



# **DÁIL ÉIREANN**

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## **BILLE NA NALTRAÍ AGUS NA GCNÁIMHSEACH 2010 NURSES AND MIDWIVES BILL 2010**

### **LEASUITHE TUARASCÁLA REPORT AMENDMENTS**

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# DÁIL ÉIREANN

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## BILLE NA NALTRAÍ AGUS NA GCNÁIMHSEACH 2010 —AN TUARASCÁIL

### NURSES AND MIDWIVES BILL 2010 —REPORT

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#### *Leasuithe Amendments*

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1. In page 9, lines 6 and 7, to delete all words from and including “THE”, where it firstly occurs, in line 6 down to and including “AND”, where it secondly occurs, in line 7 and substitute the following:

“THE PROMOTION OF EXCELLENCE IN NURSING AND MIDWIFERY AND THE PROTECTION OF THE PUBLIC IN CONNECTION THEREWITH AND”.

—Jan O'Sullivan, Kathleen Lynch.

2. In page 15, lines 5 and 6, to delete all words from and including “the”, where it firstly occurs, in line 5 down to and including “and”, where it secondly occurs, in line 6 and substitute the following:

“the promotion of excellence in nursing and midwifery and the protection of the public in connection therewith and”.

—Jan O'Sullivan, Kathleen Lynch.

3. In page 22, line 29, to delete “indictable”.

—Jan O'Sullivan, Kathleen Lynch.

4. In page 22, lines 34 and 35, to delete all words from and including “Central” in line 34 down to and including “Ireland” in line 35 and substitute “Central Bank of Ireland”.

—An tAire Sláinte agus Leanaí.

5. In page 23, lines 20 and 21, to delete “fine not exceeding €5,000” and substitute “class A fine”.

—An tAire Sláinte agus Leanaí.

6. In page 23, line 35, before “prepare” to insert the following:

“following consultation with the nursing and midwifery professions in a form and manner decided by the Board,”.

—Jan O'Sullivan, Kathleen Lynch.

7. In page 24, between lines 17 and 18, to insert the following:

“(4) The Board shall ensure that—

- (a) a draft of the statement of strategy that it proposes to adopt under this section is published in the prescribed manner, not later than 2 months before the time when the Board is to submit a statement of strategy to the Minister under *subsection (1)(b)*,

(b) with the draft is published an invitation to members of the public, any organisation and any body to comment on the draft before a date, which shall not be earlier than one month after the date of the publication, which the Board specifies in the invitation, and

(c) it considers any comments received under *paragraph (b)* in preparing the statement of strategy that it submits to the Minister under this section.”.

—An tAire Sláinte agus Leanaí.

8. In page 27, line 4, after “Minister” to insert the following:

“subject to the approval of the Oireachtas Committee on Health and Children”.

—James Reilly.

9. In page 28, line 39, after “appropriate,” to insert the following:

“and after receiving the approval of a committee of the Houses of the Oireachtas designated by the Houses for that purpose,”.

—Jan O'Sullivan, Kathleen Lynch.

10. In page 28, to delete lines 41 to 47 and substitute the following:

“(2) The Board shall elect a President of the Board from amongst its members—

(a) for the first term after the commencement of this section, for the term specified by the Board referred to in *paragraph 13(2)* of the Schedule, and

(b) for all other terms, in accordance with the Schedule.

(3) The Board shall elect a Vice-President of the Board from amongst its members in accordance with the Schedule.”.

—An tAire Sláinte agus Leanaí.

11. In page 28, to delete lines 41 to 43 and substitute the following:

“(2) At its first meeting, the Board shall elect a person to the position of President of the Board for the first term mentioned in the Schedule.”.

—James Reilly.

12. In page 29, lines 7 and 8, to delete all words from and including “, or” in line 7 down to and including “authority” in line 8.

—Jan O'Sullivan, Kathleen Lynch.

13. In page 29, line 33, after “complaints,” to insert the following:

“which shall include a Registered Nurse in any case where the complaint relates to a nurse, and which shall include a Registered Midwife in any case where the complaint relates to a midwife,”.

—Jan O'Sullivan, Kathleen Lynch.

14. In page 29, lines 38 to 40, to delete all words from and including “to advise” in line 38 down to and including “5” in line 40 and substitute the following:

“to provide advice to the Board in relation to all matters pertaining to midwifery practice, which the Board shall consider when performing functions in relation to midwifery practice, consisting of at least 8”.

—An tAire Sláinte agus Leanaí.

