ Culturally appropriate health services include services provided to persons with disabilities in their “original languages”.¹²⁰ They must also in particular be accessible and culturally sensitive to “persons with intellectual and/or psychosocial disabilities, persons with disabilities living in remote areas, persons with disabilities living in institutions and children and women with disabilities”,¹²¹ and persons with disabilities who are “gay, bisexual, transgender or intersex”.¹²² To achieve compliance with Article 25, planning and provision of health services must take into account overlapping and intersectional identities. The specific position of the Irish language must be taken into account in the provision of healthcare services to disabled people, and disabled people living in rural communities must have access to the same level of services as everybody else. The Disability Act at present does not address the intersectionality of disability and other identities, including significant gaps in gender affirming care for disabled people in Ireland.

The CRPD Committee has called on states to ensure that accessibility requirements, such as reasonable accommodation, are applied equally to both public and private healthcare providers.¹²³ The state must eliminate “financial barriers to healthcare by covering the cost

¹¹⁷ Disability Act 2005, s32(1)(a).

¹¹⁸ Disability Act 2005, s31(2).

¹¹⁹ Ecuador (2019), para 46.

¹²⁰ Viet Nam (2025), para 50.

¹²¹ Sweden (2024), para 55(a).

¹²² Colombia (2016), para 57.

¹²³ Palau (2025), para 48.

of essential medical treatments, particularly for persons with disabilities with low income”.¹²⁴ Persons with disabilities must receive free health insurance cards and must be “fully reimbursed for medical examinations and treatments”.¹²⁵ For disabled people who currently complete an assessment of need process under the Disability Act, and receive a service statement which includes certain healthcare services, they still have no legal guarantee of actually receiving the services that could address the barriers they are facing in participating in society. The Disability Act at present does not address the waiting lists for disability-specific healthcare, nor does it guarantee access to healthcare services required by disabled people in a timely manner. Despite the recognition in both the Disability Act and Amendment Bill that services should be provided early in life to disabled children to ameliorate the substantial restrictions they are facing, there is no legal guarantee that these services will in fact be provided within any particular timeframe, and no legal consequences for the HSE or the Department where services which have been assessed as necessary. This is a significant gap in terms of compliance with Article 25.

At present, the Disability Act does not specify that the definition of healthcare services includes reproductive healthcare. Under the CRPD, health services must be gender sensitive. They must include access to “high-quality, age-appropriate sexual and reproductive health services and comprehensive sexual education”, in particular by women and girls with disabilities.¹²⁶ It must include “family planning and ensure access to essential menstrual hygiene products”.¹²⁷ All healthcare facilities must provide “gynaecological and obstetrical services that are accessible to women with disabilities”.¹²⁸ Sexual and reproductive health care must include “sensitization and awareness-raising on HIV/AIDS, and ensure supported decision-making for women with intellectual and/or psychosocial disabilities so they can reaffirm their sexual and reproductive autonomy and self-determination”.¹²⁹ The state in particular must provide “access to safe abortion” and protect women with disabilities “from

¹²⁴ Democratic People's Republic of Korea (2025), para 49(a).

¹²⁵ Viet Nam (2025), para 50(f).

¹²⁶ Democratic People's Republic of Korea (2025), para 49(c).

¹²⁷ Canada (2025), para 50(d).

¹²⁸ Dominican Republic (2025), para 46(b).

¹²⁹ Maldives (2025), para 50(b).

forced sterilization and forced abortion”.¹³⁰ The state must “prevent pregnant women with disabilities from being pressured to undergo abortions, investigate any such cases and punish the doctors involved”.¹³¹

Free and informed consent is an essential component of all healthcare provided under Article 25 of the CRPD. It must be guaranteed “including through supported decision-making measures”.¹³² Informed consent also requires support to communication, such as making online information accessible and providing sign language interpretation.¹³³ The state must also develop “Easy Read medical materials, accessible administrative processes, and communication training for healthcare professionals to support persons with intellectual disabilities “. ¹³⁴ All information regarding health services must be provided “in accessible formats for persons with disabilities, including in Braille, sign language and Easy Read”.¹³⁵ The Committee was in particular critical of forced abortion and forced sterilisation,¹³⁶ and demanded the full “prohibition under all circumstances” of such practices.¹³⁷ The abolition of such practices must be followed up by “related high-quality training to health professionals”.¹³⁸

Health care with consent is a cornerstone of the CRPD, which is stressed not only in Article 25 but in a range of Articles of the CRPD (12, 14, 15, 16, 17). The Disability Act at present does not specify that the services outlined in the service statement can only be provided with the free and informed consent of the disabled person concerned. Consent requires not only the lack of coercion, but also the provision of sufficient information in an accessible way, every time a service is provided.

¹³⁰ Poland (2018), para 41.

¹³¹ Mexico (2014), **para 50**.

¹³² Kiribati (2025) , para 48(d).

¹³³ Kiribati (2025), para 48(e).

¹³⁴ European Union (2025), para 61.

¹³⁵ Palau (2025), para 48(b).

¹³⁶ Poland (2018), para 42.

¹³⁷ Montenegro (2017), para 47.

¹³⁸ Italy (2016), para 64.

The Committee has clarified that the requirement for treatment only following free and informed consent also applies to psychiatric treatment.¹³⁹ Psychiatric care must not be segregated from general medical care, and must include “sufficient community-based, health services and support”,¹⁴⁰ which must form the basis for programmes for the provision of mental health.¹⁴¹ The state must ensure the availability of supports, including peer-led supports for community-based mental health care.¹⁴² The current provision of mental health services seriously breaches Ireland’s obligations under the CRPD. To achieve compliance, the Disability Act would need to be amended in future to ensure that any mental health services included in the service statement are community-based rather than institutionalised, and are only provided with the free and informed consent of the person themselves. While the broader issue of Ireland’s Mental Health Act and the proposed Amendment Bill would also require significant reform to meet the obligations under the CRPD, reforms to the Disability Act would still be required to ensure an equivalent level of human rights protection is maintained in any mental health services including CAMHS included within the scope of a service statement under the Disability Act.

The main gaps in the current Disability Act regarding compliance with Article 25 are as follows:

- The Disability Act does not guarantee disabled people a legal right to healthcare services that meet the 4A standards of availability, accessibility, affordability and adaptability.
- There is no legal guarantee in the Disability Act that the healthcare services listed in the service statements for those who receive an assessment of need will be designed to further their participation and inclusion in the community.
- The Disability Act does not guarantee provision of healthcare services within a specific timeframe, even while they acknowledge that in respect of disabled

¹³⁹ Colombia (2016), para 57.

