



# DÁIL ÉIREANN

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**AN BILLE UM AN DLÍ COIRIÚIL, AN DLÍ SIBHIALTA AGUS  
COSAIN (FORÁLACHA ILGHNÉITHEACHA), 2026  
CRIMINAL LAW, CIVIL LAW AND DEFENCE  
(MISCELLANEOUS PROVISIONS) BILL 2026**

**LEASUITHE TUARASCÁLA  
REPORT AMENDMENTS**

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# DÁIL ÉIREANN

AN BILLE UM AN DLÍ COIRIÚIL, AN DLÍ SIBHIALTA AGUS COSAINT  
(FORÁLACHA ILGHNÉITHEACHA), 2026  
—AN TUARASCÁIL

CRIMINAL LAW, CIVIL LAW AND DEFENCE (MISCELLANEOUS PROVISIONS)  
BILL 2026  
—REPORT

*Leasuithe  
Amendments*

1. In page 7, line 23, after “2004,” to insert “the Criminal Justice Act 2006,”.  
—An tAire Dlí agus Cirt, Gnóthaí Baile agus Imirce.
2. In page 7, line 32, after “trial;” to insert the following:  
“to give effect to the ratification by the State of certain amendments to the Rome Statute of the International Criminal Court, to further enable authorities in the State to co-operate with the International Criminal Court, and for those and other related purposes to amend the International Criminal Court Act 2006;”  
—An tAire Dlí agus Cirt, Gnóthaí Baile agus Imirce.
3. In page 8, line 6, after “2021;” to insert the following:  
“to provide that the Minister for Justice, Home Affairs and Migration may, in respect of applications made to the Minister, issue to certain persons certificates of disregard in respect of certain historical convictions and other determinations relating to consensual sexual activity;”  
—An tAire Dlí agus Cirt, Gnóthaí Baile agus Imirce.
4. In page 8, line 9, after “1997,” to insert “the Social Welfare Consolidation Act 2005,”.  
—An tAire Dlí agus Cirt, Gnóthaí Baile agus Imirce.
5. In page 8, line 11, to delete “and” and substitute “, the Criminal Justice (Miscellaneous Provisions) Act 2023,”.  
—An tAire Dlí agus Cirt, Gnóthaí Baile agus Imirce.
6. In page 8, line 12, after “2023” to insert “and the Family Courts Act 2024”.  
—An tAire Dlí agus Cirt, Gnóthaí Baile agus Imirce.
7. In page 8, line 25, after “Act” to insert “(other than *Part 4* and *section 44*)”.  
—An tAire Dlí agus Cirt, Gnóthaí Baile agus Imirce.

8. In page 8, to delete line 31 and substitute the following:

“ “Act of 2007” means the Prisons Act 2007;

“Act of 2017” means the Criminal Law (Sexual Offences) Act 2017;”.

—An tAire Dlí agus Cirt, Gnóthaí Baile agus Imirce.

9. In page 9, between lines 2 and 3, to insert the following:

“PART 2

AMENDMENT OF POLICING, SECURITY AND COMMUNITY SAFETY ACT 2024

**Amendment of Policing, Security and Community Safety Act 2024**

4. The Policing, Security and Community Safety Act 2024 is amended by the insertion of the following section after section 98:

**“Intimidation**

**98A.** A person who attempts in any way to coerce or intimidate a member, or any other person, in connection with the performance by the member of his or her functions as such a member shall be guilty of an offence and shall be liable—

(a) on summary conviction, to a class A fine or to imprisonment for a term not exceeding 12 months, or to both, or

(b) on conviction on indictment, to a fine not exceeding €30,000 or to imprisonment for a term not exceeding 5 years, or to both.”.”.

—Alan Kelly.

10. In page 9, between lines 2 and 3, to insert the following:

“PART 2

AMENDMENT OF ROAD TRAFFIC ACT 1961

**Amendment of Road Traffic Act 1961**

4. The Road Traffic Act 1961 is amended in Part V by the insertion of the following section:

**“Garda vehicle giving chase**

**53A.** Where a member of the Garda Síochána is driving a vehicle in pursuit of another vehicle for the purpose of stopping, detaining or apprehending the other vehicle or the driver of or a passenger in the other vehicle, the member shall not be found guilty of an offence under section 52 or 53 unless he or she drives the vehicle in a manner which, having regard to all the circumstances of the case, including—

(a) the condition of the vehicle, the nature, condition and use of the place in which it is driven and the amount of traffic which then actually is or might reasonably be expected then to be in it, and

(b) the reason for undertaking the pursuit,

creates a disproportionate and unjustifiable risk of death or serious harm to other persons.”.”.