15. In page 29, lines 38 and 39, to delete all words from and including “to” in line 38 down to and including “practice” in line 39 and substitute the following:

“to advise the Board, with binding effect other than in respect of fitness to practice matters, in relation to all matters pertaining to midwifery practice under this Act”.

—Caoimhghín Ó Caoláin.

**16.** In page 29, line 40, after “it,” to insert the following:

“and to carry out any functions delegated by the Board, subject to the requirement that the Board shall consult with the Committee on any matter related to midwifery which is not delegated to the Committee.”.

—Jan O'Sullivan, Kathleen Lynch.

**17.** In page 29, line 40, to delete “5” and substitute “10”.

—Caoimhghín Ó Caoláin.

**18.** In page 29, line 42, to delete “a registered midwife who is a” and substitute the following:

“two registered midwives, each of whom is a”.

—An tAire Sláinte agus Leanaí.

**19.** In page 29, line 42, to delete “a registered midwife who is a member of the Board;” and substitute the following:

“two registered midwives who are members of the Board;”.

—Caoimhghín Ó Caoláin.

**20.** In page 29, line 43, to delete “at least 4 other” and substitute “at least 6 other”.

—An tAire Sláinte agus Leanaí.

**21.** In page 29, line 43, to delete “4” and substitute “8”.

—Caoimhghín Ó Caoláin.

**22.** In page 30, lines 1 and 2, to delete all words from and including “2” in line 1 down to and including “midwife;” in line 2 and substitute the following:

“4 midwives, including one who shall be a self-employed community midwife;”.

—Caoimhghín Ó Caoláin.

**23.** In page 30, between lines 2 and 3, to insert the following:

“(ii) a registered nurse who is a member of the Board;”.

—Caoimhghín Ó Caoláin.

**24.** In page 30, between lines 6 and 7, to insert the following:

“(iii) a registered nurse who is a member of the Board;”.

—An tAire Sláinte agus Leanaí.

**25.** In page 30, lines 7 and 8, to delete all words from and including “a person” in line 7 down to and including “not” in line 8 and substitute the following:

“two persons, each of whom, in the opinion of the Board, is representative of the public interest and each of whom is not”.

—An tAire Sláinte agus Leanaí.

**26.** In page 30, to delete lines 7 to 11 and substitute the following:

“(iii) two persons who, in the opinion of the Board, are representative of the public interest who are not and never have been a registered nurse or a registered midwife in the State or a nurse or a midwife in another jurisdiction.”.

—Caoimhghín Ó Caoláin.

**27.** In page 30, to delete lines 35 to 46 and substitute the following:

“(9) At least one third of the members of the preliminary proceedings committee, including the chairperson, shall, at the time of appointment, be registered nurse/midwife members of the Board and the majority of the membership of that committee shall consist of persons who are not and never have been registered nurses or registered midwives in the State or nurses or midwives in another jurisdiction.

(10) At least one third of the members of the fitness to practice committee, including the chairperson, shall, at the time of appointment, be registered nurse/midwife members of the Board and the majority of the membership of the committee shall consist of persons who are not and never have been registered nurses or registered midwives in the State or nurses or midwives in another jurisdiction.”.

—James Reilly.

**28.** In page 30, to delete lines 47 to 49 and substitute the following:

“(11) Subject to *subsections (9) and (10)*—

(a) there shall be at least one nurse and one midwife on each of the Preliminary Proceedings Committee and the Fitness to Practice Committee, and

(b) at least one third of the membership of each of the Preliminary Proceedings Committee and the Fitness to Practise Committee shall consist of persons who are either registered nurses or registered midwives.”.

—An tAire Sláinte agus Leanaí.

**29.** In page 31, line 30, to delete “or the Fitness to Practise Committee” and substitute the following:

“, the Fitness to Practise Committee or the Midwives Committee”.

—Caoimhghín Ó Caoláin.

**30.** In page 31, line 37, to delete “or the Fitness to Practise Committee” and substitute the following:

“, the Fitness to Practise Committee or the Midwives Committee”.

—Caoimhghín Ó Caoláin.

**31.** In page 31, between lines 44 and 45, to insert the following:

“(19) Where the Board establishes a subcommittee of any committee established under this section, that subcommittee may perform any of the functions of the committee concerned as if it were that committee, and every reference in this Act to that committee shall, unless the context otherwise requires, be construed as including a reference to that subcommittee.”.

—An tAire Sláinte agus Leanaí.