¹⁴⁰ Japan (2022), para 53(b).

¹⁴¹ Azerbaijan (2024), para 56(c).

¹⁴² Tuvalu (2025), para 46(c).

children in particular, the provision of services early in life may be necessary to ameliorate the substantive restrictions they face.

- The General Scheme of the Disability (Amendment) Bill 2025 does not propose any amendments to regarding a right to healthcare or the other gaps in compliance with Article 25 outlined above.

Article 28 – Adequate standard of living and social protection

Article 28 of the CRPD requires states to guarantee an adequate standard of living to persons with disabilities. This mainly requires securing an adequate level of basic necessities (e.g. housing, food, water, clothing, and other components of living conditions), and the provision of some form of income to alleviate poverty, in the form of social protection programmes, poverty reduction programmes, retirement benefits and programmes. The Disability Act is not primarily concerned with the provision of social protection. Nevertheless, this question overlaps with the provision of services to persons with disabilities, such as ‘personal social services’ which do come within the remit of ‘healthcare services’ under the Disability Act.¹⁴³ It is therefore important that social service provision and its costs take into account the obligations under Article 28.

As detailed under Article 19 above, the CRPD requires that assessments to determine the social services and supports provided to disabled people are conducted in a human rights focused way. This means that persons with disabilities must have a justiciable right to services enabling independent living, healthcare, and other services that are essential to fulfil their basic rights. The Disability Act at present does not recognise a justiciable right to these services and this creates a clear gap in terms of compliance with the CRPD.

The purpose of disability-related services is, among others, to address the costs of disability, and alleviate this burden from persons with disabilities. The state must not only provide an adequate standard of living for persons with disabilities, but, as stressed several times by the

¹⁴³ Disability Act 2005, s7(1),

CRPD Committee, cover all “additional disability-related expenses”,¹⁴⁴ particularly for those who require more intensive support.¹⁴⁵ For that reason, the state must provide these services to all persons with disabilities, irrespective of their income.¹⁴⁶ The state should not set incentives in a way that prevent persons with disabilities from working, therefore even if they work, the disability-specific services should be provided free of charge. The disability-related services and benefits must also continue once their recipients reach retirement age.¹⁴⁷

The main gaps in the current Disability Act regarding compliance with Article 28 are as follows:

- Disabled people have no legal entitlements to social services under the Disability Act. While an assessment of need and associated service statement may recognise how social services could ameliorate the substantive restrictions the disabled person is experiencing, but the Act does not guarantee that they will actually receive the relevant services.
- The Sectoral Plan of the Department of Social Protection under the Act is required to include information on the eligibility of persons with disabilities for payments under the Social Welfare Acts and the amounts of such payments. However there is no requirement under the Disability Act for this Sectoral Plan to consider the need for reform to these payments to address the cost of disability in a holistic, human rights compliant manner. This constitutes a clear gap in compliance with the requirements of Article 28 to ensure that disabled people have an adequate standard of living.

¹⁴⁴ Palau (2025), para 54(a).

¹⁴⁵ Japan (2022), para 60(a).

¹⁴⁶ Canada (2025), para 56(d).

¹⁴⁷ Denmark (2024), para 74.

- The General Scheme of the Disability (Amendment) Bill 2025 does not propose any amendments regarding social services including the gaps in compliance with Article 28 outlined above.

Overall, the CRPD Committee's elaboration on the obligations facing states under these Articles could be addressed through amendments to a wide range of legislative instruments, including the Disability Act. It would not be possible to bring Ireland into full compliance with these CRPD Articles through amendments to the Disability Act alone, as further changes to laws regarding children, education, healthcare and social services will be required to achieve these aims. Nevertheless, this analysis has demonstrated that there are clear gaps in terms of CRPD compliance right across all the sections of the Disability Act as it stands, and that the Amendment Bill proposed by government does not improve the Act's compliance with the Convention, since it does not aim to transform the Act's approach to providing support services to disabled people as a guarantee of legally binding entitlements.

Disability Acts in Other Jurisdictions

Many Disability Acts in other countries are focused primarily on prohibiting disability-based discrimination (including the Americans with Disabilities Act 1990 (USA), the Disability Discrimination Act 1992 (Commonwealth; Australia), Disability Discrimination Act 1995 (UK)). As a result, these will not be the focus of the comparative analysis for this research since they do not extend to provide concrete rights for disabled people to access services and supports they require to participate fully in their communities. Instead, the comparative research in this report will focus on two main types of approaches to a Disability Act which Ireland could consider for future reform. The first will be Disability Acts that focus primarily on the State's obligation to provide services and supports. Examples of this approach include Portugal's Basic Law on the Rights of Persons with Disabilities (Law 38/2004) and Iceland's Act on Services for Disabled People with Long-Term Support Needs (No.38/2018). Both these laws are centred on disability services and supports while also making broader commitments for example to the participation of disabled people in the development of public policy and consultation processes. The second major type of Disability Act which will be explored in the comparative analysis for this study will be comprehensive legislation which addresses the broad spectrum of disability rights and is not confined to or primarily focused on the provision of disability services and supports. The main example of this approach is Kenyan's Persons with Disabilities Act 2025.

Portugal

Portugal's Basic Law on the Rights of Persons with Disabilities pre-dates the CRPD and was first enacted just a year before Ireland's Disability Act. Unlike Ireland, it has been regularly amended since Portugal's ratification of the CRPD to ensure greater human rights compliance. The original Act uses a definition of disability which is similar to Ireland's recognising that a disabled person is one who "because of loss or irregularity, whether congenital or acquired, of bodily functions or structures, including psychological functions, has specific difficulties that are likely, in combination with environmental factors, to limit or

hinder activity and participation under equal conditions with others”.¹⁴⁸ An important difference here is that Portugal’s definition does not require the impairment to be “enduring”, unlike the approach in Ireland.¹⁴⁹ This enables a more flexible approach to understanding that impairment or difference does not have to be ‘long-term’ in order for a person to benefit from the protection of disability law.

Unlike Ireland’s Disability Act, the Portuguese Act includes a set of guiding principles which are used in its interpretation and application in practice. These principles include individuality,¹⁵⁰ citizenship,¹⁵¹ non-discrimination,¹⁵² autonomy,¹⁵³ information,¹⁵⁴ participation,¹⁵⁵ globality¹⁵⁶ (lifelong development of disabled people), quality¹⁵⁷ (of goods and services for disabled people), public (i.e. State) responsibility,¹⁵⁸ transversality¹⁵⁹ (cross-departmental coordination), co-operation¹⁶⁰ (public and private bodies), and joint responsibility.¹⁶¹ These principles may be worth considering in the context of the reform of Ireland’s Disability Act, as the inclusion of guiding principles can allow for greater clarity in the interpretation of the Act, including by the judiciary, when issues arise in the implementation of the Act in practice.

