



SEANAD ÉIREANN

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

LEASUITHE COISTE
COMMITTEE AMENDMENTS

SEANAD ÉIREANN

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

CRIMINAL LAW (HUMAN TRAFFICKING) BILL 2007 —COMMITTEE STAGE

*Leasuithe
Amendments*

**Government amendments are distinguished by an asterisk.*

SECTION 1

** Section proposed to be deleted.*

SECTION 2

* 1. In page 4, between lines 21 and 22, to insert the following:

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

SECTION 3

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

“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;

[SECTION 3]

- (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.”.
- Senator Rónán Mullen.*

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;
 - (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.*

[SECTION 3]

4. In page 5, subsection (2)(b), 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.*

SECTION 5

- * 5. In page 7, subsection (1), line 8, to delete “section” and substitute “Act”.

6. In page 7, subsection (4)(b), line 42, after “person,” to insert the following:

“(c) supplies, procures or avails of the sexual services of a trafficked person, knowing or having reasonable grounds to believe that the person was trafficked, or

- (d) supplies, procures or avails of the services of a trafficked person, knowing or having reasonable grounds to believe that the person was trafficked,”.

—*Senator Rónán Mullen.*

7. In page 7, subsection (4)(b), 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.*

SECTION 6

- * 8. In page 8, before section 6, to insert the following new section:

“Soliciting or importuning for purposes of prostitution of trafficked person.

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

(2) A person (other than the trafficked 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.

[SECTION 6]

(4) 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 a trafficked person.

(5) This section is in addition to, and not in substitution for, section 7 of the Act of 1993 in so far as an offence under that section is committed by, or in respect of, a trafficked person.

(6) In this section—

“Act of 1993” means the Criminal Law (Sexual Offences) Act 1993;

“solicits or importunes” has the same meaning as it has in the Act of 1993;

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

9. In page 8, before section 6, to insert the following new section:

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

6.—A person who—

- (a) sexually exploits a trafficked person, or
- (b) takes, detains, or restricts the personal liberty of a trafficked person for the purpose of his or her sexual exploitation,

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.”.

—*Senator Rónán Mullen.*

SECTION 11

10. In page 9, before section 11, to insert the following new section:

“Protection of victims from being deported.

11.—(1) Subject to the subsequent provisions of this section, a person who is an alleged victim of trafficking, 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 leave or attempt to leave the State without the consent of the Minister.

[SECTION 11]

(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.”.

—*Senator Rónán Mullen.*

SECTION 12

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

“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 for carrying out labour or sexual acts where those sexual acts were a consequence of the trafficking of that person.”.

—*Senator Rónán Mullen.*

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

“12.—A person who is a victim of an offence under this Act shall avail of the free legal aid provisions of the Criminal Justice (Legal Aid) Act 1962.”.

—*Senator Rónán Mullen.*

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

[SECTION 12]

“Non-prosecution of victims of human trafficking. 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.*

SECTION 14

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

“General Offence of Using Prostitutes. 14.—The Criminal Law (Sexual Offences) Act, 1993 is amended by the insertion of the following section:

“14.—A person who avails of the services of a prostitute 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.”.

—*Senator Rónán Mullen.*

* **15.** In page 12, after line 13, to insert the following new section:

“Short title and commencement. 15.—(1) This Act may be cited as the Criminal Law (Human Trafficking) Act 2008.

(2) This Act shall come into operation one month after its passing.”.