



DÁIL ÉIREANN

AN BILLE UM AN DLÍ COIRIÚIL (GÁINNEÁIL AR DHAOINE) 2007 CRIMINAL LAW (HUMAN TRAFFICKING) BILL 2007

LEASUITHE COISTE COMMITTEE AMENDMENTS

DÁIL ÉIREANN

AN BILLE UM AN DLÍ COIRIÚIL (GÁINNEÁIL AR DHAOINE) 2007 —ROGHCHOISTE

CRIMINAL LAW (HUMAN TRAFFICKING) BILL 2007 —SELECT COMMITTEE

Leasuithe Amendments

SECTION 2

1. In page 4, line 21, after “act” to insert the following:

“that is unlawful or that is intended to be committed with a third person”.
—Pat Rabbitte.

2. In page 4, line 34, to delete “employment.” and substitute the following:

“employment,

(e) any person who attempts to commit an action under *paragraphs (a), (b), (c) or (d)*, and

(f) any person who believes that a person has committed an action under *paragraphs (a), (b), (c), (d) or (e)*.”.

—Denis Naughten.

SECTION 3

3. In page 4, before section 3, to insert the following new section:

“Protection of
victims of
trafficking.

3.—The Minister shall promulgate a code of victim’s rights in respect of victims of trafficking which shall address the following issues:

(a) protection of private life of victims;

(b) appropriate medical assistance to victims;

(c) secure accommodation;

(d) recovery and reflection period (minimum 30 days);

(e) temporary Residence permit (minimum 6 months);

(f) translation and interpretation facilities where necessary;

(g) access to counselling and information services, in particular, as regards legal rights, in a language that can be understood;

(h) access to legal aid;

(i) right of access to education for children;

(j) right to access social welfare benefits as necessary;

[SECTION 3]

- (k) voluntary repatriation and return of victims;
 - (l) facilitating access to the asylum process;
 - (m) special protection measures for child victims;
 - (n) family reunification;
 - (o) right to work;
 - (p) right to access vocational training and education; and
 - (q) compensation and facilitating legal redress against traffickers.”.
- Pat Rabbitte .

4. In page 5, subsection (2)(b), line 3, after “child,” to insert the following:

“and

- (c) supplies or avails of the services of the child which the child has been trafficked to provide, knowing or having reasonable grounds to believe that the child was trafficked,”.

—Pat Rabbitte.

5. In page 5, subsection (5), lines 10 and 11, to delete “a fine, or imprisonment for life, or both” and substitute the following:

“imprisonment for life or a lesser term of imprisonment”.

—Pat Rabbitte.

SECTION 4

6. In page 6, line 14, after “act” to insert the following:

“that is unlawful or that is intended to be committed with a third person”.

—Pat Rabbitte.

7. In page 6, line 34, to delete “employment.”” and substitute the following:

“employment,

- (e) any person who attempts to commit an action under paragraphs (a), (b), (c) or (d), and

- (f) any person who believes that a person has committed an action under paragraphs (a), (b), (c), (d) or (e).”.”.

—Denis Naughten.

SECTION 5

8. In page 6, subsection (1), line 36, after “person” to insert “, with or without their consent,”.

—Denis Naughten.

[SECTION 5]

9. In page 6, subsection (1), between lines 40 and 41, to insert the following:

“(a) irrespective of the consent of the trafficked person, engaged in trafficking for any unlawful purpose, or for the purpose of removing an organ of the trafficked person, or for the purpose of arranging for the trafficked person to commit sexual acts with a third party,”.

—Pat Rabbitte.

10. In page 7, subsection (3)(b), line 24, after “person,” to insert the following:

“and

(c) supplies or avails of the services of the child which the child has been trafficked to provide, knowing or having reasonable grounds to believe that the child was trafficked,”.

—Pat Rabbitte.

11. In page 7, subsection (3)(b), line 24, after “person,” to insert the following:

“and

(c) purchases or makes an offer to purchase the services of a person to engage or participate in any sexual activity,”.

—Denis Naughten.

SECTION 10

12. In page 9, subsection (1), line 13, after “proceedings” to insert the following:

“, verifiable *bona fide* representatives of the press,”.

—Denis Naughten.