Portugal’s Act sets out high level commitments, emphasising State responsibility for providing, funding, and co-ordinating the delivery of services and supports to disabled people, including where these are provided by community and voluntary service providers. It covers a broad range of State obligations, including in the spheres of employment,¹⁶²

¹⁴⁸ Basic Law on the Rights of Persons with Disabilities (Law 38/2004), article 2.

¹⁴⁹ Disability Act 2005, s2.

¹⁵⁰ Basic Law on the Rights of Persons with Disabilities (Law 38/2004), article 4.

¹⁵¹ Basic Law on the Rights of Persons with Disabilities (Law 38/2004), article 5.

¹⁵² Basic Law on the Rights of Persons with Disabilities (Law 38/2004), article 6.

¹⁵³ Basic Law on the Rights of Persons with Disabilities (Law 38/2004), article 7.

¹⁵⁴ Basic Law on the Rights of Persons with Disabilities (Law 38/2004), article 8.

¹⁵⁵ Basic Law on the Rights of Persons with Disabilities (Law 38/2004), article 9.

¹⁵⁶ Basic Law on the Rights of Persons with Disabilities (Law 38/2004), article 10.

¹⁵⁷ Basic Law on the Rights of Persons with Disabilities (Law 38/2004), article 11.

¹⁵⁸ Basic Law on the Rights of Persons with Disabilities (Law 38/2004), article 12.

¹⁵⁹ Basic Law on the Rights of Persons with Disabilities (Law 38/2004), article 13.

¹⁶⁰ Basic Law on the Rights of Persons with Disabilities (Law 38/2004), article 14.

¹⁶¹ Basic Law on the Rights of Persons with Disabilities (Law 38/2004), article 15.

¹⁶² Basic Law on the Rights of Persons with Disabilities (Law 38/2004), articles 26-28.

consumer rights,¹⁶³ social security,¹⁶⁴ health,¹⁶⁵ housing,¹⁶⁶ transport,¹⁶⁷ education,¹⁶⁸ culture,¹⁶⁹ sport and leisure,¹⁷⁰ early intervention,¹⁷¹ information (including internet accessibility),¹⁷² research,¹⁷³ training¹⁷⁴ and data collection.¹⁷⁵ While these high level commitments are positively framed in the legislation, they are quite generic in nature and lack specificity regarding the means of implementation. In this sense, Portugal's law can be understood as providing a series of legislative commitments to action, but the real detail on how these will be achieved is provided in regulations and ordinances developed after its enactment.

While further ordinances have been developed to implement the Disability Act, especially in the arena of independent living, it must be noted that the Portuguese legislation still focuses primarily on outlining how the state must achieve its obligation to provide services and supports, and to a lesser extent on outlining the eligibility of disabled people for services and supports. Portugal therefore has not created a justiciable individual right for disabled people to access services and supports, but it has embedded in law the eligibility criteria which disabled people must meet to receive these supports.

A useful example of regulations developed to implement the Portuguese Act is Ordinance 59/2015, which made changes to the definition of 'residential homes' and 'independent living residences' and set out the conditions for their establishment and operation.

Previously, residential homes were essentially institutional settings where disabled people could be placed without their consent if there was no other service which could support

¹⁶³ Basic Law on the Rights of Persons with Disabilities (Law 38/2004), article 29.

¹⁶⁴ Basic Law on the Rights of Persons with Disabilities (Law 38/2004), article 30.

¹⁶⁵ Basic Law on the Rights of Persons with Disabilities (Law 38/2004), article 31.

¹⁶⁶ Basic Law on the Rights of Persons with Disabilities (Law 38/2004), article 32.

¹⁶⁷ Basic Law on the Rights of Persons with Disabilities (Law 38/2004), article 33.

¹⁶⁸ Basic Law on the Rights of Persons with Disabilities (Law 38/2004), article 34.

¹⁶⁹ Basic Law on the Rights of Persons with Disabilities (Law 38/2004), article 35.

¹⁷⁰ Basic Law on the Rights of Persons with Disabilities (Law 38/2004), article 38.

¹⁷¹ Basic Law on the Rights of Persons with Disabilities (Law 38/2004), article 42.

¹⁷² Basic Law on the Rights of Persons with Disabilities (Law 38/2004), article 43-44.

¹⁷³ Basic Law on the Rights of Persons with Disabilities (Law 38/2004), article 45.

¹⁷⁴ Basic Law on the Rights of Persons with Disabilities (Law 38/2004), article 46.

¹⁷⁵ Basic Law on the Rights of Persons with Disabilities (Law 38/2004), article 47.

them. The 2015 ordinance made a clear distinction between such institutional settings as a system of last resort¹⁷⁶ and ‘independent living residences’ which are intended to support disabled people to live more independently. It provided that these new independent living residences can accept, temporarily or permanently, disabled people who cannot live with their family and who can live independently when provided with the necessary assistance.¹⁷⁷ It also specifies that disabled adults and children can continue to be temporarily placed in the more institutional setting of residential homes, but only in emergency cases where all other less restrictive approaches have been attempted without success.¹⁷⁸

To further advance alternatives to institutionalisation in line with Article 19 CRPD and to further the objectives of the original Disability Act, in 2017, Portugal passed a new law establishing an Independent Living Support Scheme.¹⁷⁹ This law outlines the state obligation to provide personal assistance services for disabled people through the Independent Living Centres. In 2019, the scheme was further amended¹⁸⁰ to enable disabled people currently living in residential facilities including group homes to apply for this support for their transition to life in the community, for a period of up to six months while still living in residential care. A pilot project was implemented from 2018 to 2023, with 35 Independent Living Centres receiving funding from EU Structural Funds. At the end of this pilot project, the Portuguese Government approved the Independent Living Support Scheme as a permanent scheme and established criteria for its functioning and organisation.¹⁸¹

Portugal’s Act requires the development of a new public body to co-ordinate its implementation. The main body responsible is the National Institute on Rehabilitation which is similar in function to Ireland’s National Disability Authority, but has some additional responsibilities in terms of co-ordinating the provision of disability-specific services and supports.¹⁸² In the creation of this new public body the Portuguese Act mandates the

¹⁷⁶ Ordinance 59/2015, Chapter 2, articles 12-17.

¹⁷⁷ Ordinance 59/2015, Chapter 3, articles 18-20.

¹⁷⁸ Ordinance 59/2015, Chapter 2, article 6.

