



DÁIL ÉIREANN

**AN BILLE UM THÚS ÁITE DO LEANAÍ, 2014
CHILDREN FIRST BILL 2014**

**LEASUITHE COISTE
COMMITTEE AMENDMENTS**

DÁIL ÉIREANN

AN BILLE UM THÚS ÁITE DO LEANAÍ, 2014 —ROGHFHOCHOISTE

CHILDREN FIRST BILL 2014 —SELECT SUB-COMMITTEE

Leasuithe Amendments

SECTION 2

1. In page 5, to delete line 28, and in page 6, to delete lines 1 and 2 and substitute the following:

“harm” means, in relation to a child—

- (a) assault, ill-treatment or neglect of the child in a manner that seriously affects or is likely to seriously affect the child’s health, development or welfare, or
- (b) sexual abuse of the child,

whether caused by a single act, omission or circumstance or a series or combination of acts, omissions or circumstances, or otherwise;”.

—An tAire Leanaí agus Gnóthaí Óige.

2. In page 6, lines 5 and 6, to delete “, in a manner that seriously affects or is likely to seriously affect the child’s health, development or welfare”.

—An tAire Leanaí agus Gnóthaí Óige.

3. In page 6, lines 11 and 12, to delete “in a manner that seriously affects or is likely to seriously affect the child’s health, development or welfare”.

—An tAire Leanaí agus Gnóthaí Óige.

SECTION 4

4. In page 6, between lines 32 and 33, to insert the following:

“Service of notices

4. (1) A notice that is required to be served on a person under this Act shall be addressed to the person by name and may be so served in one of the following ways:

- (a) by delivering it to the person;
- (b) by leaving it at the address at which the person ordinarily resides or, in a case in which an address for service has been furnished, at that address;
- (c) by sending it by post in a pre-paid registered letter to the address at which the person ordinarily resides or, in a case in which an address for service has been

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furnished, to that address.

- (2) For the purposes of this section, a company within the meaning of the Companies Acts shall be deemed to be ordinarily resident at its registered office, and every other body corporate and every unincorporated body of persons, shall be deemed to be ordinarily resident at its principal office or place of business.”

—An tAire Leanaí agus Gnóthaí Óige.

SECTION 7

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

““advance notice” shall be construed in accordance with *section 11(2)**.”

—An tAire Leanaí agus Gnóthaí Óige.

[*This is a reference to the subsection proposed to be inserted by amendment 20.]

6. In page 7, between lines 25 and 26, to insert the following:

““non-compliance notice” means a notice served by the Agency under *section 11(6)**.”

—An tAire Leanaí agus Gnóthaí Óige.

[*This is a reference to the subsection proposed to be inserted by amendment 20.]

7. In page 7, to delete lines 29 and 30 and substitute the following:

“(a) who provides a relevant service, and”

—An tAire Leanaí agus Gnóthaí Óige.

8. In page 8, line 4, to delete “relevant service.” and substitute “relevant service;”

—An tAire Leanaí agus Gnóthaí Óige.

9. In page 8, between lines 4 and 5, to insert the following:

““register of non-compliance” shall be construed in accordance with *section 12(1)**;

“relevant person” means a person who is appointed by a provider of a relevant service to be the first point of contact in respect of the provider’s child safeguarding statement.”

—An tAire Leanaí agus Gnóthaí Óige.

[*This is a reference to the subsection proposed to be inserted by amendment 21.]

SECTION 8

10. In page 8, between lines 4 and 5, to insert the following:

“Application of Part

8. A person who would but for this section be regarded as a provider of a relevant service shall not be a provider for the purposes of this Part if the relevant service being provided by the person concerned is—

- (a) undertaken in the course of a family relationship, where the work or activity is undertaken solely for the benefit of a child or other family member of the person,

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- (b) undertaken in the course of a personal relationship for no commercial consideration, or
- (c) undertaken on an occasional basis only for no consideration at a school, sports or community event or activity.”.

—An tAire Leanaí agus Gnóthaí Óige.

[Acceptance of this amendment involves the deletion of section 8 of the Bill.]

SECTION 10

11. In page 8, line 21, to delete “and”.

—An tAire Leanaí agus Gnóthaí Óige.

12. In page 8, line 25, to delete “harm.” and substitute “harm, and”.

—An tAire Leanaí agus Gnóthaí Óige.

13. In page 8, between lines 25 and 26, to insert the following:

“(c) appoint a relevant person for the purposes of this Part.”.

—An tAire Leanaí agus Gnóthaí Óige.

14. In page 8, line 29, to delete “and”.

—An tAire Leanaí agus Gnóthaí Óige.

15. In page 8, line 30, to delete “statement.” and substitute “statement, and”.

—An tAire Leanaí agus Gnóthaí Óige.

16. In page 8, between lines 30 and 31, to insert the following:

“(c) appoint a relevant person for the purposes of this Part.”.

