An Bille um an Dlí Coiriúil (Cionta Gnéasacha) (Leasú), 2018
Criminal Law (Sexual Offences) (Amendment) Bill 2018

Meabhrán Mínitheach
Explanatory Memorandum
EXPLANATORY MEMORANDUM

Purpose of the Bill
The main purpose of the Bill is to amend the Punishment of Incest Act 1908 to address a gender anomaly in penalties, and to amend the Criminal Law (Sexual Offences) Act 2017 to provide for presumptive minimum sentences for repeat sex offenders.

Provisions of the Bill
Section 1: Definitions
Section 1 provides for the definitions of terms used in the Bill

Section 2: Amendment of section 1 of Act of 1908
The purpose of this section (and section 3) is to equalize the penalty for the offence of incest by a male and by a female of or over 17 years at up to 10 years imprisonment. At present, a male convicted of an incest offence is liable to up to life imprisonment as opposed to up to 7 years imprisonment for a female offender.

Section 2 of the Bill reduces the penalty for male offenders to 10 years imprisonment.

Section 3: Amendment of section 2 of Act of 1908
Section 3 substitutes, in its entirety, section 2 of the Punishment of Incest Act 1908 which provides for incest by females of or above the age of 17. The new provision brings the provisions up to date and in line with the amendment to Section 1 of the 1908 Act and provides for a sentence of up to 10 years imprisonment. At present, a female of or above 17 years convicted of an incest offence is liable to up to 7 years imprisonment. This provision equalises the maximum penalty for incest by both males and females of or above 17 years of age at 10 years imprisonment.

Section 4: Amendment of Act of 2017
Section 4 inserts a new section 58 into the Criminal Law (Sexual Offences) Act 2017.

The new provisions set out the arrangements for sentencing for repeat sexual offenders. Under the new section 58, where an offender is convicted of a sexual offence listed in the Schedule to the Criminal Law (Sexual Offences) Act 2017, and is sentenced to imprisonment for a period of at least 5 years, and is subsequently – within a period of 10 years – convicted of a further offence listed in the Schedule, the court shall, when imposing sentence for that offence, specify the minimum term of imprisonment to be...
served by the person. The minimum period of imprisonment shall be three quarters of the maximum term of imprisonment prescribed by law in respect of such an offence and, where the maximum term is life imprisonment, the minimum shall be specified as a term of not less than 10 years.

The court will have discretion in the application of the sentence if it is satisfied that this would be disproportionate in all the circumstances of the case.

**Section 5: Insertion of Schedule in Act of 2017**

Section 5 inserts a Schedule into the Criminal Law (Sexual Offences) Act 2017. The Schedule lists the offences to which the provisions of the new Section 58 of the 2017 Act will apply. All of the scheduled offences are sexual offences of a serious nature where the maximum penalty on conviction on indictment is five years imprisonment or above.

**Section 6: Short title and commencement**

Section 6 provides for the short title and commencement of the Act

_An Roinn Dlí agus Cirt agus Comhionannais,_
_Iúil, 2018._