¹⁷⁹ Decree-Law 129/2017.

¹⁸⁰ Decree-Law 27/2109.

¹⁸¹ Ordinance 415/2023

¹⁸² Decree-Law No. 31/2012, article 3(a)-(m).

involvement of DPOs¹⁸³ – a mandate which was not part of the formation of the NDA in Ireland. The involvement of DPOs in the design, implementation and monitoring of the successive laws and regulations which have followed Portugal's 2004 Act in specific areas such as independent living, is something that also needs further attention in light of the structures that were established to ensure the ongoing implementation of Ireland's Disability Act.

The Sectoral Plans which six specific government departments were mandated to complete under the 2005 Act have fallen into abeyance and been superseded to some extent by the creation of departmental reporting structures in successive National Disability Strategies and in the cross-departmental working group on the implementation of the CRPD. Nevertheless, in the reform of the Act, further consideration is needed to the structures required at government level for ongoing implementation and monitoring, and the active participation of DPOs within these structures, including with powers to determine the future trajectory and development of additional laws and policies to complement the 2005 Act and ensure broader compliance with Ireland's obligations under the CRPD.

Portuguese law, including its Disability Act, is clearly not yet fully compliant with the requirements of the CRPD, including the requirement to abolish all institutional settings and ensure disabled people can choose where and with whom to live on an equal basis with others and are not obliged to live in a particular living arrangement. However, it does provide an example of a legislative framework in which state obligations are clearly set out with high level and broad-ranging commitments across a range of CRPD rights. When followed by successive law reforms in discrete areas that impact specifically on disabled people, such as its decrees and ordinances in the field of independent living outlined above, it offers a model that is interesting for Ireland to consider in the further reform of the Disability Act. Moreover, while it does not guarantee individual disabled people legal rights to access end product services, it does clearly outline in law the eligibility criteria for accessing certain supports, such as personal assistance, which should ensure consistency in

¹⁸³ Basic Law on the Rights of Persons with Disabilities (Law 38/2004), article 17.

the implementation of these schemes across different regions within the country. Such an approach helps to move Portugal's provision of these supports away from charitable provision of care, and into closer alignment with the human rights model required by the CRPD.

Iceland

Iceland ratified the CRPD in 2016 after a long preparatory period. As part of the implementation measures, it adopted the Act on Services for Disabled People with Long-Term Support Needs (no. 38/2018) two years later. It has been amended several times since then to achieve more effective service provision and human rights compliance.

The Iceland Act introduces a dualistic approach to provision of services: all persons with disabilities have a right to general social services, access to which must be ensured with reasonable accommodation. In addition, if they have more intensive support needs, specific services are provided to them as part of their service plan. The approximate cut-off point is 15 hours of service needs per day: below this threshold, the person with disability should make use of general services, if their needs are greater or more specialised, disability-specific services are provided.¹⁸⁴ The Iceland Act thus sets up an elaborate support scheme to provide additional disability-specific services required for full inclusion beyond commitments to mainstream inclusion in social services, housing, education, the labour market, elderly services and health services.¹⁸⁵ The services under the Act are provided in addition, not instead of any support provided under other laws,¹⁸⁶ in accordance with the person's individual service plan.¹⁸⁷

The Act does not contain a list of basic principles, but it requires that human dignity, autonomy, and independence must be respected when providing services.¹⁸⁸ The

¹⁸⁴ Iceland Act on Services for Disabled People with Long-Term Support Needs 38/2018, Article 3.

¹⁸⁵ Iceland Act on Services for Disabled People with Long-Term Support Needs 38/2018, Article 3.

¹⁸⁶ Iceland Act on Services for Disabled People with Long-Term Support Needs 38/2018, Article 3.

¹⁸⁷ Iceland Act on Services for Disabled People with Long-Term Support Needs 38/2018, Article 12.

¹⁸⁸ Iceland Act on Services for Disabled People with Long-Term Support Needs 38/2018, Article 1.

importance of taking into account the person's wishes, including children,¹⁸⁹ is stressed in several places across the law.¹⁹⁰ For example, it is not permitted to make services for disabled people conditional on them living in a specific form of residence, and they have the right to choose their place of residence and where and with whom they live.¹⁹¹ It is reflected in all decision-making provisions. Services are provided on the basis of a user agreement signed by the persons with disability and a municipality, which according to the Act entails that the person with disability ("user") controls the assistance they receive by organising it, deciding when and where it is provided and selecting assistants.¹⁹² To provide different levels of control, the Act sets up three levels of service management: direct payment agreement, where the user is entirely responsible for staffing; user-controlled personal assistance; or a service arrangement where the user manages the services provided to them, although those who assist them are employees of the municipality.¹⁹³ Personal assistance is organised under the person's project management and supervision, but if the user has difficulty carrying out project management due to their disability, they shall be entitled to comprehensive assistance with it.¹⁹⁴

Concerning its definitions, the Iceland Act, similarly to Ireland's Disability Act, limits disabled people to persons with long-term impairments (physical, mental, intellectual, or sensory impairment).¹⁹⁵ It relies on the social model of disability, emphasising that disability is constituted by the interaction of the impairment and barriers that may prevent full and effective participation in society if the person does not receive assistance.¹⁹⁶ The Iceland Act does not apply only to persons with disabilities, but also to their families. Support needs may take into account the needs of the individual's family.¹⁹⁷ Specific services exist to support families so that they can provide their children with disabilities with safe and

¹⁸⁹ Iceland Act on Services for Disabled People with Long-Term Support Needs 38/2018, Article 13.

¹⁹⁰ Iceland Act on Services for Disabled People with Long-Term Support Needs 38/2018, Articles 1, 9.

¹⁹¹ Iceland Act on Services for Disabled People with Long-Term Support Needs 38/2018, Article 9.

¹⁹² Iceland Act on Services for Disabled People with Long-Term Support Needs 38/2018, Article 2.5.

¹⁹³ Iceland Act on Services for Disabled People with Long-Term Support Needs 38/2018, Article 2.5.

¹⁹⁴ Iceland Act on Services for Disabled People with Long-Term Support Needs 38/2018, Article 11.

¹⁹⁵ Iceland Act on Services for Disabled People with Long-Term Support Needs 38/2018, Article 2.2.

¹⁹⁶ Iceland Act on Services for Disabled People with Long-Term Support Needs 38/2018, Article 2.2.

