



**THIRTY-FIRST AMENDMENT OF THE CONSTITUTION
(ECONOMIC, SOCIAL AND CULTURAL RIGHTS) BILL 2012**

EXPLANATORY MEMORANDUM

Purpose of the Bill

The purpose of the Bill is to amend Article 40 of the Constitution (“Personal Rights”) to provide for the stated recognition, defence and vindication of social, economic and cultural rights. The right to earn a livelihood, to an adequate standard of living, to health, housing and nutrition are specifically referred to. The provisions are placed in the context of a duty of personal responsibility.

The State is a party to the Universal Declaration of Human Rights and to the International Covenant on Economic, Social and Cultural Rights, ratified by Ireland in 1989, which treaties require progressive action towards realisation on the part of member states. The Council of Europe revised European Social Charter, as ratified by Ireland in 2000, and the Charter of Fundamental Rights of the European Union, applicable to all EU legislation, contain similar provisions.

Provisions of Bill

Section 1 amends Article 40 of the Constitution by inserting a new subsection 3.4°, the text of which is set out in the Schedule to the Bill.

Section 2 is a standard provision relating to the citation of the Bill and the amendment.

The schedule sets out the proposed amendment. It distinguishes between the right to earn a livelihood and to reasonable and just conditions of employment, which is not dependent specifically on the level of State resources, dealt with in paragraph i, and the other rights which are dependent on and subject to available resources, dealt with in paragraph ii. Paragraph iii makes clear that the rights in question should in the first instance be secured through individual, family and collective effort and initiative.

An Teachta Kevin Humphreys.
July, 2012.



**AN BILLE UM AN AONÚ LEASÚ IS TRÍOCHA AR AN
mBUNREACTH (CEARTA GEILLEAGRACHA,
COMHDHAONNACHA AGUS CULTÚIR), 2012**

MEABHRÁN MÍNITHEACH

Cuspóir an Bhille

Is é is cuspóir don Bhille leasú a dhéanamh ar Airteagal 40 den Bhunreacht (“Cearta Pearsanta”) chun socrú a dhéanamh maidir le cearta comhdhaonnacha, geilleagracha agus cultúir a admháil, a chosaint agus a shuíomh ar bhonn sonraithe. Tagraítear go sonrach don cheart chun slí bheatha a thuilleamh, chun caighdeán leordhóthanaigh maireachtála, chun sláinte, tithíochta, agus cothaithe. Cuirtear na forálacha i gcomhthéacs dualgais freagrachta pearsanta.

Is páirtí an Stát i nDearbhú Uile-Choiteann Cearta an Duine agus sa Chúnant Idirnáisiúnta ar Chearta Geilleagracha, Comhdhaonnacha agus Cultúir, arna dhaingniú ag Éirinn i 1989, ar conarthaí iad lena gceanglaítear gníomhaíocht fhorásach i dtreo an chomhlíonta ar thaobh na mballstát. Tá forálacha den tsamhail chéanna i gCairt Shóisialach Eorpach na Comhairle Eorpaí, arna daingniú ag Éirinn in 2000, agus i gCairt an Aontais Eorpaigh um Chearta Bunúsacha atá infheidhme maidir le reachtaíocht AE uile.

Forálacha an Bhille

Le *halt 1* déantar Airteagal 40 den Bhunreacht a leasú trí fho-alt nua 3.4°, a bhfuil an téacs de leagtha amach sa Sceideal a ghabhann leis an mBille, a chur isteach.

Foráil chaighdeánach is ea *alt 2* a bhaineann leis an gcaoi ina ndéanfar an Bille agus an leasú a lua.

Leagtar an leasú beartaithe amach sa sceideal. Déantar idirdhealú ann idir an ceart chun slí bheatha a thuilleamh agus chun coinníollacha fostaíochta atá réasúnta agus cóir, nach mbraitheann go sonrach ar leibhéal acmhainní an Stáit, agus a bpléitear leo i mír i, agus na cearta eile atá ag brath ar na hacmhainní, agus faoi réir na n-acmhainní, atá ar fáil, agus a bpléitear leo i mír ii. Soiléirítear i mír iii gur ceart, ar an gcéad ásc, na cearta atá i gceist a áirithiú trí iarracht agus trí thionscnamh na pearsan aonair, an teaghlaigh agus na comhchoitinne.

*An Teachta Caoimhín Mac Unfraidh,
Iúil, 2012.*