



An Bille um Dhliteanas Sibhialta (Scoileanna), 2019
Civil Liability (Schools) Bill 2019

Meabhrán Mínitheach
Explanatory Memorandum



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CIVIL LIABILITY (SCHOOLS) BILL 2019

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Background

The objective of the Bill is to provide legal certainty to schools by providing them with clear legislative protection against liability for injury to students arising from accidents occurring on school premises. This protection will apply provided that an adequate system of teacher supervision is in place, and provided that the school is in compliance with the applicable health and safety regulations. The approach taken is in line with recent case law on this issue, and aims to strike a fair balance which recognises the importance of recreational activities for students in schools. The Bill will apply to all recognised schools.

Provisions of the Bill

Section 1 inserts a new Part IVC (sections 51P and 51Q) into the Civil Liability Act 1961.

Section 51P provides for the interpretation of key terms in this Part. The definitions of “Principal”, “school” and “student” have the meanings assigned to them by the Education Act 1998. A “teacher”, for the purposes of this Part, is defined to include an agent of the school, a volunteer, or other staff of the school. This is to recognise the practical reality that other individuals are often authorised by the school to have a role in supervision duties on school premises. A “volunteer” is defined as a person who is authorised by the school to assume any duties or engage in any work and does so without expectation of payment (other than reasonable reimbursement for expenses) or other reward.

Section 51Q is the substantive section which provides protection of schools from liability for negligence

Subsection (1) provides that a school shall not be liable in negligence for injury to a student arising from an accident occurring on school premises, provided that at the time of the accident the school was operating a system of supervision which was adequate with regard to a number of factors including the number of students, their ages, and the size of the premises. The protection is also dependent on compliance by the school with relevant safety standards and building regulations as apply to that particular place.

Subsection (2) provides that a school shall not be liable any act done by a teacher when providing assistance, advice or care to a student who is in need of first aid assistance, transportation to a hospital or other place to receive medical care.

Subsection (3) provides that the assistance, advice or care referred to in subsection (2) can include the administration of first aid and /or transporting the student off the premises to receive medical treatment.

Subsection (4) clarifies that nothing in subsection (3) will act to limit what may be considered as assistance, advice or care for the purposes of the new Part IVC.

Subsection (5) provides that the standard of care which is expected of teachers is that of a prudent parent. This enshrines in legislation the standard which has generally been applied by the courts in the majority of cases taken against schools.

Subsection (6) provides that the protections afforded to schools by the Bill will not apply to any act done by a teacher which amounts to gross negligence or an act of bad faith.

Section 2 sets out the short title.

*Senators Rónán Mullen, Brian Ó Domhnaill, Victor Boyhan,
Nollaig, 2019.*