¹⁹⁷ Iceland Act on Services for Disabled People with Long-Term Support Needs 38/2018, Article 2.3.

developmentally appropriate upbringing conditions.¹⁹⁸ The Act provides the right of families of children with disabilities for support families, with whom a disabled child can stay for a specific period of time.¹⁹⁹

The most important part of the Iceland Act is the elaboration of various forms of services which disabled people are entitled to apart from the general services available to them. Disability-specific services include support services to meet their needs in various areas (which include strengthening their potential for independent household management and social participation; needs for rehabilitation, education and employment, including on the basis of appropriate adaptation; needs for specialized advice, social support and social interaction, including the pursuit of leisure and cultural activities; needs of disabled children for care and training; needs of disabled parents for the care and upbringing of their children);²⁰⁰ Housing services and social services that enable them to live in their own homes and promote their full integration and participation in society;²⁰¹ Personal assistance to help with activities of daily living, such as household chores and participation in social life, education and employment;²⁰² and Employment services such as assessment of work skills, sheltered work, training and functional training.²⁰³

To increase the labour participation of persons with disabilities, the Iceland Act also provides for specific measures such as priority for employment of persons with disabilities in the state and local governments if their qualifications for the job are greater than or equal to the qualifications of others applying for the job,²⁰⁴ and grants or subsidies for social rehabilitation and rehabilitation which can be used to purchase tools and equipment or other subsidies for homework or independent activities after rehabilitation and for the payment of study costs.²⁰⁵

¹⁹⁸ Iceland Act on Services for Disabled People with Long-Term Support Needs 38/2018, Article 8.4.

¹⁹⁹ Iceland Act on Services for Disabled People with Long-Term Support Needs 38/2018, Article 15.

²⁰⁰ Iceland Act on Services for Disabled People with Long-Term Support Needs 38/2018, Article 8.

²⁰¹ Iceland Act on Services for Disabled People with Long-Term Support Needs 38/2018, Article 9.

²⁰² Iceland Act on Services for Disabled People with Long-Term Support Needs 38/2018, Article 11.

²⁰³ Iceland Act on Services for Disabled People with Long-Term Support Needs 38/2018, Article 22.

²⁰⁴ Iceland Act on Services for Disabled People with Long-Term Support Needs 38/2018, Article 22.

²⁰⁵ Iceland Act on Services for Disabled People with Long-Term Support Needs 38/2018, Article 25.

The Iceland Act dedicates a special chapter to services for disabled children and their families.²⁰⁶ Apart from effective access to and benefit from education, training, vocational training and leisure, children with disabilities receive the necessary services so that they can enjoy human rights and human dignity on an equal basis with other children, live an independent life and participate in society without exclusion.²⁰⁷ To ensure that the child receives early support and intervention, service providers are obliged to respond to indications that a child's needs are not being met. Initial diagnosis and other assessment of the child's needs shall be carried out as soon as possible, but a child's support needs must be met even if a diagnosis is not available.²⁰⁸ Apart from access to general services such as education support, children with disabilities are entitled to specific services such as leisure services (after the end of their regular school day, and where appropriate before the start of daily classes, as well as on days, other than statutory holidays, when schools are not open),²⁰⁹ short-term stay outside the home or support to the parents support in their home if they so wish,²¹⁰ and summer vacation.²¹¹

Municipalities are responsible for the organization and implementation of services under the Act, and are required to cooperate with each other to provide services of the highest quality,²¹² and can form a service area to achieve that aim.²¹³ They can outsource service delivery to non-profit organizations, non-profit institutions or other private parties to provide services in accordance with this Act, but they must ensure that the legal status of users is not worse than it would otherwise have been.²¹⁴ They must appoint developmental therapists to work on projects under the Act, and employ social workers, occupational

²⁰⁶ Iceland Act on Services for Disabled People with Long-Term Support Needs 38/2018, articles 13-21.

²⁰⁷ Iceland Act on Services for Disabled People with Long-Term Support Needs 38/2018, Article 13.

²⁰⁸ Iceland Act on Services for Disabled People with Long-Term Support Needs 38/2018, Article 14.

²⁰⁹ Iceland Act on Services for Disabled People with Long-Term Support Needs 38/2018, Article 16.

²¹⁰ Iceland Act on Services for Disabled People with Long-Term Support Needs 38/2018, Article 17.

²¹¹ Iceland Act on Services for Disabled People with Long-Term Support Needs 38/2018, Article 18.

²¹² Iceland Act on Services for Disabled People with Long-Term Support Needs 38/2018, Article 5.

²¹³ Iceland Act on Services for Disabled People with Long-Term Support Needs 38/2018, Article 10.

²¹⁴ Iceland Act on Services for Disabled People with Long-Term Support Needs 38/2018, Article 6.

therapists, psychologists and other specialists, as well as staff who speak Icelandic sign language, where necessary.²¹⁵

Of special interest to Ireland's Disability Act are the Iceland Act's solutions to ensure that services are allocated as fast as possible, and there are no disruptions in services because of competence disputes between municipalities. To eliminate backlogs, a decision to provide a service shall be made as soon as possible. If it is anticipated that the service applied for cannot begin within three months of the approval of the application, the applicant must be provided with other appropriate services while waiting for the approved service to begin.²¹⁶ A person moving to a municipality can apply to receive services in that municipality in the future, which is then required to cooperate with them and the municipality where they are moving from to ensure continuity of service.²¹⁷

The Iceland Act also places special emphasis on the participation of persons with disabilities in decision-making on the policy level. The Minister of Social Affairs and Housing is entrusted with public policy-making under the Act, which they carry out in cooperation of member associations and interest groups of persons with disabilities.²¹⁸ In addition, people with disabilities shall be involved in policy-making in matters that concern them. To advise the Minister on policy-making in issues of disabled people, the Minister shall appoint a consultative committee on issues of disabled people, which shall be a forum for consultation between the state, local authorities and disabled people. Four out of nine members of the committee are representatives of interest groups of disabled people, and disabled people must constitute the majority of the committee.²¹⁹

Kenya

The Persons with Disabilities Act 2025 was commenced in May 2025. The Act aims to bring national legislation in Kenya in compliance with the UN Convention on the Rights of Persons

²¹⁵ Iceland Act on Services for Disabled People with Long-Term Support Needs 38/2018, Article 26.

²¹⁶ Iceland Act on Services for Disabled People with Long-Term Support Needs 38/2018, Article 34.

²¹⁷ Iceland Act on Services for Disabled People with Long-Term Support Needs 38/2018, Article 3.

²¹⁸ Iceland Act on Services for Disabled People with Long-Term Support Needs 38/2018, Article 4.

²¹⁹ Iceland Act on Services for Disabled People with Long-Term Support Needs 38/2018, Article 36.

with Disabilities and uphold the obligations set out under the Constitution of Kenya 2010.²²⁰ The Act is an example of the second type of legislation considered in this comparative research – legislation which articulates a range of rights and obligations and is not confined to services, supports and accessibility. However, while the 2025 Act closely mirrors many of the provisions of the UNCRPD it does not directly transpose the text of the Convention into national law.

