



## **AN BILLE UM LÁN-AOIS, 1984** **AGE OF MAJORITY BILL, 1984**

### **EXPLANATORY MEMORANDUM**

#### *Purpose of the Bill*

1. The purpose of the Bill is to implement the proposals relating to the age of majority contained in the Law Reform Commission's "Report on the Law Relating to the Age of Majority, the Age for Marriage and Some Connected Subjects" (LRC5—1983) — as well as some other proposals in that Report.\* The main provision of the Bill proposes a reduction of the age of majority from 21 years to 18 years or earlier marriage. Among the other provisions is one to replace the common law rule, under which a person attains a particular age expressed in years on the day before his birthday, with a new rule to the effect that a particular age is attained on the person's birthday.

#### *Provisions of the Bill*

2. *Section 1* is the interpretation section. "Full age", a term which is used throughout the Bill, is to be construed in accordance with *section 2*.

3. *Section 2* provides for a reduction in the present age of majority (i.e. 21 years).

*Subsection (1)* provides that where a person has not attained the age of 21 years prior to the commencement of the Act he will attain full age (i.e. the age of majority) on the commencement of the Act if he has then reached the age of 18 or if he is or has been married. After the commencement of the Act a person will attain full age on reaching the age of 18 or on marriage, if he marries before that age.

*Subsection (2)* provides that *subsection (1)* will apply for the purposes of any rule of law and for the construction of the expressions "age of majority", "full age", "infancy", "infant", "minor", "minority" and related expressions in any statutory provision passed or made before, on or after the commencement of the Act, and for the construction of a deed, will, etc., but only if the deed, will etc. is made on or after the commencement of the Act. The application of the new Rule in *subsection (1)* to a statutory provision, deed, will etc. will be subject to any definition or contrary intention therein.

*Subsection (3)* proposes to substitute a reference to full age for references to the age of 21 years in existing statutory provisions passed or made before the commencement of the Act, save those excepted by *subsection (4)*, i.e. enactments concerning marriage, the Adoption Acts, 1952 to 1976, the Social Welfare Acts, 1981 to 1984, taxation

\*The remaining recommendations in the Report (principally, those relating to the age for marriage and the requirement of parental or court consent for certain marriages and recommendations that certain ages should be changed for the purposes of adoption, income tax and social welfare laws) are being considered separately.



legislation, statutory provisions providing for the payment of pensions or allowances in respect of children over the age of 18 years and under the age of 21 years.

The application of *section 2* is subject to the transitional provisions and savings in *section 7* and the *Schedule* to the Bill.

4. *Section 3* provides that a person who is not of full age may be described as a minor instead of as an infant. The section is an enabling one, so that it will still be correct to refer to persons under 18 as infants.

5. *Section 4* proposes a new rule for determining the time at which a person attains a particular age expressed in years. The provision will abolish the common law rule that a person attains a particular age at the first moment of the day preceding the relevant anniversary of his birth.

*Subsection (1)* provides that, subject to *subsection (3)* the time at which a person reaches a particular age (not necessarily full age or the age of majority) shall be the commencement of his birthday.

*Subsection (2)* provides that the new rule proposed in *subsection (1)* will apply only to anniversaries occurring after the date on which the Act comes into operation and will apply in relation to any statutory provision, deed, will or other instrument subject to any provision therein. Accordingly, except where a statutory provision or deed etc. otherwise provides no one will attain an age on the day the Act comes into operation — where the anniversary falls on that date the person will have attained the particular age on the previous day under the common law rule.

*Subsection (3)* provides that the date on which a person attains the age of 18 years shall, for the purposes of legislation relating to elections and referenda be calculated in the same manner as it is calculated for the purpose of determining whether a person has the right to vote at an election for members of Dáil Éireann.

6. *Section 5* provides for the amendment of the Defence Act, 1954 in two respects. Section 76 of the 1954 Act prescribes a procedure whereby a person under 18 years of age who enlists in the Defence Forces without the written consent of his parent may be discharged on the application of the parent. In view of the proposal (*section 2*) that a married person who is under the age of 18 years will be of full age, it is proposed that section 76 of the 1954 Act should not apply to such a person. The proposal in paragraph (b) to delete section 107 (2) of the 1954 Act is consequential on the proposed repeal of parts of section 6 of the Employers and Workmen Act, 1875 in *section 8*.

7. *Section 6* provides for the amendment of section 11 of the Guardianship of Infants Act, 1964, to enable an order for an infant's maintenance (granted to either parent) to be enforced against the other parent notwithstanding that both parents are residing together, and to allow a parent to apply to the court for an order directing the other parent to pay maintenance for a child even though the child has reached majority (now to be 18 years) in a case where the child is disabled. The order may be made up to any age. The changes proposed will bring the law as to orders for maintenance in the circumstances mentioned into line with the law as to maintenance under the Family Law (Maintenance of Spouses and Children) Act, 1976.