—Alan Kelly.

**11.** In page 9, between lines 2 and 3, to insert the following:

“PART 2

AMENDMENT OF NON-FATAL OFFENCES AGAINST THE PERSON ACT 1997

**Amendment of Non-Fatal Offences against the Person Act 1997**

**4.** The Non-Fatal Offences against the Person Act 1997 is amended by the insertion of the following section:

**“Obstructing free movement of member of House of Oireachtas**

**9A.** A person who, by violent means or any form of intimidation and without lawful authority, obstructs or impedes the freedom of movement to or from any place of a member of either House of the Oireachtas is guilty of an offence and is liable—

(a) on summary conviction to a class A fine or to imprisonment for a term not exceeding 12 months or to both, or

(b) on conviction on indictment to a fine or to imprisonment for a term not exceeding 5 years or to both.”.”.

—Alan Kelly.

**12.** In page 10, line 38, to delete “Prisons Act 2007” and substitute “Act of 2007”.

—An tAire Dlí agus Cirt, Gnóthaí Baile agus Imirce.

**13.** In page 14, to delete lines 25 to 40, and in page 15, to delete lines 1 and 2.

—Matt Carthy, Mark Ward.

14. In page 15, between lines 17 and 18, to insert the following:

**“Review and annual reporting on operation of Part IIIA**

- 40D.** (1) The Minister shall, in respect of each calendar year, carry out a review of the operation of this Part.
- (2) A review under subsection (1) shall include an assessment of the exercise of powers under sections 40A, 40B and 40C, including the frequency and circumstances of their use.
- (3) The Minister shall, as soon as practicable after the completion of a review under subsection (1), prepare and publish a report containing anonymised data relating to—
- (a) the number of occasions on which powers under sections 40A, 40B and 40C were exercised,
- (b) the general nature of the operations or deployments concerned,
- (c) the use of force in the exercise of those powers, and
- (d) any other information the Minister considers appropriate for ensuring transparency in the operation of this Part.
- (4) The Minister shall cause a copy of a report under this section to be laid before each House of the Oireachtas as soon as practicable after its publication.”.”.

—Matt Carthy, Mark Ward.

15. In page 17, line 33, to delete “paragraph” where it firstly occurs and substitute “paragraphs”.

—Matt Carthy, Mark Ward.

16. In page 18, between lines 3 and 4, to insert the following:

- “(ab) Where a court, by or before which an offender stands convicted, is of opinion that the appropriate sentence in respect of the offence of which the offender is convicted would, but for this Act, be one of imprisonment for a period of 24 months or less, and where, having considered in accordance with subsection (3) whether to make a community service order, decides not to make such an order, the court shall, as an alternative to that sentence, consider whether to make a probation order in respect of the offender and the court may, if satisfied, in relation to the offender, that such an order is appropriate, make a probation order in accordance with this section.
- (ac) Where a court, having considered in accordance with paragraph (a) whether to make a probation order, decides not to make such an order, it shall give reasons for its decision.”.”.

—Matt Carthy, Mark Ward.

17. In page 18, to delete lines 31 to 35, to delete pages 19 to 22, and in page 23, to delete lines 1 to 18 and substitute the following:

**“Amendment of section 19A of Criminal Evidence Act 1992**

16. (1) The Criminal Evidence Act 1992 is amended by the substitution of the following section for section 19A:

**“Disclosure of third-party records in certain trials**

**19A.** (1) In this section—

‘Act of 1950’ means the Nurses Act 1950;

‘Act of 1985’ means the Nurses Act 1985;

‘Act of 1995’ means the Civil Legal Aid Act 1995;

‘Act of 2005’ means the Health and Social Care Professionals Act 2005;

‘Act of 2011’ means the Nurses and Midwives Act 2011;