The 2025 Act in Kenya repeals the Persons with Disabilities Act 2003²²¹ and takes a human rights based approach to disability with its guiding principles and values mirroring those found in Article 3 of the UNCRPD.²²² Disability is defined under the Act as ‘any physical, sensory, mental, psychological or other impairment, condition or illness that has or is perceived to have a substantial or long-term effect on an individual's ability to carry out ordinary day to day activities’.²²³ This is similar to the Irish Disability Act 2005 as it frames disability in the context of how it restricts a person’s ability to engage in aspects of society and includes physical, sensory and mental impairments.

Part 2 of the 2025 Act outlines the rights of persons with disabilities including the right to equality and non-discrimination, legal capacity, privacy, physical and mental integrity and access to justice. It recognises that certain groups within society may face additional barriers or prejudices and reasserts that women with disabilities²²⁴, children with disabilities²²⁵, youth with disabilities²²⁶ and older members of society with disabilities²²⁷ are entitled to enjoy human rights and fundamental freedoms on an equal basis with others. In doing so the Act mirrors aspects of Article 6 and 7 UNCRPD in relation to women and children with disabilities. However, it also goes further to identify older members of society with

²²⁰ Daniel Mule, ‘Enactment of the Persons with Disabilities Act 2025: A Landmark Victory for Human Rights in Kenya’ (Kenya National Human Rights Commission, May 2025) available at <https://www.knchr.org/Articles/ArtMID/2432/ArticleID/1224/Enactment-of-the-Persons-with-Disabilities-Act-2025-A-Landmark-Victory-for-Human-Rights-in-Kenya>

²²¹ Persons with Disabilities Act 2025, s88.

²²² Persons with Disabilities Act 2025, s3.

²²³ Persons with Disabilities Act 2025, s2.

²²⁴ Persons with Disabilities Act 2025, s10.

²²⁵ Persons with Disabilities Act 2025, s11.

²²⁶ Persons with Disabilities Act 2025, s12.

²²⁷ Persons with Disabilities Act 2025, s13.

disabilities and their rights to access inclusive services, social protection programmes and exercise their legal capacity in particular.²²⁸ Persons with disabilities are entitled to apply to High Court to enforce any or all rights set out in Part 2 of the Act.²²⁹

Section 33 of the 2025 Act sets out a right to independent living for all disabled people. It further establishes that persons with disabilities must have access to a range of in-home, residential and other supports including personal assistance to support their inclusion in society on an equal basis with others. Disabled people are also guaranteed a right to the ‘highest attainable standard of health, including health-related habilitation and rehabilitation services’ under the Act.²³⁰ To achieve this the Act outlines that persons with disabilities are entitled to free medical care in public health institutions and that all medical assessment reports, including for the purposes of registration under the Act, are also free in public health institutions.²³¹ The Act places an obligation on both national and county governments to ensure there are an adequate number of Kenyan sign language interpreters available.

The Act establishes a National Council for Persons with Disabilities to work with and advise relevant Government agencies and the private sector.²³² The Chairperson of the Council must be selected from a disabled persons organisation, and members must also include a Ministry Representative, disabled people from representative disabled persons organisations and parents and guardians of disabled people. The Council must be represented ‘in the implementation of the National and County Health Programs’ and on committees relating to a number of key health promotion topics including early identification and intervention mechanisms for disability, enabling access to free public healthcare and mechanisms to ensure prompt medical attendance for disabled people.²³³ Other functions of the Council include advising on the development of law and policy in relation to discrimination, access

²²⁸ Persons with Disabilities Act 2025, s13.

²²⁹ Persons with Disabilities Act 2025, s34.

²³⁰ Persons with Disabilities Act 2025, s24.

²³¹ Persons with Disabilities Act 2025, s24.

²³² Persons with Disabilities Act 2025, s36.

²³³ Persons with Disabilities Act 2025, s25.

to services, the provision of assistive technology and accessibility of information communication and the built environment.²³⁴

Section 80 of the 2025 requires all government units and departments to establish Disability Mainstreaming Units to mainstream disability issues relevant to their remit, liaise with the Council on issues related to disability and ensure implementation of the Act and compliance with its provisions through regular inspections. The Units must report to the Council annually on their progress, compliance and any issues faced. The Council is also empowered to appoint inspectors 'to investigate and recommend prosecution or other remedy against infringement of this Act.'

By contrast, no over-arching disability council or national advisory body on disability matters is established in Ireland's Disability Act. Arguably some functions of Kenya's National Disability Council are replicated in the role of Ireland's National Disability Authority.²³⁵ However, the requirements in the Kenyan Act regarding the chair of the Council being a disabled person from a DPO, and the requirement to ensure a majority of council members are disabled people representing DPOs, are not mirrored in the statute establishing Ireland's National Disability Authority. There has been significant critique of the NDA's work from DPOs in Ireland who have not seen the NDA as representative of the disabled people's movement, or as a body functions in a manner that is truly independent of, and willing to robustly critique government perspectives on disability.

Moreover, the Kenyan Act's requirement for all government departments to establish disability mainstreaming units is not comparable to the approach in Ireland's Disability Act. Ireland's Act only places an obligation on 6 government departments to develop sectoral plans regarding their implementation of the Act.²³⁶ While all government departments and public bodies in Ireland are required to have Disability Access officers under the 2005 Act,²³⁷

²³⁴ Persons with Disabilities Act 2025, s38.

²³⁵ National Disability Authority Act 1999.

²³⁶ Disability Act 2005, ss31-37.

²³⁷ Disability Act 2005, s26(2).

this is not equivalent to a unit within the department responsible for ensuring that the department's work is truly disability-inclusive.

The Kenyan Act's approach to monitoring and enforcement is also distinct from Ireland's Disability Act. The role of the inspectors under the National Disability Council who can recommend prosecution or other remedies has the advantage of empowering public officials with the tools to remedy breaches of the law. This is entirely different from Ireland's approach, which relies on individual disabled people or their families litigating to enforce their rights under the Act.²³⁸ The individualised nature of this approach to enforcement in Ireland has been one of the major critiques of the current Act in terms of human rights compliance. In any reform, careful consideration must be given to the need to the enforcement and monitoring mechanisms to ensure the burden is shifted from individuals' asserting their rights, to the duty on public bodies to ensure their rights are realised in practice.