SECTION 12

13. In page 10, before section 12, to insert the following new section:

“12.—(1) Subject to the subsequent provisions of this section, a person who is an alleged victim of an offence under *section 3* or *5*, or *section 3* (other than subsections (2A) and (2B) of the Act of 1998, shall be given leave to remain in the State by the immigration officer concerned.

(2) Subject to the subsequent provisions of this section, a person to whom leave to remain in the State is given under *subsection (1)* shall be entitled to remain in the State for a period of 6 months which may be renewed.

(3) The Minister shall give or cause to be given to a person referred to in *subsection (2)* a temporary residence certificate stating the name and containing a photograph of the person concerned, stating that, without prejudice to any other permission or leave granted to the person concerned to remain in the State, the person referred to in the temporary residence certificate shall not be removed from the State before the 6 month period has elapsed.

(4) The person referred to in *subsection (2)* shall not—

(a) leave or attempt to leave the State without the consent of the Minister, or

[SECTION 12]

(b) seek or enter employment or carry on any business, trade or profession during the period in question.

(5) An immigration officer may, by notice in writing, require the person referred to in *subsection (2)*—

(a) to reside or remain in particular districts or places in the State, or

(b) to report at specified intervals to an immigration officer or member of the Garda Síochána specified in the notice,

and the person concerned shall comply with the requirement.

(6) A person who contravenes *subsection (4)* or *(5)* shall be guilty of an offence and shall be liable on summary conviction to a fine not exceeding €500 or to imprisonment for a term not exceeding 1 month or to both.

(7) Where an immigration officer or a member of the Garda Síochána, with reasonable cause, suspects that the person referred to in *subsection (2)*—

(a) poses a threat to national security or public order in the State,

(b) has committed a serious non-political crime outside the State,

(c) has not made reasonable efforts to establish his or her true identity,

(d) intends to leave the State and enter another state without lawful authority,
or

(e) without reasonable cause has destroyed his or her identity or travel documents or is in possession of forged identity documents,

he or she may detain the person in a prescribed place (referred to in the Refugee Act 1996 as “a place of detention”).

(8) The Minister shall make regulations providing for the treatment of persons detained pursuant to this section.

(9) (a) *Subsection (7)* shall not apply to a person who is under the age of 18 years,

(b) if and for so long as the immigration officer or, as the case may be, the member of the Garda Síochána concerned has reasonable grounds for believing that the person is not under the age of 18 years, the provisions of *subsection (7)* shall apply as if he or she had attained the age of 18 years, and

(c) where an unmarried child under the age of 18 years is in the custody of any person (whether a parent or a person acting in *loco parentis* or any other person) and such person is detained pursuant to the provisions of this section, the immigration officer or the member of the Garda Síochána concerned shall, without delay, notify the health board for the area in which the person is being detained of the detention and of the circumstances thereof.”

—Denis Naughten.

[SECTION 12]

14. In page 10, before section 12, to insert the following new section:

“12.—A person who is an alleged victim of an offence under *section 3* or *5*, or *section 3* (other than subsections (2A) and (2B) of the Act of 1998, shall avail of the free legal aid provisions of the Criminal Justice (Legal Aid) Act 1962.”.
—Denis Naughten.

15. In page 10, before section 12, to insert the following new section:

“12.—A person who is a victim of an offence under *section 3* or *5*, or *section 3* (other than subsections (2A) and (2B) of the Act of 1998, shall not be liable to prosecution under the Aliens Act 1935 (as amended) or the Immigration Act 2004.”.
—Denis Naughten.

16. In page 10, to delete lines 3 to 5 and substitute the following:

“12.—The Criminal Evidence Act 1992 is amended—

(a) in the definition of “sexual offence” (inserted by section 16 of the Criminal Justice (Miscellaneous Provisions) Act 1997) in section 2, by—

(i) the deletion of paragraph (iv) (inserted by section 7(2) of the Criminal Law (Sexual Offences) Act 2006), and

(ii) the substitution of the following paragraph for paragraph (e):

“(e) the Criminal Law (Sexual Offences) Act 2006;”,

and

(b) by the substitution of the following section for section 12 (amended by section 10 of the Act of 1998):”.

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