



DÁIL ÉIREANN

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

**LEASUITHE TUARASCÁLA
REPORT AMENDMENTS**

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AN BILLE IDIRGHABHÁLA, 2017 —AN TUARASCÁIL

MEDIATION BILL 2017 —REPORT

Leasuithe Amendments

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

—An tAire Dlí agus Cirt agus Comhionannais.

2. In page 5, line 14, after “sessions;” to insert the following:

“to amend the Guardianship of Infants Act 1964, the Judicial Separation and Family Law Reform Act 1989 and the Family Law (Divorce) Act 1996;”.

—An tAire Dlí agus Cirt agus Comhionannais.

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

“ “civil proceedings” include commercial proceedings, proceedings in relation to boundary disputes between adjoining landowners and proceedings before a tribunal other than a Tribunal of Enquiry;

“confidential” means the state of keeping or being kept secret or private;”.

—Josepha Madigan.

4. In page 6, line 21, to delete “confidential facilitative voluntary” and substitute “confidential, facilitative and voluntary”.

—An tAire Dlí agus Cirt agus Comhionannais.

5. In page 7, between lines 33 and 34, to insert the following:

“(i) proceedings where there are allegations of domestic violence or assault between the relevant parties;

(j) proceedings where the safety of one of the parties (and/or their children) is at risk;”.

—Jonathan O'Brien.

6. In page 9, between lines 31 and 32, to insert the following:

“Mediation conditions

8. (1) Where a dispute has been submitted to mediation, the parties and the mediator shall, having regard to the nature of the dispute, seek to complete the mediation process as

quickly as possible.

- (2) One or more non-party participants may be present and may assist a party during the mediation process, with the consent of all parties.”.

—Josepha Madigan.

7. In page 10, between lines 2 and 3, to insert the following:

“(iii) make enquires separately with the parties as to whether there has been domestic abuse in the relationship to assess if the case is suitable for mediation.”.

—Jonathan O'Brien.

8. In page 10, line 9, to delete “any code of practice” and substitute “the code or codes of practice published under *section 9*”.

—Clare Daly.

9. In page 10, line 9, after “practice” to insert “published or approved under *section 9*”.

—An tAire Dlí agus Cirt agus Comhionannais, Mick Wallace.

10. In page 10, between lines 21 and 22, to insert the following:

“(e) advise any party not having a legal representative or other professional adviser involved in the mediation process to consider seeking independent advice, whether legal or otherwise, prior to signing any agreement arising from the process.”.

—Josepha Madigan.

11. In page 10, between lines 26 and 27, to insert the following:

“(5) The mediator should abide by the code of practice established under the provisions specified in *section 9*.”.

—Josepha Madigan.

12. In page 10, line 28, to delete “may,” and substitute “shall, as soon as practicable after the coming into operation of this section and”.

—An tAire Dlí agus Cirt agus Comhionannais, Clare Daly.

13. In page 10, line 28, to delete “may” and substitute “shall”.

—Mick Wallace.

14. In page 10, line 29, to delete “a code of practice” and substitute “a code or codes of practice”.

—An tAire Dlí agus Cirt agus Comhionannais, Clare Daly.

15. In page 10, line 29, to delete “a code” and substitute “codes”.

—Mick Wallace.

16. In page 10, line 31, to delete “a code of practice” and substitute “a code or codes of practice”.
—An tAire Dlí agus Cirt agus Comhionannais, Clare Daly.
17. In page 10, line 31, to delete “a code” and substitute “codes”.
—Mick Wallace.
18. In page 10, line 31, to delete “a person” and substitute “any person”.
—An tAire Dlí agus Cirt agus Comhionannais.
19. In page 10, line 33, to delete “may” and substitute “shall”.
—Clare Daly, Mick Wallace.
20. In page 10, line 33, after “include” to insert “, but is not limited to,”.
—Mick Wallace.
21. In page 10, line 34, to delete “any of”.
—Clare Daly, Mick Wallace..
22. In page 10, between lines 34 and 35, to insert the following:
“(a) minimum training required to be appointed mediator;”.
—Josepha Madigan.
23. In page 10, line 37, before “procedures” to insert “where relevant,”.
—Clare Daly, Mick Wallace.
24. In page 11, line 5, to delete “mediation.” and substitute “mediation;”.
—An tAire Dlí agus Cirt agus Comhionannais.
25. In page 11, between lines 5 and 6, to insert the following:
“(h) any other matters relevant to the conduct of mediation.”.
—An tAire Dlí agus Cirt agus Comhionannais, Clare Daly.
26. In page 14, between lines 9 and 10, to insert the following:
“(9) In order to ensure quality control and ongoing professional development, mediators should be registered with the Council.”.
—Josepha Madigan.
27. In page 14, line 28, to delete “advise the client to consider mediation” and substitute “discuss the possibility of engaging in mediation”.
—Josepha Madigan.
28. In page 16, to delete lines 26 to 38, and in page 17, to delete lines 1 to 5.
—Josepha Madigan.

29. In page 16, line 35, to delete “proceedings,” and substitute “proceedings, and”.

—An tAire Dlí agus Cirt agus Comhionannais.

30. In page 16, to delete line 38 and substitute “settlement.”.

—An tAire Dlí agus Cirt agus Comhionannais.

31. In page 17, to delete lines 1 and 2.

—An tAire Dlí agus Cirt agus Comhionannais, Clare Daly.

32. In page 17, between lines 5 and 6, to insert the following:

“Involvement of child in mediation in family law dispute

18. (1) If in a family law dispute a mediator considers it appropriate to involve the child of a party directly in the mediation process, the mediator shall—

- (a) obtain the agreement of the parties,
- (b) obtain the consent of the child, and
- (c) provide or ensure the provision of appropriate facilities for involvement of the child in the process.

(2) In a family law dispute, a mediator may, having obtained the agreement of the parties, allow a suitably qualified adult to participate as a non-party participant on behalf of the child.

(3) In this section, a “suitably qualified adult” means a person who—

- (a) has been appointed guardian *ad litem* for the child,
- (b) is over the age of 18 years and who is responsible for the care and welfare of the child, or
- (c) has been appointed by the Health Service Executive under the Child Care Acts 1991 to 2007 to care for the child.”.

—Josepha Madigan.

33. In page 17, between lines 5 and 6, to insert the following:

“Liability for civil damages

18. A mediator acting in accordance with the provisions of this Act, shall not be liable for civil damages for any statement, decision or omission made in the process of mediation unless the act or omission is made—

- (a) in bad faith with malicious purpose,
- (b) in a manner exhibiting wilful or wanton disregard of human rights or for an individual’s safety, or
- (c) in the case of a dispute relating to a child or children without due regard to the welfare and safety of a child or children.”.

34. In page 18, to delete lines 4 to 11.

—Josepha Madigan.

—Josepha Madigan.