Since Kenya's Act was only enacted in 2025, it is too early to evaluate its effectiveness and application in practice. This must be a key consideration in determining its relevance for Ireland as we explore options for reform in the following section of the report.

²³⁸ Jurgen De Wispelaere and Judy Walsh, 'Disability Rights in Ireland: Chronicle of a Missed Opportunity' (2007) 22 Irish Political Studies 517

Exploring Options for Reform

Within this research, drawing on Ireland's obligations under the CRPD and from analogous international and comparative law reforms, we outline three broad options for progressing a reform of Ireland's Disability Act. These three options are detailed further below, and for each option we outline the advantages and disadvantages of the respective approach according to the research team, as well as the views of eight national DPOs representing a wide range of experiences of disability that we consulted in this research.

Option 1: Bring the existing issues in the Disability Act into conformity with CRPD

This option would take the existing Parts 1-7 of the Disability Act and its existing focus areas including the assessment of need, service statement and redress; accessibility and universal design; sectoral plans; genetic testing; public service employment, and reform each aspect to ensure compliance with the CRPD. This could include changing the definition of disability in the Act to reflect the conceptualisation of disability in the CRPD, which acknowledges the social and environmental barriers to participation, rather than linking the existence of impairment alone to a restriction in the capacity of the individual person. DPOs in the feedback session emphasised that this could also be an opportunity to harmonise the disparate definitions of disability which operate across different legislative acts in Ireland, including the Education Acts, Equal Status and Employment Equality Acts, and ensure greater legislative cohesion and consistency.

Given the extensive criticism of the assessment of need, service statement and redress process of the 2005 Act, a CRPD compliant reform would be an opportunity to overhaul the entire process to ensure it is reframed away from a medicalised approach to determining 'need' on the basis of 'impairment', towards a human rights compliant process designed to establish what supports disabled people need to live good lives and participate fully in their communities. To reform this process to fully adhere to the requirements of the CRPD would require much more than the adjustments currently proposed in the Amendment Bill 2025.

Instead, it would require a robust re-design of the entire process to establish eligibility for disability-specific supports, aimed at realising the rights of disabled people to live independently and be included in their communities. DPOs in the feedback session emphasised that disabled children and adults should have a clear legislative right to the supports needed – and that the supports must extend beyond medical or health services to include access to a broad range of community based services and personal assistance. In order for this reform of the assessment of need process to be successful, uncommenced provisions of the EPSEN Act must also be overhauled to ensure that children are not required to undergo two parallel, and possibly conflicting, assessment processes. Their consensus was that a single, flexible, and easy to use process should be created which responds to the individual’s changing circumstances including life transitions.

Any reform of the Disability Act would also need to transform the current commitments to improving accessibility of buildings, information, and communication. At present, the Act only places a relatively weak obligation on public bodies, whereas the CRPD requires robust accessibility obligations be equally imposed on public and private providers of goods and services available to the public. DPOs in the feedback session emphasised that the current implementation mechanisms for the existing accessibility obligations do not offer effective enforcement, and that there is no access to the legal system from a failure of a complaints officer or inquiry officer to adequately address accessibility issues. While the Act does outline a role for the Ombudsman in these situations, if accessibility obligations are extended beyond public bodies as part of the reform, this would require a different enforcement mechanism to ensure accountability.

Finally, the sectoral plans outlined in the 2005 Act were only applied to six government departments and there is no legislative obligation to meaningfully involve DPOs in their development, implementation or monitoring. A reform to this aspect of the Act could extend the obligation to create plans for implementation to all government departments, and set out the criteria for establishing participatory structures for stakeholder engagement, recognising the legitimate voices of DPOs as critical to this process. In practice, DPOs acknowledged that the sectoral plans even where initially prepared by some departments, are no longer kept up to date, and the processes for implementation and monitoring these

plans at the departmental level have been superseded by other structures including those outlined in the National Human Rights Strategy for Disabled People 2025.

There are a number of advantages to pursuing Option 1 from the perspective of the research team. One obvious advantage could be that it may be easier to get government to agree to reform the issues already covered in the 2005 Act, given the commitment in the Programme for Government. Another advantage is that reforming the law on these specific topics may be accomplished more quickly than a more comprehensive reform effort. It would take time to establish what the parameters of a comprehensive reform would be, and to ensure that all stakeholders realised that reform on these issues would bring badly needed change for many disabled people. However, there is also a major disadvantage to pursuing this approach, as to focus on the issues currently within the scope of the Act means at best indefinitely postponing a broader reform which would bring many other aspects of Irish legislation into compliance with CRPD.

The consensus from the DPOs consulted for this research was that Option 1 was the least preferred option. While many DPOs emphasised the urgency of the timeline for reform, they were collectively unwilling to sacrifice what they saw as the wider goals of their movement for a narrow and short-term legislative change which would not serve all disabled people equally nor guarantee full respect for all the rights contained in the CRPD. If this option is ultimately pursued by government, DPOs emphasised that at a minimum, reform was needed on all areas covered by the current Act, rather than prioritising certain issues like the assessment of need. Reform to all areas covered in the 2005 Act should according to the DPOs be rooted in CRPD obligations, rather than merely minor procedural adjustments to the assessment of need process. Moreover, several DPOs emphasised that if government commits to a CRPD based reform to issues within the current scope of the 2005 Act, this will be meaningless unless accompanied by reform of other core legislation including EPSEN and the Mental Health Act.

Option 2: Replace the 2005 Act with a CRPD Act

The second option considered in this research can take a number of different forms, each of which involves different approaches to incorporating the CRPD into domestic law in Ireland.

The simplest approach would be to incorporate the text of the Convention as it is into a single legislative Act, as Ireland has done with the European Convention on Human Rights (ECHR). This would enable disabled people to argue the CRPD in Irish courts and for Irish judges to be able to make declarations of incompatibility with the CRPD.

A more complex approach would be to take the text of the CRPD as a starting point and add to or elaborate on the commitments in the Convention text on certain issues. This was often referred to during the feedback session as the 'CRPD plus' option. That approach could be the basis of a Human Rights of Disabled People Act, similar to the model employed in the Kenyan Rights of Persons with Disabilities Act. This approach could see a new Human Rights of Disabled People Act amend a wide range of existing legislation on issues related to housing, employment, transport, political participation, education, language, culture and access to justice to name a few priority areas raised in our feedback session with DPOs. It could also embed in legislation a participatory framework to ensure government departments and public bodies create dedicated structures for meaningful engagement with and funding of DPOs.

