



DÁIL ÉIREANN

**AN BILLE UCHTÁLA (LEASÚ), 2016
ADOPTION (AMENDMENT) BILL 2016**

**LEASUITHE TUARASCÁLA
REPORT AMENDMENTS**

DÁIL ÉIREANN

AN BILLE UCHTÁLA (LEASÚ), 2016 —AN TUARASCÁIL

ADOPTION (AMENDMENT) BILL 2016 —REPORT

Leasuithe Amendments

1. In page 5, lines 13 to 15, to delete all words from and including “(1) The” in line 13 down to and including line 15 and substitute the following:

“(1) Section 24 of the Principal Act is repealed.”.

—An tAire Leanaí agus Gnóthaí Óige.

2. In page 11, between lines 3 and 4, to insert the following:

“(2) In determining for the purposes of subsection (1) what is in the best interests of the child, the Authority or the court, as the case may be, shall have regard to all of the factors or circumstances that it considers relevant to the child who is the subject of the matter, application or proceedings concerned including—

- (a) the child’s age and maturity,
- (b) the physical, psychological and emotional needs of the child,
- (c) the likely effect of adoption on the child,
- (d) the child’s views on his or her proposed adoption,
- (e) the child’s social, intellectual and educational needs,
- (f) the child’s upbringing and care,
- (g) the child’s relationship with his or her parent, guardian or relative, as the case may be, and
- (h) any other particular circumstances pertaining to the child concerned.”.

—An tAire Leanaí agus Gnóthaí Óige.

3. In page 11, line 4, to delete “(2) In so far as” and substitute “(3) In so far as”.

—An tAire Leanaí agus Gnóthaí Óige.

4. In page 11, line 4, to delete “In so far as practicable,”.

—Donnchadh Ó Laoghaire.

5. In page 11, line 8, to delete “of the child.” and substitute “of the child.”.

—An tAire Leanaí agus Gnóthaí Óige.

6. In page 11, between lines 8 and 9, to insert the following:

“(4) Without prejudice to the generality of subsection (3), the Minister may make regulations prescribing the procedures by which the Authority or the court, as the case may be, shall, in so far as practicable, determine how best, having regard to the age and maturity of the child, to ascertain and give due weight to the views of the child in any matter, application or proceedings, and, without prejudice to the generality of the foregoing, such regulations may—

(a) make provision for the procedures that are to apply to enable a child to present his or her views in person or in writing to the Authority or the court, as the case may be,

(b) make provision for the procedures that are to apply to enable a child to nominate an appropriate person to present the child’s views orally or in writing to the Authority or the court, as the case may be,

(c) prescribe as appropriate persons—

(i) a class or classes of persons who, in the opinion of the Minister having regard to the functions to be performed by members of such class or classes of persons under this section, are suitable to be appropriate persons for the purposes of such functions, or

(ii) a class or classes of persons who, in the opinion of the Minister having considered the qualifications, training and expertise of such class or classes of persons by reference to the functions to be performed by members of such class or classes of persons under this section, are suitable to be appropriate persons for the purposes of such functions,

(d) make provision for the procedures that are to apply in respect of any consultation by the Authority or the court, as the case may be, with a child or an appropriate person,

(e) make provision for the consultation by the Child and Family Agency with a child for the purpose of ascertaining his or her views and for the procedures relating thereto, including procedures relating to the preparation and submission of any written reports arising from such consultation to the Authority or the court, as the case may be,

(f) prescribe the standards to be applied by an appropriate person to

the performance by the person of his or her functions under this section,

- (g) prescribe the allowable expenses that may be charged by an appropriate person referred to in paragraph (c)(i) and the fees and allowable expenses that may be charged by an appropriate person referred to in paragraph (c)(ii),
 - (h) make provision for such other matters as the Minister considers necessary to ensure that appropriate persons are capable of performing their functions under this section.
- (5) Regulations under this section may—
- (a) make different provision in relation to—
 - (i) children of different ages and maturity, or
 - (ii) different classes of appropriate persons,and
 - (b) contain such incidental, supplementary and consequential provisions as appear to the Minister to be necessary or expedient for the purposes of the regulations.
- (6) In determining for the purposes of subsection (3) how the child's views shall be ascertained and heard, and how such views shall be given due weight having regard to the age and maturity of the child, the Authority or the court, as the case may be, shall have regard to regulations made by the Minister under subsection (4).”.”.

—An tAire Leanaí agus Gnóthaí Óige.

7. In page 12, between lines 11 and 12, to insert the following:

- “(3) This section shall not generally apply to persons who, at the date of the adoption order, were more than 18 years of age, however, the Adoption Authority may waive this requirement if they believe it is in the best interests of the person for whom an adoption is being sought. The adoption authority shall also consult the prospective adoptive family in deciding whether to waive the requirement to be less than 18 years of age.”.

—Donnchadh Ó Laoghaire.

8. In page 12, line 16, to delete “(3) Subject to this” and substitute “(2) Subject to this”.

—An tAire Leanaí agus Gnóthaí Óige.

9. In page 12, line 20, to delete “(4) Where the Authority” and substitute “(3) Where the Authority”.

—An tAire Leanaí agus Gnóthaí Óige.

10. In page 12, line 31, to delete “(5) If the identity” and substitute “(4) If the identity”.

—An tAire Leanaí agus Gnóthaí Óige.

11. In page 13, lines 6 and 7, to delete “(6) After counselling the mother or guardian of the child under subsection (5)” and substitute “(5) After counselling the mother or guardian of the child under subsection (4)”.

—An tAire Leanaí agus Gnóthaí Óige.

