



DÁIL ÉIREANN

AN BILLE UM AN DLÍ COIRIÚIL (GEALTACHT) 2002 CRIMINAL LAW (INSANITY) BILL 2002

LEASUITHE TUARASCÁLA REPORT AMENDMENTS

DÁIL ÉIREANN

AN BILLE UM AN DLÍ COIRIÚIL (GEALTACHT) 2002 —AN TUARASCÁIL

CRIMINAL LAW (INSANITY) BILL 2002 —REPORT

Leasuithe Amendments

1. In page 3, line 20, after “1883,” to insert “TO AMEND THE INFANTICIDE ACT 1949,”.

—An tAire Dlí agus Cirt, Comhionannais agus Athchóirithe Dlí.

2. In page 4, between lines 2 and 3, to insert the following:

“ “intoxication” means being under the intoxicating influence of any alcoholic drink, drug, solvent or any other substance or combination of substances;”.

—An tAire Dlí agus Cirt, Comhionannais agus Athchóirithe Dlí.

3. In page 4, between lines 2 and 3, to insert the following:

“ “intoxication” means in a state or condition induced by alcohol, a drug, or a combination of the two;”.

—Joe Costello.

4. In page 4, to delete lines 5 to 7 and substitute the following:

“ “mental disorder” shall be construed in accordance with *section 2**;”.

—Aengus Ó Snodaigh.

[**This is the correct reference if amendment number 13 is accepted.*]

5. In page 4, line 5, to delete “mental handicap” and substitute “intellectual disability”.

—Aengus Ó Snodaigh.

6. In page 4, line 5, to delete “handicap” and substitute “disability”.

—Joe Costello.

7. In page 4, line 6, to delete “disease” and substitute “other disease or medical condition”.

—Joe Costello.

8. In page 4, line 7, after “intoxication” to insert the following:

“or any condition induced by a state of intoxication, or an altered state of mind which arises from intoxication.”.

—Gerard Murphy.

9. In page 4, between lines 7 and 8, to insert the following:

“ “mental illness” means a condition that seriously impairs, either temporarily or permanently, the mental functions of a person and is characterised by the presence in the person of any one or more of the following symptoms:

(a) delusions;

(b) hallucinations;

(c) serious disorder of thought form;

(d) a severe disturbance of mood;

(e) sustained or repeated irrational behaviour indicating the presence of any one or more of the symptoms referred to in *paragraphs (a) to (d)*.”.

—Gerard Murphy.

10. In page 4, between lines 8 and 9, to insert the following:

“ “patient”, in *sections 11, 12 and 13*, means a person detained in a designated centre pursuant to this Act;”.

—An tAire Dlí agus Cirt, Comhionannais agus Athchóirithe Dlí.

11. In page 4, between lines 8 and 9, to insert the following:

“ “patient” means a person detained in a designated centre pursuant to this Act;”.

—Gerard Murphy.

12. In page 4, between lines 15 and 16, to insert the following:

“Orders.

2.—Every order made by the Minister or by the Minister for Health and Children under this Act shall be laid before each House of the Oireachtas as soon as may be after it is made.”.

—Joe Costello.

13. In page 4, between lines 15 and 16, to insert the following:

“2.—(1) In this Act “mental disorder” means mental illness, severe dementia or significant intellectual disability where—

- (a) because of the illness, disability or dementia, there is a serious likelihood of the person concerned causing immediate and serious harm to himself or herself or to other persons, or
- (b) (i) because of the severity of the illness, disability or dementia, the judgment of the person concerned is so impaired that failure to admit the person to an approved centre would be likely to lead to a serious deterioration in his or her condition or would prevent the administration of appropriate treatment that could be given only by such admission, and
- (ii) the reception, detention and treatment of the person concerned in an approved centre would be likely to benefit or alleviate the condition of that person to a material extent.

(2) In *subsection (1)*—

“mental illness” means a state of mind of a person which affects the person’s thinking, perceiving, emotion or judgment and which seriously impairs the mental function of the person to the extent that he or she requires care or medical treatment in his or her own interest or in the interest of other persons;

“severe dementia” means a deterioration of the brain of a person which significantly impairs the intellectual function of the person thereby affecting thought, comprehension and memory and which includes severe psychiatric or behavioural symptoms such as physical aggression;

“significant intellectual disability” means a state of arrested or incomplete development of mind of a person which includes significant impairment of intelligence and social functioning and abnormally aggressive or seriously irresponsible conduct on the part of the person.”.

—Aengus Ó Snodaigh.

- 14.** In page 4, lines 16 and 17, to delete all words from and including “established” in line 16 down to and including “1845” in line 17.

—An tAire Dlí agus Cirt, Comhionannais agus Athchóirithe Dlí.

- 15.** In page 4, to delete lines 22 to 27 and substitute the following:

“(2) The Minister for Health and Children, after consultation with the Mental Health Commission established under section 32 of the Act of 2001 by order may—

(a) designate a psychiatric centre, or

(b) with the consent of the Minister, designate part of a prison,”.

—An tAire Dlí agus Cirt, Comhionannais agus Athchóirithe Dlí.

