



DÁIL ÉIREANN

**AN BILLE IDIRGHABHÁLA, 2017
MEDIATION BILL 2017**

**LEASUITHE COISTE
COMMITTEE AMENDMENTS**

DÁIL ÉIREANN

AN BILLE IDIRGHABHÁLA, 2017 —ROGHCHOISTE

MEDIATION BILL 2017 —SELECT COMMITTEE

Leasuithe Amendments

SECTION 2

1. In page 5, between lines 26 and 27, to insert the following:

“ “civil dispute” means any civil dispute to which this Act applies by virtue of *section 3*;”.

—Clare Daly.

2. In page 6, line 21, after “means a” to insert “confidential”.

—Clare Daly, Mick Wallace.

3. In page 7, to delete lines 1 and 2 and substitute the following:

“ “proceedings” means civil proceedings that may be instituted before a court.”.

—Aire Dlí agus Cirt agus Comhionannais.

4. In page 7, to delete lines 1 and 2.

—Clare Daly.

SECTION 3

5. In page 7, line 10, to delete “(1) Subject to *subsections (2) and (3)*, this Act shall apply to any civil proceedings.”.

—Aire Dlí agus Cirt agus Comhionannais.

6. In page 7, line 10, to delete “civil proceedings” and substitute “dispute”.

—Mick Wallace.

7. In page 7, line 10, to delete “proceedings” and substitute “dispute”.

—Clare Daly.

8. In page 7, line 11, to delete “any of the following”.

—Aire Dlí agus Cirt agus Comhionannais.

[SECTION 3]

9. In page 7, to delete lines 31 to 37.

—Aire Dlí agus Cirt agus Comhionannais.

SECTION 6

10. In page 9, line 17, after “and (8)” to insert “and subject to the confidentiality of the mediation”.

—Mick Wallace.

SECTION 7

11. In page 10, line 1, to delete “terminated.” and substitute the following:

“terminated;”.

“(g) such other terms (if any) as may be agreed between the parties and the mediator.”.

—Aire Dlí agus Cirt agus Comhionannais.

SECTION 8

12. In page 10, lines 14 and 15, to delete “a copy of any code of practice to which he or she subscribes in so far as mediation is concerned” and substitute the following:

“a copy of the Code of Practice to which he or she subscribes in so far as the mediation is concerned. The subscribed Code of Practice shall incorporate, in full, the terms of the Code of Practice published by the Minister under *section 9* of this Act. The mediator may incorporate additional terms; however, any such terms shall not conflict with the terms of the Code of Practice as published under *section 9*”.

—Mick Wallace.

13. In page 10, line 14, to delete “any” and substitute “the”.

—Clare Daly.

14. In page 10, line 15, after “concerned” to insert the following:

“; which code of practice shall incorporate in full the terms of the code of practice prepared and published under *section 9*”.

—Clare Daly.

SECTION 9

15. In page 10, line 33, to delete “may” and substitute “shall”.

—Clare Daly.

16. In page 10, line 34, to delete “a code” and substitute “codes”.

—Aire Dlí agus Cirt agus Comhionannais.

17. In page 10, line 36, to delete “a code” and substitute “codes”.

—Aire Dlí agus Cirt agus Comhionannais.

[SECTION 9]

18. In page 10, line 36, to delete “a person” and substitute “persons”.
—Aire Dlí agus Cirt agus Comhionannais.
19. In page 10, line 37, to delete “purports” and substitute “purport”.
—Aire Dlí agus Cirt agus Comhionannais.
20. In page 11, line 1, to delete “may include” and substitute “shall include but is not limited to”.
—Clare Daly.
21. In page 11, line 1, to delete “may” and substitute “shall”.
—Mick Wallace.
22. In page 11, line 2, to delete “any of”.
—Clare Daly, Mick Wallace.
23. In page 11, between lines 2 and 3, to insert the following:
“(a) education and training requirements for mediators;”.
—Clare Daly.
24. In page 11, between lines 2 and 3, to insert the following:
“(a) minimum standards of education and training for mediators;”.
—Mick Wallace.
25. In page 11, to delete line 4.
—Clare Daly.
26. In page 11, between lines 4 and 5, to insert the following:
“(c) procedures to be followed by mediators in the conduct of a mediation requiring consultation, by a mediator, with a child;”.
—Aire Dlí agus Cirt agus Comhionannais.
27. In page 11, between lines 9 and 10, to insert the following:
“(g) a clear definition of misconduct.”.
—Mick Wallace.

SECTION 10

28. In page 12, lines 8 and 9, to delete “communications by the mediator with the parties” and substitute the following:
“communications, whether oral or written, between the mediator and the parties and the non-parties attending the mediation under *section 6(4)(b)*”.
—Clare Daly.

[SECTION 10]

29. In page 12, lines 8 and 9, to delete “by the mediator with the parties” and substitute “(including oral statements)”.

—Aire Dlí agus Cirt agus Comhionannais.

30. In page 12, line 24, to delete “otherwise inadmissible” and substitute “otherwise admissible”.

—Aire Dlí agus Cirt agus Comhionannais.

31. In page 12, line 25, to delete “civil”.

—Aire Dlí agus Cirt agus Comhionannais.

SECTION 14

32. In page 15, between lines 19 and 20, to insert the following:

“(4) This section shall not apply to any proceedings, including any application, under—

- (a) section 6A, 11 or 11B of the Guardianship of Infants Act 1964,
- (b) section 2 of the Judicial Separation and Family Law Act 1989, or
- (c) section 5 of the Family Law (Divorce) Act 1996.”.

—Aire Dlí agus Cirt agus Comhionannais.