**32.** In page 35, to delete lines 17 to 21.

—Jan O'Sullivan, Kathleen Lynch, James Reilly.

33. In page 37, to delete lines 1 to 6, and substitute the following:

“Membership of European Parliament by employee of Board.

33.—*Section 32* shall, with all necessary modifications, apply to an employee of the Board who becomes a member of the European Parliament as that section applies to an employee who becomes a member of either House of the Oireachtas.”.

—An tAire Sláinte agus Leanaí.

34. In page 37, to delete line 3.

—Jan O'Sullivan, Kathleen Lynch.

35. In page 38, between lines 27 and 28, to insert the following:

“(3) Any expenses incurred by the Minister in the administration of this Act shall, to such extent as may be approved by the Minister for Finance, be paid out of monies provided by the Oireachtas.”.

—James Reilly.

36. In page 38, lines 39 and 40, to delete “or a post”.

—An tAire Sláinte agus Leanaí.

37. In page 39, line 22, to delete “No” and substitute “Subject to *subsection (2)*, no”.

—Jan O'Sullivan, Kathleen Lynch.

38. In page 39, lines 24 and 25, to delete all words from and including “who” in line 24 down to and including “rules” in line 25.

—Caoimhghín Ó Caoláin.

39. In page 39, line 38, to delete “fine not exceeding €5,000” and substitute “class A fine”.

—An tAire Sláinte agus Leanaí.

40. In page 40, between lines 6 and 7, to insert the following:

“Commencement of *section 40*.

41.—Prior to the commencement of *section 40*, the Minister will engage with relevant stakeholders on issues of concern including insurance cover for community midwives and the Memorandum of Understanding, while promoting safety and best-practice for mothers and midwives in homebirth.”.

—James Reilly.

41. In page 41, line 39, to delete “fine not exceeding €5,000” and substitute “class A fine”.

—An tAire Sláinte agus Leanaí.

42. In page 46, line 15, after “disability” to insert the following:

“and shall declare any relevant medical disability acquired after making such an application or after registration as the case may be”.

—Jan O'Sullivan, Kathleen Lynch.

43. In page 46, between lines 31 and 32, to insert the following:

“(4) A nurse or midwife who, at the time of registration did not have a relevant medical disability but develops a medical disability at any time after registration shall notify the Board when the medical disability becomes a relevant medical disability in that it develops to the point that it may impair his or her ability to practise nursing or midwifery, or a particular aspect of nursing or midwifery, not later than—

- (a) 30 days after the medical disability becomes a relevant medical disability,  
or
- (b) where the relevant medical disability concerned renders it impracticable for the nurse or midwife to notify the Board within those 30 days, as soon as is practicable in the circumstances.

(5) Where the Board is satisfied, after receiving a notification under *subsection (4)*, that in the interests of public safety, the registration of the nurse or midwife should become subject to conditions on the practising of nursing or midwifery, as the case may be, which take account of that relevant medical disability, the Board shall decide that conditions should be attached to the registration of the nurse or midwife in those interests, specify those proposed conditions and propose that the nurse or midwife accept that those conditions be attached to his or her registration.

(6) Where the nurse or midwife the subject of a decision under *subsection (5)* agrees in writing to the attachment of the proposed conditions, the Board shall attach those conditions to the registration of the nurse or midwife and at the same time comply with *section 46(8)* in respect of the conditions.

(7) Where the nurse or midwife the subject of a decision under *subsection (5)* refuses, in writing, to agree to the attachment of the proposed conditions, or does not respond within 30 days after receiving the decision from the Board, the Board shall make a complaint under *section 55(1)(d)*.”

—An tAire Sláinte agus Leanaí.

44. In page 47, line 39, to delete “and posts”.

—An tAire Sláinte agus Leanaí.

45. In page 49, line 11, before “relevant” to insert “failure to disclose a”.

—Jan O'Sullivan, Kathleen Lynch.

46. In page 53, line 10, to delete “*ex parte* application” and substitute “application, which may be made *ex parte*,”.

—Jan O'Sullivan, Kathleen Lynch.

47. In page 53, between lines 29 and 30, to insert the following:

“(5) The Court shall ensure that the nurse or midwife concerned is given an opportunity to make submissions in relation to the making or continuation of the order, either before (if practicable) or as soon as practicable after the order is made.”.

—Jan O'Sullivan, Kathleen Lynch.