- 16.** In page 4, lines 25 to 27, to delete all words from and including “or” in line 25, down to and including “thereof,” in line 27.

—Aengus Ó Snodaigh.

17. In page 4, between lines 31 and 32, to insert the following:

“(3) In designating a centre for the purposes of the Act the Minister for Health and Children shall have regard to the resources available in the proposed centre and to the rights of existing patients in the centre.”.

—Aengus Ó Snodaigh.

18. In page 4, between lines 41 and 42, to insert the following:

“(2) An accused person is presumed to be fit to be tried unless the contrary is shown.”.

—Gerard Murphy.

19. In page 4, line 44, to delete “so as to—” and substitute the following:

“such that he or she cannot do all of the following—”.

—Gerard Murphy.

20. In page 5, to delete lines 14 to 25 and substitute the following:

“(b) Subject to *subsections (7) and (8)*, in a case to which *paragraph (a)* relates, the Court determines that an accused person is unfit to be tried, that Court shall adjourn the proceedings until further order, and may—

(i) if it is satisfied, having considered the evidence of an approved medical officer adduced pursuant to *subsection (6)* and any other evidence that may be adduced before it that the accused person is suffering from a mental disorder (within the meaning of the Act of 2001) and is in need of in-patient care or treatment in a designated centre, commit him or her to a specified designated centre until an order is made under *section 12*, or

(ii) if it is satisfied, having considered the evidence of an approved medical officer adduced pursuant to *subsection (6)* and any other evidence that may be adduced before it that the accused person is suffering from a mental disorder or from a mental disorder (within the meaning of the Act of 2001) and is in need of out-patient care or treatment in a designated centre, make such order as it thinks proper in relation to the accused person for out-patient treatment in a designated centre.”.

—An tAire Dlí agus Cirt, Comhionannais agus Athchóirithe Dlí.

21. In page 5, lines 23 to 25, to delete all words from and including “in” in line 23 down to and including “12” in line 25 and substitute the following:

“, commit him or her to a specified designated centre, or remand him or her on bail and refer to community-based mental health facilities where appropriate, until an order is made under *section 12*”.

—Aengus Ó Snodaigh.

22. In page 5, to delete lines 41 to 48, and substitute the following:

“(c) If the determination under *paragraph (b)* is that the accused person is fit to be tried, the person shall be sent back by the court of trial to the District Court to enable that court to exercise its functions under the Criminal Procedure Act 1967.”.

—Joe Costello.

23. In page 6, to delete lines 13 to 23 and substitute the following:

“(c) Subject to *subsections (7) and (8)*, if the judge determines that the accused person is unfit to be tried, he or she shall adjourn the proceedings until further order, and may—

(i) if he or she is satisfied, having considered the evidence of an approved medical officer adduced pursuant to *subsection (6)* and any other evidence that may be adduced before him or her that the accused person is suffering from a mental disorder (within the meaning of the Act of 2001) and is in need of in-patient care or treatment in a designated centre, commit him or her to a specified designated centre until an order is made under *section 12*, or

(ii) if he or she is satisfied, having considered the evidence of an approved medical officer adduced pursuant to *subsection (6)* and any other evidence that may be adduced before him or her that the accused person is suffering from a mental disorder or from a mental disorder (within the meaning of the Act of 2001) and is in need of out-patient care or treatment in a designated centre, make such order as he or she thinks proper in relation to the accused person for out-patient treatment in a designated centre.”.

—An tAire Dlí agus Cirt, Comhionannais agus Athchóirithe Dlí.

24. In page 6, lines 21 to 23, to delete all words from and including “in” in line 21 where it secondly occurs down to and including “12” in line 23 and substitute the following:

“, commit him or her to a specified designated centre, or remand him or her on bail and refer to community-based mental health facilities where appropriate, until an order is made under *section 12*”.

—Aengus Ó Snodaigh.

25. In page 6, line 27, to delete “of committal”.

—An tAire Dlí agus Cirt, Comhionannais agus Athchóirithe Dlí.

26. In page 6, line 34, after “centre” to insert the following:

“or

(iii) may remand him or her on bail to attend for assessment on an outpatient basis”.

—Aengus Ó Snodaigh.

27. In page 6, to delete lines 35 to 41 and substitute the following:

“(b) Within the period of committal authorised by the court under this subsection, the approved medical officer concerned shall report to the court on whether in his or her opinion the accused person committed under *paragraph (a)* is—

(i) suffering from a mental disorder (within the meaning of the Act of 2001) and is in need of in-patient care or treatment in a designated centre, or

(ii) suffering from a mental disorder or from a mental disorder (within the meaning of the Act of 2001) and is in need of out-patient care or treatment in a designated centre.”.

—An tAire Dlí agus Cirt, Comhionannais agus Athchóirithe Dlí.

28. In page 6, between lines 41 and 42, to insert the following:

“(c) The court may only order committal to a designated centre where that centre has the capacity to provide appropriate care and treatment and where to do so would not compromise the rights of existing patients there.”.

—Aengus Ó Snodaigh.