—An tAire Leanaí agus Gnóthaí Óige.

17. In page 9, line 6, to delete “and”.

—An tAire Leanaí agus Gnóthaí Óige.

18. In page 9, line 8, to delete “persons.” and substitute “persons, and”.

—An tAire Leanaí agus Gnóthaí Óige.

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

“(g) for appointing a relevant person for the purposes of this Part.”.

—An tAire Leanaí agus Gnóthaí Óige.

SECTION 11

20. In page 10, between lines 3 and 4, to insert the following:

“Non-compliance with request to furnish child safeguarding statement

11. (1) Where, pursuant to a request made by the Agency under *section 10(5)(b)(ii)*, a provider of a relevant service fails to furnish the Agency with a copy of the provider’s

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child safeguarding statement, the Agency may, by notice in writing served on the provider—

- (a) inform the provider of such failure,
 - (b) require the provider, within such period as may be specified in the notice, to furnish the Agency with a copy of the provider’s child safeguarding statement, and
 - (c) inform the provider that failure to furnish the Agency with the child safeguarding statement within the time specified in the notice may result in the provider being served with a non-compliance notice.
- (2) Where a provider of a relevant service fails to comply with a requirement made by the Agency under *subsection (1)(b)*, the Agency shall, by notice in writing served on the provider (in this section referred to as an “advance notice”) inform the provider that it is proposing to serve a non-compliance notice on the provider.
- (3) The advance notice shall—
 - (a) inform the provider of the failure to furnish the child safeguarding statement concerned to which the notice relates,
 - (b) specify the period within which the child safeguarding statement shall be furnished by the provider,
 - (c) inform the provider that failure to furnish the child safeguarding statement within the period specified may, subject to *subsection (5)*, result in the provider being served with a non-compliance notice, and
 - (d) inform the provider that he or she may make representations to the Agency in accordance with *subsection (4)*.
- (4) A provider who is served with an advance notice may, within 14 days of the receipt of the notice, make representations in writing to the Agency in respect of the proposed non-compliance notice.
- (5) The Agency shall have regard to any representations made to it under *subsection (4)* in assessing whether to proceed with the service of the non-compliance notice.
- (6) The Agency shall, subject to *subsection (5)*, serve a non-compliance notice on a provider of a relevant service who fails to furnish the Agency with a child safeguarding statement within the period specified in the advance notice and the notice shall inform the provider concerned of the matters specified in *subsections (7)* and *(8)*.
- (7) A non-compliance notice shall come into effect 21 days from the date of service of the notice unless an appeal is brought by the provider under *subsection (8)*.
- (8) A provider who is served with a non-compliance notice may, within 21 days of the date of service of the notice, appeal the non-compliance notice to the District Court.
- (9) The jurisdiction conferred on the District Court under this section shall be exercised by a judge of that court for the time being assigned to the District Court district in

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which the person on whom the non-compliance notice is served ordinarily resides or carries on any profession, business or occupation.”.

—An tAire Leanaí agus Gnóthaí Óige.

21. In page 10, between lines 3 and 4, to insert the following:

“Register of non-compliance

12. (1) The Agency shall establish and maintain a register of non-compliance notices (in this Act referred to as the “register of non-compliance”).
- (2) As soon as may be after a non-compliance notice comes into effect pursuant to *section 11**, the Agency shall enter the particulars of the non-compliance notice on the register of non-compliance.
- (3) Subject to *subsection (4)*, an entry made in respect of a non-compliance notice shall be removed from the register of non-compliance upon receipt by the Agency of the child safeguarding statement to which the entry relates or upon being satisfied that a child safeguarding statement is no longer required, as may be appropriate, whichever is the earlier.
- (4) A person who is the subject of a non-compliance notice may at any time apply to the Agency to have the entry concerned removed from the register of non-compliance and the Agency may, if it considers it appropriate to do so, remove the entry.
- (5) The register of non-compliance shall be made available for inspection by members of the public at all reasonable times at the principal office of the Agency.”.

—An tAire Leanaí agus Gnóthaí Óige.

[*This is a reference to the section proposed to be inserted by amendment 20.]

22. In page 10, to delete lines 31 and 32 and substitute the following:

- “(b) he or she knows or believes that—
- (i) there is no material difference in capacity or maturity between the parties engaged in the sexual activity concerned, and
 - (ii) the relationship between the parties engaged in the sexual activity concerned is not intimidatory or exploitative of either party,”.

—An tAire Leanaí agus Gnóthaí Óige.

