



SEANAD ÉIREANN

**AN BILLE UCHTÁLA 2009
ADOPTION BILL 2009**

**LEASUITHE COISTE
COMMITTEE AMENDMENTS**

SEANAD ÉIREANN

AN BILLE UCHTÁLA 2009
—AN COISTE

ADOPTION BILL 2009
—COMMITTEE STAGE

*Leasuithe
Amendments*

SECTION 3

1. In page 16, subsection (1), line 5, after “text” to insert “in the English language”.

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

2. In page 16, line 30, after “Convention” to insert the following:

“and includes an adoption from a country other than one a party to the Hague Convention or a bilateral agreement if the Authority considers that the adoption can be effected from a third country in a manner compatible with this Act”.

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

3. In page 17, between lines 25 and 26, to insert the following subsection:

“(4) In this Act, “married couple” means an opposite-sex or same-sex married couple or a couple who have entered a registered civil partnership with each other.”.

—*Senator Ivana Bacik.*

SECTION 13

4. In page 20, between lines 8 and 9, to insert the following:

“(a) the birth of the child has been registered, and either the particulars of the father have been registered or the mother has sworn and furnished to the accredited body a statutory declaration that the father is unknown or missing, and cannot be traced using reasonable inquiries, unless the court permits placement notwithstanding a failure or refusal to swear such a statutory declaration,”.

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

SECTION 14

5. In page 20, paragraph (b), line 30, after “effect” to insert the following:

“stating that she has been fully counselled as to the effect of her decision, that she understands the effect of her decision and that she has made her decision freely”.

—*Senator Frances Fitzgerald.*

[SECTION 16]

SECTION 16

6. In page 21, before section 16, to insert the following new section:

“Rights of father where mother wishes to place child for adoption.

16.—(1) A child shall not be placed for adoption, nor may an application be made by the mother or a relative of the child for an adoption order, without the consent of the father or the court where the father is a guardian or is named on the child’s birth certificate.

(2) Where *subsection (1)* does not apply, the father may give notice to the Authority that he objects to the adoption of the child.”

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

Section opposed.

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

SECTION 18

7. In page 22, subsection (4), line 44, before “it” to insert “the father has committed an offence such that”.

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

8. In page 23, subsection (5), line 7, to delete “refuses to” and substitute “does not”.

—*Senator Ivana Bacik.*

9. In page 23, subsection (5)(a), lines 9 and 10, to delete “in order to attempt to obtain her co-operation”.

—*Senator Ivana Bacik.*

10. In page 23, subsection (5)(b), line 20, to delete “continues to refuse to” and substitute “does not”.

—*Senator Ivana Bacik.*

11. In page 23, subsection (6)(a), line 27, to delete “co-operation” and substitute “assistance”.

—*Senator Ivana Bacik.*

SECTION 19

12. In page 24, line 12, after “consideration” to insert the following:

“, and it shall be presumed unless the contrary is shown that the welfare of the child is best promoted in the society of either or both of the child’s natural parents”.

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

13. In page 24, between lines 12 and 13, to insert the following subsection:

“(2) It shall be the duty of the Authority to obtain, where possible, the medical records of the biological parents of adopted children and to make such records duly available to the adopted children or their guardians through the HSE.”

—*Senator Feargal Quinn.*

[SECTION 21]

SECTION 21

14. In page 25, before section 21, to insert the following new section:

“Adoption from non-Hague and non-bilateral agreement countries.

21.—A person or couple who has or have prior to the commencement of this Part adopted a child from a country which is not a party to the Hague Convention and with which the State does not have a bilateral agreement, may notwithstanding this Act conduct a second or subsequent adoption from that country.”

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

SECTION 26

15. In page 26, subsection (1), line 4, after “mother” to insert the following:

“father (if named on the child’s birth certificate),”

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

SECTION 30

16. In page 28, subsection (4), line 11, before “it” to insert “the father has committed an offence such that”.

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

17. In page 28, subsection (5), line 16, to delete “refuses” and substitute “does not”.

—*Senator Ivana Bacik.*

18. In page 28, subsection (6)(a), line 29, to delete “continues to refuse to” and substitute “does not”.

—*Senator Ivana Bacik.*

SECTION 31

19. In page 28, before section 31, to insert the following new section:

“Contact Orders.