29. In page 7, between lines 33 and 34, to insert the following:

“(2) Where a person has been found guilty of an offence, but prior to passing sentence the court becomes of opinion that the person is suffering from a mental disorder, the court having imposed a sentence may recommend that the sentence shall be served in a specified designated centre until such time as the person is no longer in need of in-patient care and treatment and shall thereafter be served in a prison or place of detention, and the Minister shall have regard to such a recommendation.”.

—Joe Costello.

30. In page 7, lines 39 to 41, to delete all words from and including “in” in line 39 down to and including “12” in line 41 and substitute the following:

“the court shall commit him or her to a specified designated centre, or refer him or her to community-based mental health facilities where appropriate, until an order is made under *section 12*”.

—Aengus Ó Snodaigh.

31. In page 8, line 16, after “centre” to insert “or in community-based mental health facilities”.

—Aengus Ó Snodaigh.

32. In page 8, between lines 40 and 41, to insert the following:

“(3) A woman found guilty of infanticide may be dealt with in accordance with *subsection (1)*.”.

—An tAire Dlí agus Cirt, Comhionannais agus Athchóirithe Dlí.

33. In page 11, lines 39 to 41, to delete all words from and including “shall” in line 39 down to and including “interest” in line 41 and substitute the following:

“shall ensure that the best interests of the person whose detention it reviews under this Act shall be the principle consideration with due regard being given to the interests of other persons who may be at risk of serious harm”.

—Aengus Ó Snodaigh.

34. In page 12, line 41, after “oath” to insert “or affirmation”.

—Joe Costello.

35. In page 13, line 14, after “determined” to insert “by regulations made”.

—Joe Costello.

36. In page 13, line 14, to delete “with the consent of” and substitute “in consultation with”.

—Aengus Ó Snodaigh.

37. In page 13, line 50, after “oath” to insert “, affirmation”.

—Joe Costello.

38. In page 14, to delete lines 30 to 32.

—An tAire Dlí agus Cirt, Comhionannais agus Athchóirithe Dlí, Gerard Murphy.

39. In page 14, line 31, after “centre” to insert the following:

“or referred to community-based mental health facilities where appropriate,”.

—Aengus Ó Snodaigh.

40. In page 14, to delete lines 33 to 37.

—Aengus Ó Snodaigh.

41. In page 14, line 39, to delete “6” and substitute “3”.

—Aengus Ó Snodaigh.

42. In page 14, line 46, to delete “indictable”.
—An tAire Dlí agus Cirt, Comhionannais agus Athchóirithe Dlí.

43. In page 17, between lines 31 and 32, to insert the following:

“(10) The State shall be liable for any injury, loss or damage caused by a patient while on temporary release under this section.”.

—Gerard Murphy.

44. In page 19, lines 30 and 31, to delete “Mental Health Act 2001” and substitute “Act of 2001”.

—An tAire Dlí agus Cirt, Comhionannais agus Athchóirithe Dlí.

45. In page 20, line 21, before “The” where it firstly occurs to insert “Notwithstanding *subsection (1)*,”.

—An tAire Dlí agus Cirt, Comhionannais agus Athchóirithe Dlí.

46. In page 20, between lines 30 and 31, to insert the following:

“Transfer back to prison.

17.—Where the clinical director of a designated centre forms the opinion in relation to a prisoner detained in the centre pursuant to *section 14* that he or she is no longer in need of in-patient care or treatment he or she shall, after consultation with the Minister, direct in writing—

(a) the transfer of the prisoner back to the prison from which he or she was transferred to the centre, or

(b) the transfer of the prisoner to such other prison as the Minister considers appropriate in all the circumstances of the case.”.

—An tAire Dlí agus Cirt, Comhionannais agus Athchóirithe Dlí.

47. In page 20, line 32, to delete “the mental condition” and substitute “a mental disorder”.

—Joe Costello.

48. In page 21, line 49, after “2006” to insert “, unless the context otherwise requires”.

—An tAire Dlí agus Cirt, Comhionannais agus Athchóirithe Dlí.

49. In page 22, between lines 41 and 42, to insert the following:

“Amendment of Infanticide Act 1949.

20.—Section 1(3) of the Infanticide Act 1949 is hereby amended—

- (a) in subsection (3)(c), by the substitution of “by reason of a mental disorder (within the meaning of the *Criminal Law (Insanity) Act 2006*)” for “by reason of the effect of lactation”, and
- (b) by the substitution of “as for manslaughter and, on conviction may be dealt with under *section 5(3)* of the *Criminal Law (Insanity) Act 2006* as if she had been found guilty of manslaughter on the grounds of diminished responsibility” for “and punished as for manslaughter.”.
- An tAire Dlí agus Cirt, Comhionannais agus Athchóirithe Dlí.

50. In page 23, between lines 4 and 5, to insert the following:

“Amendment of
Freedom of
Information Act
1997.

23.—The Freedom of Information Act 1997, is amended in paragraph 1(5) of the First Schedule, by the insertion of the following:

“(b) the Mental Health Review Board,”.

—Gerard Murphy.

51. In page 23, line 5, to delete “Insanity” and substitute “Mental Disorder”.

—Joe Costello.