



**SEANAD ÉIREANN**

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

**LEASUITHE TUARASCÁLA  
REPORT AMENDMENTS**

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*[The page and line references of these amendments are to the text of the Bill as passed by Dáil Éireann unless otherwise stated.]*

# SEANAD ÉIREANN

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

### CRIMINAL LAW (HUMAN TRAFFICKING) BILL 2007 —REPORT

#### *Leasuithe Amendments*

*Government amendments are  
indicated by an asterisk.*

\* 1. In page 4, between lines 21 and 22, to delete the text inserted by Government amendment no. 1 at Committee and substitute the following:

“trafficked person” has the meaning assigned to it by section 5(1);”.

2. In page 4, between lines 35 and 36, to insert the following:

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

“Protection of  
victims of  
trafficking.

- (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;
- (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;
- (q) Compensation and facilitating legal redress against traffickers.”  
— *Senators Alan Kelly, Dominic Hannigan, Phil Prendergast, Brendan Ryan, Michael McCarthy, Alex White.*

3. In page 4, between lines 35 and 36, to insert the following:

“Victims rights for  
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 3 months);
- (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;
- (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.”  
— *Senators Rónán Mullen, Feargal Quinn.*

4. In page 5, line 3, after “child,” to insert the following:

“or

- (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,”  
— *Senators Alan Kelly, Dominic Hannigan, Phil Prendergast, Brendan Ryan, Michael McCarthy, Alex White.*

\* 5. In page 7, line 8, to delete “Act” inserted by Government amendment no. 2 at Committee and substitute “section”.

6. In page 7, line 42, after “person,” to insert the following:

“or

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

— *Senators Alan Kelly, Dominic Hannigan, Phil Prendergast, Brendan Ryan, Michael McCarthy, Alex White.*

\* 7. In page 8, in *subsection (6) of section 6*, inserted by Government amendment no. 3 at Committee, to delete the definition of “trafficked person” and substitute the following:

“ “trafficked person” means—

a child who has been trafficked for the purpose of his or her exploitation.”.

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

“Criminalisation of the Users of Prostitutes.

6.—(1) Where for the purposes of the prostitution of a person, a person (other than the person being prostituted) solicits or importunes another person, in any place, he or she shall be guilty of an offence.

(2) A person (other than the person in respect of whom the offence under *subsection (1)* is committed) who accepts, or agrees to accept a payment, right, interest or other benefit from a person for a purpose mentioned in *subsection (1)* shall be guilty of an offence.

(3) A person guilty of an offence under this section shall be liable—

(a) on summary conviction to a fine not exceeding €5,000 or a term of imprisonment not exceeding 12 months, or both, or

(b) on conviction on indictment to a fine or a term of imprisonment not exceeding 5 years, or both.”.

— *Senators Rónán Mullen, Feargal Quinn.*

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

“Offence of sexually exploiting a trafficked person: includes prostitution, pornography, etc.

6.—(1) A person (other than the person or persons who trafficked the person) who sexually exploits a trafficked person shall be guilty of an offence and shall be liable upon conviction on indictment—

(i) to imprisonment for life or a lesser term, or

(ii) at the discretion of the court, to a fine.

(2) In proceedings for an offence under this section it shall be a defence for the Defendant to prove that he or she did not know and had no reasonable grounds for believing, that the person in respect of whom the offence was committed was trafficked.”.

— *Senators Rónán Mullen, Paschal Donohoe.*

“Non-prosecution of victims of human trafficking.

10. In page 10, between lines 25 and 26, to insert the following: 12.—A victim of an offence under this Act shall not be prosecuted for entry into or presence in the State or for carrying out the labour or sexual acts, insofar as such entry, presence or carrying out labour or sexual acts were a consequence of the trafficking of that person.”.

—*Senators Alan Kelly, Dominic Hannigan, Phil Prendergast, Brendan Ryan, Michael McCarthy, Alex White.*

**11.** In page 10, between lines 25 and 26, to insert the following:

“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 for entry into the State or for their presence within the State where such entry and/or presence was caused by an offence under this Act.”.

—*Senators Eugene Regan, Maurice Cummins.*

**12.** In page 10, between lines 25 and 26, to insert the following:

“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) 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.”.

—*Senators Eugene Regan, Maurice Cummins.*

**13.** In page 10, between lines 25 and 26, to insert the following:

“Immunity of Victims of Offences under this Act from being prosecuted for illegal entry or residence in the State.

12.—A person who is a victim of an offence under this Act shall not be prosecuted for entry into, or presence in the State.”.

—*Senators Rónán Mullen, Feargal Quinn.*

**14.** In page 12, after line 13, to insert the following:

“Amendment of Criminal Law (Sexual Offences) Act 1993.

15.—Section 7 of the Criminal Law (Sexual Offences) Act 1993 is hereby amended as follows—

(a) by deleting the words “in a street or public place”, and

(b) after the word “prostitution”, to insert “or any person who uses the services of a prostitute”.”.

—*Senators Joe O'Toole, Rónán Mullen.*