31.—(1) In this section, “a contact order” means an order requiring the person with whom a child lives, or is to live, to allow the child to visit or stay with the person named in the order, or for that person and the child otherwise to have contact with each other.

(2) Where the father is consulted under *section 30 (3)* of this Act, the Court may make a contact order in favour of the father, on such terms as the Court may see fit.”

—*Senator Frances Fitzgerald.*

SECTION 32

Section opposed.

—*Senator Ivana Bacik.*

SECTION 33

20. In page 29, subsection (1), between lines 38 and 39, to insert the following:

[SECTION 33]

“(b) The applicants are a couple of the same sex over 21 years of age who can demonstrate that they have been living together within the jurisdiction for not less than two years and who have demonstrated to the appropriate authorities under this legislation that they are fit persons to adopt.”

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

21. In page 30, subsection (4)(a), line 26, to delete “21” and substitute “18”.

—*Senator Ivana Bacik.*

22. In page 30, subsection (4)(b), line 29, to delete “21” and substitute “18”.

—*Senator Ivana Bacik.*

SECTION 34

23. In page 31, line 1, to delete “The” and substitute the following:

“Save in the case of an application by a natural parent or relative of the child, the”.

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

24. In page 31, line 4, after “them” to insert the following:

“(or either of them, if a failure by one only of the married couple to comply with this section would not seriously threaten the welfare of the child)”.

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

SECTION 35

25. In page 31, line 28, after “section 37(1),” to insert the following:

“or to an accredited committee or body on behalf of the Executive”.

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

SECTION 36

26. In page 31, subsection (1), line 30, to delete “Health Service Executive” and substitute the following:

“Health Service Executive, or any Accredited Agency authorized by the Adoption Authority to conduct assessments of suitability as defined in section 34,”.

—*Senator Frances Fitzgerald.*

27. In page 31, subsection (3), line 40, to delete “Health Service Executive” and substitute the following:

“Health Service Executive, or any Accredited Agency authorized by the Adoption Authority to conduct assessments of suitability as defined in section 34”.

—*Senator Frances Fitzgerald.*

28. In page 32, subsection (4), line 1, to delete “Health Service Executive” and substitute the following:

“Health Service Executive, or any Accredited Agency authorized by the Adoption Authority to conduct assessments of suitability as defined in section 34,”.

—*Senator Frances Fitzgerald.*

[SECTION 37]

SECTION 37

- 29.** In page 32, subsection (1), line 13, to delete “Health Service Executive” and substitute the following:

“Health Service Executive, or any Accredited Agency authorized by the Adoption Authority to conduct assessments of suitability as defined in *section 34*,”

—*Senator Frances Fitzgerald.*

- 30.** In page 32, subsection (2)(a), lines 19 and 20, to delete “Health Service Executive” and substitute the following:

“Health Service Executive, or any Accredited Agency authorized by the Adoption Authority to conduct assessments of suitability as defined in *section 34*”.

—*Senator Frances Fitzgerald.*

- 31.** In page 32, subsection (3), line 28, to delete “Health Service Executive” and substitute the following:

“Health Service Executive, or any Accredited Agency authorized by the Adoption Authority to conduct assessments of suitability as defined in *section 34*,”

—*Senator Frances Fitzgerald.*

- 32.** In page 32, subsection (3), lines 29 and 30, to delete “Health Service Executive” and substitute the following:

“Health Service Executive, or any Accredited Agency authorized by the Adoption Authority to conduct assessments of suitability as defined in *section 34*,”

—*Senator Frances Fitzgerald.*

- 33.** In page 32, subsection (4), line 44, to delete “Health Service Executive” and substitute the following:

