



# **DÁIL ÉIREANN**

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## **AN BILLE UM CHNUAS-MHUINISIN AGUS MIANAIGH FHRITHPHEARSANRA 2008 CLUSTER MUNITIONS AND ANTI-PERSONNEL MINES BILL 2008**

### **LEASUITHE COISTE COMMITTEE AMENDMENTS**

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# DÁIL ÉIREANN

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## AN BILLE UM CHNUAS-MHUINISIN AGUS MIANAIGH FHRITHPHEARSANRA 2008 —AN CHOISTE

### CLUSTER MUNITIONS AND ANTI-PERSONNEL MINES BILL 2008 —COMMITTEE STAGE

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#### *Leasuithe Amendments*

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#### SECTION 1

1. In page 3, lines 20 to 23, to delete subsection (2).

—Michael D. Higgins.

#### SECTION 2

2. In page 3, subsection (1), to delete lines 30 to 33.

—Michael D. Higgins.

3. In page 4, subsection (1), to delete lines 21 to 33.

—Michael D. Higgins.

4. In page 4, subsection (1), line 36, after “*Schedule 1*” to insert the following:

“, but Article 21(3) of the said Convention may not be relied on by the State”.

—Michael D. Higgins.

5. In page 5, subsection (1), between lines 21 and 22, to insert the following:

““Register of Prohibited Investment in Cluster Munitions” shall mean the Register created in *section 17(1)\** of this Act;”.

—Billy Timmins.

*[\* This is the appropriate reference if amendment 22 is accepted.]*

6. In page 5, lines 42 to 46, to delete subsection (2).

—Michael D. Higgins.

#### SECTION 6

7. In page 6, subsection (3), between lines 27 and 28, to insert the following:

“(a) is committed by an Irish citizen or gives rise to injury to or death of an Irish citizen;”.

—Michael D. Higgins.

[ SECTION 7 ]

8. In page 6, before section 7, to insert the following new section:

“Prohibition on certain military operations.

7.—The Defence Forces are prohibited from participating in military operations where cluster munitions will be used with the exception of training for clearing purposes.”.

—Michael D. Higgins.

SECTION 9

9. In page 8, subsection (3), between lines 26 and 27, to insert the following:

“(a) is committed by an Irish citizen or gives rise to injury to or death of an Irish citizen,”.

—Michael D. Higgins.

SECTION 11

10. In page 9, before section 11, but in Part 3, to insert the following new section:

“Consequential.

11.—Section 30(1)(e) of the Defence Act 1954 is repealed.”.

—Michael D. Higgins.

11. In page 9, before section 11, but in Part 3, to insert the following new section:

“PART 4\*

INVESTMENT OF PUBLIC MONEYS

Definitions (Part 4). 11.—In this Part—

“components” means components specifically designed for use in prohibited munitions;

“investor” means a person or body responsible for the investment of public moneys owned by a Minister of the Government;

“munitions company” means a company involved in the manufacture of prohibited munitions or components;

“prohibited munition” means a cluster munition, explosive bomblet or anti-personnel mine;

“public moneys” means moneys provided by the Oireachtas out of the Central Fund, or the growing produce thereof.”.

—An tAire Gnóthaí Eachtracha

[\* The proposed new Part comprehends the inclusion of amendments 12,13,14 and 15]

[ SECTION 11 ]

12. In page 9, before section 11, but in Part 3, to insert the following new section:

“Duty of investors to avoid investment in munitions company.

12.—(1) Nothing in any enactment that authorises the investment of public moneys shall be taken to authorise any investment, direct or indirect, in a munitions company.

(2) Notwithstanding any other enactment, an investor, in the performance of any function conferred on it by or under any enactment, shall endeavour to avoid the investment of public moneys in a munitions company.

(3) In pursuing the objective set out in *subsection (2)*, an investor shall have regard to the matters set out in this Part.”

—An tAire Gnóthai Eachtracha.

13. In page 9, before section 11, but in Part 3, to insert the following new section:

“Direct investment in munitions company.

13.—(1) An investor shall endeavour to avoid the direct investment of public moneys in equity or debt securities issued by a munitions company.