23. In page 11, to delete lines 1 to 5 and substitute the following:

- “(4) A mandated person shall not be required to make a report to the Agency under *subsection (1)* where the sole basis for the mandated person’s knowledge, belief or suspicion is as a result of information he or she has acquired, received or become aware of—
- (a) from—
 - (i) another mandated person, or

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(ii) a person, other than a mandated person, who has reported jointly with a mandated person pursuant to *subsection (6)(b)**,

that a report has been made to the Agency in respect of the child concerned by that other person,

(b) pursuant to his or her role, as a member of staff of the Agency, in carrying out an assessment as to whether a child who is the subject of a report or any other child has been, is being or is at risk of being harmed, or

(c) pursuant to his or her role in assisting the Agency with an assessment as to whether a child who is the subject of a report or any other child has been, is being or is at risk of being harmed.”.

—An tAire Leanaí agus Gnóthaí Óige.

[*This is a reference to the paragraph proposed to be inserted by amendment 24.]

24. In page 11, to delete line 14 and substitute the following:

“(b) jointly with one or more than one other person, irrespective of whether or not the other person is a mandated person.”.

—An tAire Leanaí agus Gnóthaí Óige.

25. In page 11, to delete lines 15 to 19 and substitute the following:

“(7) Where a mandated person acting in the course of his or her employment or profession knows, believes or has reasonable grounds to suspect that a child may be at risk of immediate harm and should be removed to a place of safety, he or she may make a report to the Agency under *subsection (1)* or *(2)* other than by means of a mandated report form.”.

—An tAire Leanaí agus Gnóthaí Óige.

26. In page 11, lines 20 and 21, to delete “provide that report to the Agency by the completion of” and substitute “in addition, complete”.

—An tAire Leanaí agus Gnóthaí Óige.

27. In page 11, line 35, to delete “*subsection (3)*” and substitute “this section”.

—An tAire Leanaí agus Gnóthaí Óige.

SECTION 13

28. In page 12, line 20, to delete “reasonably require.” and substitute the following:

“reasonably require and is, in the opinion of the Agency, necessary and proportionate in all of the circumstances of the case.”.

—An tAire Leanaí agus Gnóthaí Óige.

SECTION 18

29. In page 14, line 15, to delete “17 ordinary members” and substitute “18 ordinary members”.

—An tAire Leanaí agus Gnóthaí Óige.

[SECTION 18]

30. In page 14, to delete line 21 and substitute the following:

“(a) an officer of each Minister of the Government nominated by the Minister of the Government having charge of the Department of State concerned;”.

—An tAire Leanaí agus Gnóthaí Óige.

31. In page 14, line 25, to delete “Agency.” and substitute “Agency;”.

—An tAire Leanaí agus Gnóthaí Óige.

32. In page 14, between lines 25 and 26, to insert the following:

“(d) an employee of the Health Service Executive nominated by the Director General of the Health Service Executive.”.

—An tAire Leanaí agus Gnóthaí Óige.

SECTION 21

33. In page 15, to delete line 30.

—An tAire Leanaí agus Gnóthaí Óige.

34. In page 15, line 33, to delete “Agency.” and substitute “Agency;”.

—An tAire Leanaí agus Gnóthaí Óige.

35. In page 15, between lines 33 and 34, to insert the following:

“or

(d) where appointed under *subsection (3)(d)** of that section—

(i) if he or she ceases to be an employee of the Health Service Executive, or

(ii) at the request of the Director General of the Health Service Executive.”.

—An tAire Leanaí agus Gnóthaí Óige.

[*This is a reference to the paragraph proposed to be inserted by amendment 32.]

SECTION 23

36. In page 16, between lines 20 and 21, to insert the following:

“(2) The Minister shall, as soon as may be after receiving the report under *subsection (1)*, cause a copy of it to be laid before each House of the Oireachtas.”.

—An tAire Leanaí agus Gnóthaí Óige.

SCHEDULE 1

37. In page 18, to delete line 27 and substitute “under the Child Care Act 1991, the Education Act 1998, the Children Act 2001 or the Health Act 2007.”.

—An tAire Leanaí agus Gnóthaí Óige.

38. In page 18, between lines 27 and 28, to insert the following:

“3. Any work or activity which consists of the inspection, examination or investigation by the Office of the Ombudsman for Children under the Ombudsman for Children Act 2002.”.

[SCHEDULE 1]

—An tAire Leanaí agus Gnóthaí Óige.

- 39.** In page 18, line 28, to delete “treatment,” and substitute “treatment (including assessment which may lead to treatment),”.

—An tAire Leanaí agus Gnóthaí Óige.

- 40.** In page 18, line 38, to delete “to children.” and substitute the following:

“, a necessary and regular part of which consists, mainly, of the person having access to, or contact with, children.”.

—An tAire Leanaí agus Gnóthaí Óige.

SCHEDULE 2

- 41.** In page 20, to delete lines 9 and 10 and substitute the following:

- “3. Physiotherapist registered in the register of members of that profession.
4. Speech and language therapist registered in the register of members of that profession.”.

—An tAire Leanaí agus Gnóthaí Óige.