

Here's a clear, practical explanation of **Ireland's Assisted Decision-Making (Capacity) Act 2015** and what it means now that it *came fully into effect on 26 April 2023*:

What the Act Is

The **Assisted Decision-Making (Capacity) Act 2015** is Irish law that significantly reformed how decisions are made for adults who may have difficulty making certain decisions for themselves. Although passed by the Oireachtas in **2015**, key parts only became *operational on 26 April 2023* after necessary amendments and preparations were completed.

The law reflects modern, human-rights-based thinking about decision-making capacity. It moves away from old, restrictive models of capacity (like treating someone as “incapable” of all decisions) and instead focuses on supporting people to make their *own decisions as far as possible*, and respecting their *will and preferences*.

Key Changes Introduced by the Act

1. Abolition of the “Ward of Court” System

- The very old system under the Lunacy Regulation (Ireland) Act **1871** – where adults could be made “wards of court” with a court-appointed committee making decisions on their behalf – is being *replaced* with a modern framework of decision support.
 - Over 2,000 current wards of court are being *reviewed and transitioned* out of wardship over a phased period following commencement.
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2. Functional Test of Capacity

- Instead of an all-or-nothing approach, a person's capacity is assessed in a **decision-specific and time-specific** way. A person may have capacity for some decisions and not others.
 - The focus is on what the person *can do* and how they can be supported, not just on deficits.
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3. New Decision-Support Options

The Act provides a **tiered system** of decision-making supports, tailored to each individual's needs and wishes:

Decision-Making Assistance Agreement

A person chooses someone (a *decision-making assistant*) to help them gather and understand information and weigh options. The person *still makes* their own decisions.

Co-Decision-Making Agreement

In situations where a person needs more help, they can agree with someone (a *co-decision-maker*) to make decisions jointly.

Decision-Making Representative Order

Where much greater support is needed, the Circuit Court can appoint a *decision-making representative* to make legally binding decisions in consultation with the person, taking into account their will and preferences.

4. Advance Healthcare Directives & Enduring Powers of Attorney

The Act allows adults to:

- Create an **Advance Healthcare Directive** — a written document stating their preferences for medical treatment if they lose capacity in the future.
 - Make an updated form of **Enduring Power of Attorney (EPA)** — a legal arrangement appointing someone to act on their behalf for property/affairs and, in some cases, personal care — under a structured, statutory process.
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5. Decision Support Service (DSS)

A new independent statutory body:

- **Registers and supervises** decision-support arrangements.
- Oversees the actions of assistants, co-decision-makers and representatives.
- Helps people understand and access the new system.

From 27 April 2023, the **Decision Support Service** began processing applications for these arrangements.

Why This Matters

This law aligns Irish practice with international human-rights standards — especially the **UN Convention on the Rights of Persons with Disabilities** — by prioritising **autonomy, dignity and self-determination** rather than substitute decision-making.

The shift is from a paternalistic approach (“best interests decided by others”) to one that protects and facilitates a person’s *own will and preferences* wherever possible.

In Summary

The Assisted Decision-Making (Capacity) Act 2015, fully commenced in April 2023, is a transformative law in Ireland that:

- Replaced the outdated wardship system with a rights-based approach.
 - Introduced a flexible, graduated model of decision-making support.
 - Allows people to plan ahead for future incapacity.
 - Established the Decision Support Service to guide and regulate the system.
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Sources

Break down the differences between the types of decision support arrangements.

Here’s a **plain-English breakdown** of the three main **decision-support arrangements** under Ireland’s Assisted Decision-Making (Capacity) Act 2015. The easiest way to understand them is to think of them as **levels of support**, depending on how much help someone needs.

The Three Types of Decision-Support Arrangements

1. Decision-Making Assistant

 Lowest level of support

What it means

A person chooses someone they trust to **help them understand and make decisions**, but **the person still makes the final decision themselves**.

What the assistant can do

- Help gather information
- Explain options
- Help communicate the person’s decision
- Help organise paperwork or meetings

What they cannot do

- They **cannot make decisions** for the person
- They cannot override the person's wishes

✓ Example

Someone with early dementia might ask their daughter to help explain financial letters or healthcare information — but they still decide what to do.

🟡 2. Co-Decision-Maker

👉 Medium level of support

✓ What it means

The person and another person **make certain decisions together**. Both must agree for the decision to be valid.

✓ What the co-decision-maker does

- Shares responsibility for decisions in agreed areas
- Signs documents jointly
- Helps ensure decisions reflect the person's wishes and preferences

✓ Requires

- A formal written agreement
- Registration with the **Decision Support Service (DSS)**

✗ What they cannot do

- They cannot make decisions alone
- They cannot ignore the person's wishes

✓ Example

Someone might need support managing money or signing contracts. They and their brother agree to make financial decisions jointly.

🔴 3. Decision-Making Representative

👉 Highest level of support

✔ What it means

If a person **cannot make certain decisions even with support**, the court can appoint someone to make decisions on their behalf.

✔ What the representative does

- Makes decisions in specific areas (e.g. property, healthcare, living arrangements)
- Must consider the person's:
 - Will
 - Preferences
 - Values
 - Past wishes

✔ Requires

- Appointment by the **Circuit Court**
- Supervision by the DSS

✘ Important limitation

They cannot simply decide what they think is “best” — they must follow the person’s likely wishes as much as possible.

✔ Example

A person with advanced dementia who can no longer understand or weigh decisions might have a representative appointed to manage finances or care arrangements.



Simple Comparison Table

Support Type	Who Makes the Final Decision?	Level of Support	Court Involved?
Decision-Making Assistant	The person themselves	Low	No
Co-Decision-Maker	Person + supporter together	Medium	No (but DSS registration required)
Decision-Making Representative	The representative	High	Yes



Key Principles Behind All Three

The law requires that:

- ✓ A person is assumed to have capacity unless proven otherwise
 - ✓ Support must be used before taking over decisions
 - ✓ The person's wishes and preferences must guide decisions
 - ✓ Capacity is assessed per decision (not all-or-nothing)
 - ✓ Support should be the **least restrictive option**
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Easy Way to Remember

- **Assistant** → **Helps you decide**
 - **Co-decision-maker** → **Decides with you**
 - **Representative** → **Decides for you (when necessary)**
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