8. *Section 7* provides in *subsection (1)* for the transitional provisions and savings set out in the *Schedule*.



*Subsection (2)* proposes to ensure that the rule of law that a will or codicil speaks as to construction from the date of confirmation (rather than from that of the original execution) will not mean that a will or codicil made before the commencement date of the Act, but confirmed on or after that date, will be construed in accordance with *section 2*. Accordingly expressions such as "infancy" and "majority" contained in any such will or codicil will be construed as heretofore.

*Subsection (3)* contains a transitional provision in relation to certain statutory warrants continuing District Justices and County Registrars in office after normal retiring age. It is necessary because of the new rule in *section 4* for determining the time at which a person attains a particular age expressed in years.

9. *Section 8* provides for the repeal of certain statutory provisions relating to minors. Under *section 2*, the minimum age for making marriage settlements will be 18 years or the age at marriage if the person concerned marries at an earlier age. The statutory provisions mentioned in *paragraphs (a), (b) and (d)* of *section 8* allow marriage settlements, if sanctioned by the High Court, to be made by boys over 20 and girls over 17 upon or in contemplation of marriage. It is proposed to repeal these statutory provisions as no longer necessary in view of the proposal in *section 2*. The statutory provisions proposed for repeal in *paragraph (c)* of *section 8* concern the power of the District Court to order an apprentice to perform his duties and are effectively a dead letter.

10. *Section 9* provides for the short title and commencement.

11. The *Schedule* contains transitional provisions and savings. *Paragraphs 1, 2 and 7* relate, respectively, to (a) funds in court, (b) wardship and custody orders and (c) statutory provisions incorporated in deeds and wills and are self-explanatory.

*Paragraph 3* of the *Schedule* proposes that, where a trust instrument made before the commencement date is concerned with land or property to which an infant is beneficially entitled the powers of the trustees under sections 42 and 43 of the Conveyancing Act, 1881 (c. 41) in respect of the income of the land or property will continue until the infant reaches 21. *Sub-paragraph (1)* will ensure that the trustees under any such instrument may continue to apply the income from the land or property for the maintenance, education or benefit of the infant until he reaches 21. *Sub-paragraph (2)* provides that where the trustees are, because of the application of section 42 (4) or 43 (1) of the 1881 Act, empowered to pay that income to the parents or guardians of the infant on his reaching 18 or getting married, they will also have power to pay it to the infant himself. The 1881 Act provisions may apply to the case because of *sub-paragraph (1)* or because these provisions have been incorporated in and have effect as part of the trust instrument. (See *paragraph 7* of the *Schedule*.)

*Paragraph 4* is designed to ensure that, in the case of a will or codicil made before the commencement date or in the case of an intestacy arising before that date, the trusteeship of the personal representatives or their appointees in the case of an infant beneficiary will continue until the beneficiary reaches 21. In other words, the proposed change in the age of majority will not affect the definition of "infant" in section 3 (1) of the Succession Act, 1965 (No. 27) as "a person under the age of twenty-one years" in relation to such a will or intestacy. Sections 57 and 58 of the 1965 Act deal, respectively, with the appointment by personal representatives of trustees of an infant beneficiary's share in the estate of a deceased person and with the powers of such trustees. The personal representatives may appoint



themselves trustees; but, if they make no appointment they themselves become the trustees.

Paragraph 5 proposes that the change in the meaning of "minority" being effected by section 2 of the Bill will not affect any directions for accumulation of income for the purchase of land in settlements or dispositions made before the commencement date. The Accumulations Act, 1892 (c. 58) provides in section 1 (no accumulation beyond minority) that property may not be settled or disposed of in such manner that the rents or income will be wholly or partially accumulated for the purchase of land only for any longer period than during the minority of any person who under the trust in the instrument would for the time being, if of full age, be entitled to receive the rents or income directed to be accumulated. The effect of paragraph 5 of the Schedule will be that the terms "minority" and "full age" in section 1 of the 1892 Act will, for the purpose of deeds, wills etc. made before the commencement date, be construed as heretofore.

Paragraph 6 proposes that, in the case of a right of action that accrues before the commencement date, the action may be brought at any time before the expiration of the relevant number of years (specified in section 49 of the Statute of Limitations 1957 (No. 6)) from the date when the infant reaches 21. Section 48 of the Statute of 1957 provides that a person is under a disability while he is, *inter alia*, under 21; and section 49 of the Statute provides for the extension of the particular limitation period applicable in the case of a disability. In the case of a right of action accruing after the commencement date, a young person will cease to be under a disability on reaching 18 or getting married.

*An Roinn Dlí agus Cirt,*

*Meán Fómhair, 1984.*