(2) Where public moneys are directly invested in a company which is or becomes a munitions company, the investor shall—

(a) establish to its satisfaction that the company intends to cease its involvement in the manufacture of prohibited munitions or components,  
or

(b) divest itself of its investment in that company in an orderly manner.”

—An tAire Gnóthai Eachtracha.

14. In page 9, before section 11, but in Part 3, to insert the following new section:

“Indirect investment in munitions company.

14.—(1) An investor shall avoid investing public moneys in collective investment undertakings or investment products unless, having exercised due diligence, the investor is satisfied that there is not a significant probability that the public moneys will be invested in a munitions company.

(2) Where public moneys are invested in a collective investment undertaking or investment product which invests these moneys in a company which is or becomes a munitions company, the investor shall—

(a) establish to its satisfaction that—

(i) the company intends to cease its involvement in the manufacture of prohibited munitions or components, or

(ii) the collective investment undertaking or investment product intends to divest itself of its investment in the company,

and that there is not a significant probability that the collective investment undertaking or investment product will again invest public moneys in a munitions company,

or

[ SECTION 11 ]

(b) so far as possible, taking into account any contractual obligation it has assumed, divest itself of its investment in that collective investment undertaking or investment product in an orderly manner.”

—An tAire Gnóthaí Eachtracha.

15. In page 9, before section 11, but in Part 3, to insert the following new section:

“Derivatives based on a financial index. 15.—Nothing in this Part shall prevent an investor from contracting derivative financial instruments based on a financial index.”

—An tAire Gnóthaí Eachtracha.

16. In page 9, subsection (1)(a), line 36, after “of” to insert “Part 2 or 3 of”.

—An tAire Gnóthaí Eachtracha.

17. In page 9, subsection (1)(b), line 38, to delete “Convention on Cluster Munitions” and substitute “Cluster Munitions Convention”.

—An tAire Gnóthaí Eachtracha.

18. In page 10, lines 15 to 18, to delete subsection (3) and substitute the following:

“(3) A person who—

(a) fails to comply with a requirement under *subsection (1)*, or

(b) in response to such a requirement, knowingly or recklessly provides the Minister with information or documentation that is false or misleading in a material respect,

is guilty of an offence and is liable—

(i) on summary conviction, to a fine not exceeding €5,000 or imprisonment for a term not exceeding 6 months or both, or

(ii) on conviction on indictment, to a fine not exceeding €50,000 or imprisonment for a term not exceeding 2 years or both.”

—An tAire Gnóthaí Eachtracha.

SECTION 12

*Section proposed to be deleted.*

—An tAire Gnóthaí Eachtracha.

SECTION 13

19. In page 10, paragraph (b), line 34, to delete “€250,000” and substitute “€1,000,000”.

—Billy Timmins.

SECTION 15

20. In page 11, between lines 5 and 6, to insert the following subsection:

“(2) Any cost incurred under *subsection (1)* shall be so incurred by the person or body corporate convicted under *section 6* or *9* of this Act.”

—Billy Timmins.

[ *NEW SECTIONS* ]

NEW SECTIONS

**21.** In page 11, before Schedule 1, to insert the following new section:

“16.—(1) Banks and other lending institutions established in Ireland shall provide a report to the Central Bank no later than 31 December in each year confirming that they have not invested in or financed trade in cluster munitions or any person involved in trade in cluster munitions.

(2) Trustees of Pension Funds established in Ireland shall provide a report to the Pensions Board no later than 31 December in each year confirming that they have not invested in or financed trade in cluster munitions or any person involved in trade in cluster munitions.

(3) No public funds shall be invested in or used for the purpose of financing trade in cluster munitions or any person involved in trade in cluster munitions.”.

—Billy Timmins.

**22.** In page 11, before Schedule 1, to insert the following new section:

“16.—(1) The Minister shall by regulations establish and publish a register of persons outside of Ireland which trade in cluster munitions, to be known as the Register of Prohibited Investment in Cluster Munitions.

(2) The Minister shall by regulations provide for persons to be placed on and withdrawn from the Register of Prohibited Investment in Cluster Munitions.

(3) The Minister shall publish in *Iris Oifigiúil* the names placed on and withdrawn from the Register of Prohibited Investment in Cluster Munitions and shall notify the Office of the Director of Corporate Enforcement and the Financial Regulator of such publication.”.

—Billy Timmins.