12. In page 13, line 15, to delete “(7) The Child and” and substitute “(6)The Child and”.

—An tAire Leanaí agus Gnóthaí Óige.

13. In page 13, line 18, to delete “(8) An application for” and substitute “(7) An application for”.

—An tAire Leanaí agus Gnóthaí Óige.

14. In page 14, line 25, to delete “in so far as is practicable,”.

—Donnchadh Ó Laoghaire.

15. In page 18, between lines 4 and 5, to insert the following:

“Further adoption

23. The Principal Act is amended by the substitution of the following section for section 45:

“45. Where a child, in respect of whom an adoption order is in force or an intercountry adoption effected outside the State that has been recognised, is further placed for adoption—

- (a) a further adoption order may be made in respect of the child, and
- (b) for the purposes of the order, the child concerned shall be taken to be the lawful child of the adopter or adopters in whose favour the first-mentioned adoption order or intercountry adoption effected outside the State was made or recognised, as the case may be.”.

—An tAire Leanaí agus Gnóthaí Óige.

16. In page 19, line 11, to delete “in so far as is practicable,”.

—Donnchadh Ó Laoghaire.

17. In page 20, between lines 18 and 19, to insert the following:

“Amendment of section 58 of Principal Act

26. The Principal Act is amended by the insertion of the following new section:

“58B. A Child who has been adopted under the provisions of the Adoption Acts shall continue to be entitled to have access to his previous parents or guardians, or relevant non-guardians, prior to the adoption, should the child so wish, and provided that this is in the best interests of the child.”.

—Donnchadh Ó Laoghaire.

18. In page 24, between lines 5 and 6, to insert the following:

“Amendment of section 26(4) of the Child Care Act 1991

42. The Child Care Act 1991 is amended in section 26, by substituting the following for subsection (4):

“(4) Where a child in respect of whom an order has been made under subsection (1) becomes a party to the proceedings in question, whether by virtue of an order under section 25(1) or otherwise, the court shall maintain a discretion, as to whether the initial order continues to have effect.”.”.

—Anne Rabbitte.

19. In page 24, between lines 5 and 6, to insert the following new section:

“Amendment of section 26 of Child Care Act 1991 (as amended)

41. The Child Care Act 1991 is amended in section 26, by the insertion of the following subsections after subsection (5) (as amended by section 3(1) of the Health Act 2004 and section 13 of the Child Care (Amendment) Act 2007)—

“(6) The Minister shall make regulations prescribing any matter or thing referred to in this section as prescribed or to be prescribed.

(7) Regulations under this section may contain such incidental, supplementary and consequential provisions as the Minister considers necessary or expedient for the purposes of the efficient operation of this section.

(8) Regulations made under this section shall be laid before each House of the Oireachtas as soon as may be after they are made and, if a resolution annulling those regulations is passed by either such House within the next 21 days on which that House has sat after the regulations are laid before it, the regulations shall be annulled accordingly but without prejudice to the validity of anything else done thereunder.”.”.

—Anne Rabbitte.

20. In page 24, between lines 5 and 6, to insert the following:

“Amendment of section 26 of Child Care Act 1991 (as amended)

41. The Child Care Act 1991 is amended in section 26, by inserting the following subsections after subsection (9) (as amended by section 3(1) of the Health Act 2004 and section 13 of the Child Care (Amendment) Act 2007)—

“(10) Without prejudice to the general operation of subsection (1) and the constitutional rights of the child and having regard to the provisions

contained in subsection (2), the court, if satisfied that a guardian *ad litem* should be appointed, shall direct that the guardian *ad litem* Board as established at the discretion of the Minister under this section, assign a registered guardian *ad litem* to that case.

- (11) In addition to the provisions contained in subsection (1) and notwithstanding the general operation of subsection (1) a court shall consider the following when deciding to appoint a guardian *ad litem*:
- (a) the court shall consider the complexity of the case, for example where there is a difficulty in identifying an appropriate placement for the child;
 - (b) the ability of the child concerned to express his/her wishes and feelings;
 - (c) the nature of the proceedings and the implications for child and family subject to the proceedings;
 - (d) whether the case is one where there is reduced or no parental support or where parent(s) or guardian(s) are absent;
 - (e) whether there are issues about a child's identity, nationality or entitlement to residence in the jurisdiction;
 - (f) whether a child's liberty is at issue in the proceedings, including cases where the young person's emotional and behavioural needs can only be met at that time by a secure placement in a special care unit and where the Child and Family Agency seeks a special care placement for the child;
 - (g) whether other circumstances exist as determined by a court, which indicate that it may be necessary to place a child in out-of-state placement due to the unavailability of an appropriate placement nationally;
 - (h) whether a guardian *ad litem* who has been appointed to represent a child in previous proceedings may be appointed in new proceedings;
 - (i) whether, considering the complexity of the case and whether a legal representative has already been appointed to the child under section 25(1) of this Act, it is necessary for the guardian *ad litem* to be legally represented in proceedings or to participate in proceedings.”.”.

—Anne Rabbitte.

21. In page 24, between lines 5 and 6, to insert the following:

“Amendment of section 39 of Child Care Act 1991

41. The Child Care Act 1991 is amended by the insertion of the following new section:

- “39A.** (1) A health board shall pay foster parents in respect of any child placed with them in accordance with these Regulations an allowance of not less than such amount as may from time to time be specified by the Minister.
- (2) A health board may, in addition to the allowance referred to in subarticle (1) of this article and subject to any general directions given by the Minister, provide such financial or other assistance as the board considers necessary to enable foster parents to take care of children placed with them by the board.
- (3) The Government shall ensure that there is no disincentive, financial or otherwise, for adoption by foster parents.”.

—Donnchadh Ó Laoghaire.