“Health Service Executive, or any Accredited Agency authorized by the Adoption Authority to conduct assessments of suitability as defined in *section 34*,”

—*Senator Frances Fitzgerald.*

SECTION 38

- 34.** In page 33, subsection (1), line 3, to delete “Health Service Executive” and substitute the following:

“Health Service Executive, or any Accredited Agency authorized by the Adoption Authority to conduct assessments of suitability as defined in *section 34*,”

—*Senator Frances Fitzgerald.*

- 35.** In page 33, subsection (2), line 8, to delete “Health Service Executive” and substitute the following:

“Health Service Executive, or any Accredited Agency authorized by the Adoption Authority to conduct assessments of suitability as defined in *section 34*,”

—*Senator Frances Fitzgerald.*

SECTION 39

- 36.** In page 33, subsection (3), lines 21 and 22, to delete “Health Service Executive” and substitute the following:

[SECTION 39]

“Health Service Executive, or any Accredited Agency authorized by the Adoption Authority to conduct assessments of suitability as defined in *section 34*,”

—*Senator Frances Fitzgerald.*

SECTION 41

- 37.** In page 34, subsection (1)(b), line 21, to delete “12 months” and substitute “24 months”.

—*Senator Frances Fitzgerald.*

SECTION 46

- 38.** In page 36, subsection (1)(b), line 41, after “oath” to insert “or affirmation”.

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

- 39.** In page 37, subsection (3)(b)(i), line 10, after “oath” to insert “or affirmation”.

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

SECTION 48

- 40.** In page 37, line 29, after “affidavit” to insert “, or a combination of both”.

—*Senator Frances Fitzgerald.*

SECTION 51

- 41.** In page 39, subsection (3), lines 3 and 4, to delete all words from and including “subject” in line 3 down to and including “1964” in line 4 and substitute the following:

“in accordance with the Guardianship of Children Acts 1964 to 1997”.

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

SECTION 54

- 42.** In page 41, subsection (2)(b)(i)(I), line 26, to delete “moral” and substitute “other”.

—*Senator Ivana Bacik.*

- 43.** In page 41, subsection (2)(b)(i), to delete all words from and including “the” where it firstly occurs on line 31, down to and including “child,” on line 34.

—*Senator Ivana Bacik.*

SECTION 58

- 44.** In page 46, paragraph (b), line 18, after “duties” to insert the following:

“, apart from the right to apply to the Court for access in accordance with section 11B of the Guardianship of Infants Act 1997 (inserted by section 9 of the Children Act 1997), which section is hereby declared to apply to a relative of, or person who acted in loco parentis in relation to, the child prior to the making of the adoption order”.

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

[SECTION 67]

SECTION 67

45. In page 49, subsection (2), line 40, to delete “Health Service Executive” and substitute the following:

“Health Service Executive, or any Accredited Agency authorized by the Adoption Authority to conduct assessments of suitability as defined in *section 34*,”

—*Senator Frances Fitzgerald*.

46. In page 50, subsection (5), lines 7 and 8, to delete “Health Service Executive” and substitute the following:

“Health Service Executive, or any Accredited Agency authorized by the Adoption Authority to conduct assessments of suitability as defined in *section 34*,”

—*Senator Frances Fitzgerald*.

47. In page 50, subsection (5), line 8, to delete “Health Service Executive” and substitute the following:

“Health Service Executive, or any Accredited Agency authorized by the Adoption Authority to conduct assessments of suitability as defined in *section 34*,”

—*Senator Frances Fitzgerald*.

SECTION 77

48. In page 54, subsection (2), line 30, to delete “Health Service Executive” and substitute the following:

“Health Service Executive, or any Accredited Agency authorized by the Adoption Authority to conduct assessments of suitability as defined in *section 34*,”

—*Senator Frances Fitzgerald*.

SECTION 81

49. In page 56, before section 81, but in Chapter 2, to insert the following new section:

“Bilateral Adoption Agreements.