48. In page 55, to delete lines 33 to 42 and in page 56, to delete lines 1 to 14 and substitute the following:

“62.—(1) The chief executive officer shall, as soon as practicable but not later than 30 days after a complaint is referred under *section 61* to the Fitness to Practise Committee, give notice in writing to the registered nurse or registered midwife the subject of the complaint of the following:

- (a) the referral of the complaint to the Fitness to Practise Committee;
- (b) the opportunity for the nurse or midwife, or his or her representative, to be present and to defend the nurse or midwife at the hearing;



- (c) the opportunity for the nurse or midwife to request that some or all of the hearing be held otherwise than in public if the nurse or midwife can show reasonable and sufficient cause.

(2) The chief executive officer shall, as soon as practicable after a complaint is referred under *section 61* to the Fitness to Practise Committee, give notice in writing to—

- (a) the registered nurse or registered midwife the subject of the complaint of the nature of the matter that is to be the subject of the inquiry, including the particulars of any evidence in support of the complaint, and
- (b) any witnesses who may be required to give evidence at an inquiry (including, where appropriate, the complainant) of the opportunity for the witness to request that some or all of the hearing be held otherwise than in public if the witness can show reasonable and sufficient cause.

(3) The chief executive officer shall give notice in writing to the”.

—An tAire Sláinte agus Leanaí.

49. In page 56, line 17, after “time” to insert “, being at least 42 days,”.

—Jan O'Sullivan, Kathleen Lynch.

50. In page 56, line 20, before “*sections 65*” to insert “*subsection (2)\** and”.

—An tAire Sláinte agus Leanaí.

[\*Note: This is a reference to the subsection proposed to be inserted by amendment 51.]

51. In page 56, between lines 20 and 21, to insert the following:

“(2) Where a subcommittee of the Fitness to Practise Committee is conducting a hearing of a complaint referred to that Committee—

- (a) if the complaint concerns a registered nurse, at least one member of the subcommittee shall be a registered nurse, and
- (b) if the complaint concerns a registered midwife, at least one member of the subcommittee shall be a registered midwife.”.

—An tAire Sláinte agus Leanaí.

52. In page 57, line 16, after “affidavit,” to insert the following:

“subject to the right of any other party to cross-examine the deponent”.

—Jan O'Sullivan, Kathleen Lynch.

53. In page 57, line 41, to delete “fine not exceeding €5,000” and substitute “class A fine”.

—An tAire Sláinte agus Leanaí.

54. In page 59, line 22, after “complaint” to insert the following:

“or relating to the working environment within which the individual the subject of the complaint found himself or herself”.

—Jan O'Sullivan, Kathleen Lynch.

55. In page 59, between lines 23 and 24, to insert the following:

“(3) Where a registered nurse or registered midwife, is the subject of a complaint before the fitness to practice committee, requests removal of her/his name from the nurse/midwife register the Board shall remove the name accordingly, subject to the written agreement of the complainant, and the enquiry into the complaint shall be considered to be completed.”.

—James Reilly.

**56.** In page 62, lines 32 and 33, to delete “inappropriate behaviour” and substitute the following:

“non-compliance with a code of professional conduct”.

—An tAire Sláinte agus Leanaí.

**57.** In page 63, line 37, to delete “21 days” and substitute “28 days”.

—An tAire Sláinte agus Leanaí.

**58.** In page 63, line 37, to delete “21 days” and substitute “42 days”.

—Jan O'Sullivan, Kathleen Lynch.

**59.** In page 68, line 6, to delete “as far as practicable,”.

—James Reilly.

**60.** In page 69, between lines 7 and 8, to insert the following:

“(c) The Board shall ensure that the requirements relating to the education and training of candidates for registration in the nurses and midwives register satisfy the minimum standards in any relevant directive or regulation of the European Union which relates to qualifications required by nurses and midwives to secure registration.”.

—James Reilly.

**61.** In page 69, between lines 7 and 8, to insert the following:

“(2) The Board shall ensure that the standards of nursing and midwifery education and training set and published under *subsection (1)* satisfy the minimum standards in any relevant directive or regulation of the European Union which relates to qualifications required by nurses and midwives to ensure registration.”.

—Jan O'Sullivan, Kathleen Lynch.

**62.** In page 73, lines 18 and 19, to delete “fine not exceeding €5,000” and substitute “class A fine”.

—An tAire Sláinte agus Leanaí.

**63.** In page 75, line 5, after “Board” to insert the following:

“with the source of funding, to meet the full staff costs involved, also being transferred to the Board, to ensure no additional costs accrue to the Board from the dissolution of the National Council”.

—James Reilly.