The advantages of this approach from the perspective of the research team are that even a simple incorporation Act would enable Ireland to in principle meet its obligations under the CRPD, and it would enable disabled people in Ireland to bring domestic legal cases seeking declarations of incompatibility with the CRPD. However, the disadvantages are that the enactment of a simple incorporation Act may still require considerable amendments to other legislation and the continued political will to do so. Similarly, passing a more robust Human Rights of Disabled People Act would take significant commitments in terms of the length of time required and the political will to accomplish this. This is particularly the case if the new Act were to be used as a vehicle for amending all existing legislation which is currently incompatible with the CRPD. The level of buy in required from a wide range of stakeholders including government departments, public bodies, and private enterprise would be very significant – as well as the capacity building required for full and effective implementation and enforcement of such a law.

The majority of DPOs consulted for this research favoured Option 2 as their preferred route to reform. Several representatives highlighted that a CRPD Act would have the necessary

buy-in and consensus required right across the disabled people's movement and would ensure all disabled people's issues were addressed. From a strategic perspective they argued that it might be easier to get government to agree to a single legislative reform, rather than approaching the reform as an ongoing piecemeal process. Such a piecemeal approach carried a range of risks, including the reliance on reviews of existing legislation to introduce disability inclusive amendments as part of ongoing reform to laws on housing, employment, education and beyond.

Overall, the consensus within Option 2 tended towards a 'CRPD plus' solution, rather than a simple incorporation of existing CRPD text. The DPOs recognised that in many cases government would require more detail on how to implement the relevant right beyond the basics outlined in the CRPD text. There was some discussion about including the detail provided in General Comments and Concluding Observations within a domestic incorporation of the CRPD, and the need to interpret the CRPD as a living document.

Option 3: A New Expanded Disability Act

This Option could potentially be framed as a compromise between Option 1 and Option 2. It would entail a deliberative decision-making process centring the perspectives of DPOs to determine what disability-specific legal issues need to be addressed in a new stand-alone Disability Act. To make this determination, there would need to be a consensus on which legal issues could not be covered through amendments to existing laws e.g. in the fields of education, equality, housing, transport, political participation, etc. Any issues which could be addressed through disability-inclusive amendments to generic or mainstream legislation would be amended through their parent statutes, e.g. Assisted Decision-Making Capacity Act and the Mental Health Act rather than coming within the scope of a new Disability Act. Taking this approach, a new Act would not cover all the rights included in the CRPD, however it could certainly cover more than the topics currently included in the 2005 Act.

As a starting point, the research team offered the following suggestions to DPOs for what such a new Act might cover. These included the right to disability-specific services and supports including personal assistance, personalised budgets, assistive technology and community-based mental health supports. Another aspect was the right to accessibility and

corresponding obligations on public and private bodies to realise that right. Creating a duty on the state to protect and preserve disability culture, including Deaf culture, was also discussed as a possible topic for inclusion. DPOs also discussed in the feedback session with researchers the potential for a new Act to enshrine in domestic law a definition of DPOs reflecting General Comment 7 of the CRPD Committee²³⁹, to establish a mechanism for funding DPOs, and to embed a legal obligation on public bodies to engage with DPOs in the implementation and monitoring of this new Act.

The advantage of this approach from the perspective of the research team is that it offers a more targeted approach than the wide ranging nature of Option 2, but that it expands beyond the narrow range of topics currently addressed in the 2005 Act. This targeted focus may prove useful when engaging and building the capacity of the relevant stakeholders to ensure that a new expanded Disability Act is written in a manner that is fit for purpose and ready for implementation from the outset, with clarity on the obligations and entitlements from all involved. The corresponding disadvantages mirror some of the previous options, in that it may still prove difficult to generate the necessary political will to achieve this reform, and that the timeline to accomplish this may still be lengthy. A further issue is that the approach of maintaining a separate Disability Act in the long term may undermine efforts to ensure disability-inclusive amendments to all other relevant legislation e.g. in the domains of employment, education, transport, communications, etc. Related to this, it may also be difficult to gain the necessary consensus among DPOs and other stakeholders as to what the relevant issues to be included in a new expanded Disability Act would be. Arguably some of the potential topics given as examples by the research team above could be addressed through amendments to existing laws, including the Irish Sign Language Act, EPSEN, and the Mental Health Act.

While several DPOs consulted for this research were interested in Option 3 as a potential route forward, it was not the preferred option for any of those present. Some

²³⁹ Committee on the Rights of Persons with Disabilities, General Comment No. 7 (2018) on the participation of persons with disabilities, including children with disabilities, through their representative organizations, in the implementation and monitoring of the Convention (CRPD/C/GC/7) para 11.

representatives discussed the potential for Option 3 in conjunction with either Option 2, or Options 1 and 2. The potential for a suite of reforms or a staged process of successive reforms to the Disability Act including elements of all 3 options was also discussed by the DPOs. Within this discussion, some priority areas for inclusion in a new Disability Act were proposed. In addition to all the potential issues raised by the research team, further issues of access to justice, freedom of expression and opinion and access to information, and the right to liberty were raised as key additional areas that should be included in an expanded Disability Act. All the DPO representatives consulted for this research also emphasised that an extensive consultation process would be necessary with their full membership in order to identify the full range of issues that would need to be included in an expanded Disability Act.

Conclusion

The Disability Act 2005 set out to provide a legal framework for services and supports for disabled people, as well as outlining broader accessibility obligations for the public sector. However, this was not in keeping with the recommendations of the Commission on the Status of Persons with Disabilities or calls from many disability advocates or activists at the time. The resulting legislation has been subject to many criticisms since its enactment regarding both its content and implementation. An analysis of the Act's compliance with the requirements of the CRPD has shown considerable gaps in compliance across the Act. These include, but are not limited to, the definition of disability, the absence of a legal right to receive services or supports, limiting accessibility requirements to public bodies and a lack of recourse to the courts to enforce rights. The General Scheme of the Disability (Amendment) Bill 2025 focuses on the assessment of need process and does not propose any substantial amendments to the Act. The amendments proposed do not increase the Act's compliance with the CRPD. While it would not be possible to bring Ireland into full compliance with the CRPD, or the CRPD Articles reviewed in this research, through amendments to the Disability Act alone; any revisions to the Act must at a minimum commit to considerable reforms that implement Ireland's human rights obligations under the CRPD in national law. This minimum requirement for amending the 2005 Act to bring its current provisions in line with the CRPD was recognised as a possible option by DPOs that were consulted in this research. However, their preferred option was the enactment of legislation that incorporated the CRPD into domestic law in Ireland with additional provisions that elaborated on the commitments in the Convention text on certain issues. The DPOs and the research team would also emphasise that disabled people and their representative organisations must be central to determining what issues are included or prioritised in either of these reform processes in line Article 4(3) of the CRPD.