81.—(1) The Minister shall make a report to both Houses of the Oireachtas six months prior to the expiration of any bilateral agreement as to:

- (a) whether it is proposed to conclude a new bilateral agreement with the relevant country,
- (b) the steps taken to date to conclude a new bilateral agreement with the relevant country,
- (c) the steps proposed to be taken to conclude a new bilateral agreement with the relevant country, and
- (d) the date it is hoped that a new bilateral agreement will be in place.

(2) The Minister shall make a further report to both Houses of the Oireachtas one week prior to the expiration of any bilateral agreement on the progress in relation to its renewal outlining:

- (a) whether it is proposed to conclude a new bilateral agreement with the relevant country,

[SECTION 81]

- (b) the steps taken to date to conclude a new bilateral agreement with the relevant country,
- (c) the steps proposed to be taken to conclude a new bilateral agreement with the relevant country, and
- (d) the date it is hoped that a new bilateral agreement will be in place.

(3) On the conclusion of any new bilateral agreement, or the renewal of any bilateral agreement, the Minister shall make a report to the Houses of the Oireachtas and, as soon as practicable after the conclusion of any such making or renewal of a bilateral agreement, cause to be lodged a copy of the agreement and a report of the Department of Health and Children on that agreement in the library of the Houses of the Oireachtas.”

—*Senator Frances Fitzgerald.*

50. In page 57, subsection (1)(c), line 11, after “child” to insert the following:

“or have previously adopted a child from a non-contracting state”.

—*Senator Frances Fitzgerald.*

SECTION 86

51. In page 60, subsection (2), line 7, after “Authority” to insert the following:

“, which shall give consent to that information being given where the adopted person and the person placing the child for adoption have agreed through a tracing mechanism to be established by the Authority that the information can be given”.

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

SECTION 96

52. In page 65, subsection (1), between lines 10 and 11, to insert the following:

“(d) promoting the development of post adoption services;”.

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

53. In page 65, subsection (1), between lines 12 and 13, to insert the following:

“(e) promoting the development of services to assist persons who were adopted and persons who have placed children for adoption to trace one another;”.

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

SECTION 98

54. In page 65, subsection (1), line 40, to delete “7” and substitute “9”.

—*Senator Frances Fitzgerald.*

55. In page 65, subsection (1), line 41, to delete “5” and substitute “7”.

—*Senator Frances Fitzgerald.*

56. In page 66, subsection (3), between lines 19 and 20, to insert the following:

[SECTION 98]

“(f) a person who has been the subject of a domestic adoption who shall be over 21 years at the time of their appointment to the Authority, and

(g) a person who has been the subject of an inter-country adoption who shall be over 21 years at the time of their appointment to the Authority.”

—*Senator Frances Fitzgerald.*

SECTION 99

57. In page 67, subsection (1), lines 35 and 36, to delete all words from and including “vacancy,” in line 35 down to and including “authority.” in line 36 and substitute “vacancy.”

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

58. In page 68, subsection (2), lines 3 and 4, to delete all words from and including “vacancy,” in line 3 down to and including “authority.” in line 4 and substitute “vacancy.”

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

SECTION 105

59. In page 71, lines 27 to 32, to delete subsection (2).

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

SECTION 137

60. In page 88, subsection (5)(a), line 33, to delete “2003” and substitute “2007”.

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

SECTION 144

61. In page 90, paragraph (b), line 34 to 37, to delete all words from and including “child,” in line 34 down to and including “child.” in line 37 and substitute “child.”

—*Senator Frances Fitzgerald.*

SECTION 145

62. In page 91, subsection (4)(b), lines 23 and 24, to delete “with the prior approval of the Authority”.

—*Senator Frances Fitzgerald.*

SECTION 151

63. In page 93, subsection (1), lines 26 and 27, to delete all words from and including “ensuring” in line 26 down to and including “bodies” in line 27 and substitute the following:

“promoting the carrying out of the activities specified in sections 4 and 5 by accredited bodies”.

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

[*TITLE*]

TITLE

64. In page 13, line 14, to delete “SIGNED” and substitute “DONE”.

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