SECTION 17

33. In page 16, line 29, after “court a” to insert “written”.

—Clare Daly.

34. In page 16, line 31, after “place, a” to insert “short, neutral”.

—Clare Daly.

35. In page 16, to delete lines 33 to 37, and in page 17, to delete lines 1 to 5 and substitute the following:

“(b) where the mediation took place, the content of a report to the court, if any, by a mediator shall be limited to a neutral summary of the outcome of the mediation.”.

—Mick Wallace.

36. In page 16, to delete lines 36 and 37, and in page 17, to delete lines 1 to 3 and substitute the following:

“(ii) if a mediation settlement has been reached on all, or some only of the, matters concerning that dispute, a statement of the terms of the mediation settlement, and”.

—Aire Dlí agus Cirt agus Comhionannais.

37. In page 17, to delete lines 4 and 5.

—Clare Daly.

[SECTION 20]

SECTION 20

38. In page 18, to delete lines 6 and 7.

—Aire Dlí agus Cirt agus Comhionannais.

NEW SECTION

39. In page 20, after line 5, to insert the following:

“PART 6

AMENDMENT OF OTHER ACTS

Amendment of Guardianship of Infants Act 1964

24. The Guardianship of Infants Act 1964 is amended—

(a) in section 20—

(i) in subsection (2)(b), by the substitution of “give to the applicant the names and addresses of persons who provide a mediation service and inform the applicant of the matters referred to in *sections 10 and 11* of the *Mediation Act 2017*” for “and give to the applicant the name and addresses of persons qualified to provide an appropriate mediation service”,

(ii) in subsection (3)(a), by the substitution of “statutory declaration made by the solicitor” for “certificate signed by the solicitor”, and

(iii) in subsections (3)(b) and (4), by the substitution of “statutory declaration” for “certificate” in each place,

(b) in section 21—

(i) in subsection (2)(b), by the substitution of “, give to the respondent the names and addresses of persons who provide a mediation service and inform the respondent of the matters referred to in *sections 10 and 11* of the *Mediation Act 2017*” for “and where appropriate give to the respondent the name and addresses of persons qualified to provide an appropriate mediation service”,

(ii) in subsection (3)(a), by the substitution of “statutory declaration made by the solicitor” for “certificate signed by the solicitor”, and

(iii) in subsections (3)(b) and (4), by the substitution of “statutory declaration” for “certificate” in each place,

and

(c) in section 29, by the deletion of “mediation or”.

—Aire Dlí agus Cirt agus Comhionannais.

[NEW SECTION]

40. In page 20, after line 5, to insert the following:

“Amendment of Judicial Separation and Family Law Act 1989

25. The Judicial Separation and Family Law Act 1989 is amended:

(a) in section 5—

(i) in subsection (1)(b), by the substitution of “, give to the applicant the names and addresses of persons who provide a mediation service and inform the applicant of the matters referred to in *sections 10* and *11* of the *Mediation Act 2017*” for “and give to him the names and addresses of persons and organisations qualified to provide a mediation service”,

(ii) in subsection (2), by—

(I) the substitution of “statutory declaration made by the solicitor” for “certificate signed by the solicitor”, and

(II) the substitution of “not so declare,” for “not so certify,”

and

(iii) by the deletion of subsection (3),

and

(b) in section 6—

(i) in subsection (1)(b), by the substitution of “, give to the respondent the names and addresses of persons who provide a mediation service and inform the respondent of the matters referred to in *sections 10* and *11* of the *Mediation Act 2017*” for “and give to him the names and addresses of persons and organisations qualified to provide a mediation service”,

(ii) in subsection (2), by—

(I) the substitution of “statutory declaration made by the solicitor” for “certificate signed by the solicitor”, and

(II) the substitution of “not so declare,” for “not so certify,”

and

(iii) by the deletion of subsection (3).”.

—Aire Dlí agus Cirt agus Comhionannais.

41. In page 20, after line 5, to insert the following:

“Amendment of Family Law (Divorce) Act 1996

26. The Family Law (Divorce) Act 1996 is amended—

(a) in section 6—

(i) in subsection (2)(b), by the substitution of “, give to the applicant the names

[NEW SECTION]

and addresses of persons who provide a mediation service for spouses who have become estranged and inform the applicant of the matters referred to in *sections 10 and 11 of the Mediation Act 2017* for “and give to the applicant the names and addresses of persons qualified to provide a mediation service for spouses who have become estranged”,

(ii) in subsection (4)(a), by the substitution of “statutory declaration made by the solicitor” for “certificate signed by the solicitor”,

(iii) in subsection (4)(b), by the substitution of “statutory declaration” for “certificate”, and

(iv) by the deletion of subsection (5),

(b) in section 7—

(i) in subsection (2)(b), by the substitution of “, give to the respondent the names and addresses of persons who provide a mediation service for spouses who have become estranged and inform the respondent of the matters referred to in *sections 10 and 11 of the Mediation Act 2017* for “and give to the respondent the names and addresses of persons qualified to provide a mediation service for spouses who have become estranged”,

(ii) in subsection (4)(a), by the substitution of “statutory declaration made by the solicitor” for “certificate signed by the solicitor”,

(iii) in subsection (4)(b), by the substitution of “statutory declaration” for “certificate”, and

(iv) by the deletion of subsection (5),

and

(c) in section 43, by the deletion of “mediation services or”.”.

—Aire Dli agus Cirt agus Comhionannais.

SCHEDULE

42. In page 21, between lines 15 and 16, to insert the following:

“(f) establish an independent, transparent system for handling complaints and disciplinary proceedings.”.

—Mick Wallace.

TITLE

43. In page 5, line 5, to delete “civil”.

—Mick Wallace.