

LITIGATION, DISPUTE RESOLUTION AND INVESTIGATIONS
HEALTHCARE

COVID-19: Key features of Irish emergency health legislation

27 March 2020

Emergency legislation passed today provides for measures to allow health and social care professionals who want to return to work to have their applications to be registered with their regulatory bodies fast-tracked.



It also confirms that health and social care professionals will not be investigated by the Medical Council if they are required to carry out functions ordinarily reserved to doctors in certain circumstances. It includes provisions to deal with the practicalities of holding mental health tribunals during this public health crisis. It further allows for the registration of births and deaths to be completed in writing.

The [Emergency Measures in the Public Interest \(Covid-19\) Act 2020](#) will come into force as soon as it is signed by the President, which is expected to happen without delay.

GETTING HEALTHCARE PROFESSIONALS BACK ON THE REGISTER

The Act aims to ensure the health sector is sufficiently resourced and flexible to react to the public health emergency.

It does this by streamlining the process for previously registered health and social care professionals (including doctors, nurses, pharmacists, dentists and other health care professionals) to be restored to their respective registers until July 2020 (though this may be extended). Healthcare professionals who apply to be restored to the register will not have to pay any fee.

The websites of the relevant bodies contain further information on this process. See for example:

- [Irish Medical Council](#)
- [Nursing and Midwifery Board of Ireland](#)
- [Dental Council of Ireland](#)

ALLEVIATING CONCERNS ABOUT CARRYING OUT FUNCTIONS USUALLY RESERVED TO DOCTORS

Further, the Act provides that the certain healthcare professionals, including nurses, pharmacists and dentists, will not be investigated by the Medical Council for practicing medicine in breach of the Medical Practitioners Act 2007 where they are acting (a) under the direction and control of a registered medical practitioner or (b) in accordance with directions in writing given by a registered medical practitioner.

This development should provide comfort and clarity to health care professionals who may have been concerned about exceeding their scope of practice during the public health emergency period.

DEALING WITH THE PRACTICALITIES OF HOLDING MENTAL HEALTH TRIBUNALS

A person who is involuntarily detained pursuant to the Mental Health Act 2001 for treatment has a statutory entitlement to a review by a Mental Health Tribunal within 21 days of the making of an admission or renewal order.

Among the measures included in the

emergency legislation are provisions to address the practical challenges of holding mental health tribunals during the current public health emergency. These include:

- allowing for single member tribunals (barrister/solicitor) rather than three person tribunals (barrister/solicitor, consultant psychiatrist and lay person). Single member tribunals may consult with a consultant psychiatrist.
- allowing for certain evidence to be provided in writing so that witnesses do not have to attend in person;
- allowing the tribunal to take the

evidence of consultant psychiatrists responsible for the care and treatment of patients in writing;

- allowing consultant psychiatrists to provide reports on patients even where they were unable to examine their patient due to the exigencies of the public health emergency;
- allowing patients to present their case by way of representation and affording priority to patients who are detained involuntarily;
- allowing the tribunal to extend the time for a hearing.

These measures come into effect on 30

March 2020 and will remain in place until 9 November 2020 (and may be extended further by order of the Government).

PRACTICAL CHANGES FOR REGISTERING BIRTHS AND DEATHS

The Act allows the information necessary to register births and deaths to be provided in writing. This removes the requirements to sign the register in person and to attend before a registrar or Superintendent Registrar. This process will remain in operation until 31 May 2020 (though this may be extended).

KEY CONTACTS



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