‘applicable record’, in relation to criminal proceedings for a sexual offence, means a child protection record, a counselling record, a medical record or a social work record—

- (a) in relation to which there is a reasonable expectation of privacy,
- (b) which was not compiled for the purposes of, or in contemplation of, the investigation into, or the prosecution of, the sexual offence concerned, and
- (c) whether or not the service the subject of the record was provided for remuneration;

‘child protection’ means an intervention or a series of interventions designed to safeguard children from abuse, neglect, violence, exploitation or harm and to promote their safety, wellbeing and rights;

‘child protection professional’ means a person who has undertaken training or study resulting in a qualification, or who has professional experience, relevant to child protection;

‘child protection record’ means any record, or part of a record, made by any means, by a person who was a child protection professional at the time of the making of the record, in the course of investigating or managing concerns, or carrying out assessments or interventions, in relation to the safety, welfare, or protection of a complainant when the complainant was a child;

‘competent person’ means a person who has undertaken training or study or has experience relevant to the process of counselling;

‘complainant’ means a person in respect of whom a sexual offence is

alleged to have been committed;

‘counselling’ means listening to and giving verbal or other support or encouragement to a person, or advising or providing therapy or other treatment to a person;

‘counselling record’ means any record, or part of a record, made by any means, by a competent person in connection with the provision of counselling to a complainant;

‘court’ means the District Court, Circuit Criminal Court or the Central Criminal Court;

‘disclosure application’ has the meaning assigned to it by subsection (2);

‘medical professional’ means—

- (a) a registered medical practitioner,
- (b) a registered nurse, or
- (c) a registered midwife;

‘medical record’ means any record, or part of a record, made by any means, relating to the medical treatment of a complainant by, or ordered or initiated by, a person who was a medical professional at the time of the making of the record;

‘registered medical practitioner’, in relation to a particular point in time, means a person—

- (a) who was a registered medical practitioner within the meaning of section 2 of the Medical Practitioners Act 2007,
- (b) whose name was entered in the General Register of Medical Practitioners established under section 26 of the Medical Practitioners Act 1978, or
- (c) who was registered in the Register of Medical Practitioners prepared and established under the Medical Practitioners Act 1927, at that point in time;

‘registered midwife’, in relation to a particular point in time, means a person whose name was entered in—

- (a) the midwives division of the register of nurses and midwives established under section 46(1) of the Act of 2011,
- (b) the midwives division of the register of nurses established under section 27 of the Act of 1985, or
- (c) the midwives division of the register of nurses maintained under section 41 of the Act of 1950,

at that point in time;

‘registered nurse’, in relation to a particular point in time, means a person—

- (a) whose name was entered in the nurses division of the register of nurses and midwives established under section 46(1) of the Act of 2011,
- (b) other than a registered midwife, whose name was entered in the register of nurses established under section 27 of the Act of 1985,
- (c) other than a registered midwife, whose name was entered in the register of nurses maintained under section 41 of the Act of 1950, or
- (d) who was registered in the register kept in pursuance of the Nurses Registration (Ireland) Act 1919,

at that point in time;

‘sexual offence’ means an offence referred to in the Schedule to the Sex Offenders Act 2001;

‘social care worker’—

- (a) in relation to a particular point in time prior to the establishment under section 36 of the Act of 2005 of the register of members of the profession of social care worker, means a person who was practising as such and who held a qualification that is listed opposite the profession of social care worker in the third column of Schedule 3 to the Act of 2005 or a qualification that is a corresponding qualification, within the meaning of Part 9 of that Act, to that qualification, or
- (b) in relation to a particular point in time following the establishment of that register, means a person whose name was entered in that register,

at that point in time;

‘social worker’—

- (a) in relation to a particular point in time prior to the establishment under section 36 of the Act of 2005 of the register of members of the profession of social worker, means a person who was practising as such and who held a qualification that is listed opposite the profession of social worker in the third column of Schedule 3 to the Act of 2005 or a qualification that is a corresponding qualification, within the meaning of Part 9 of that Act, to that qualification, or
- (b) in relation to a particular point in time following the establishment of that register, means a person whose name was entered in that register,

at that point in time;

‘social work record’ means any record, or part of a record, made by any means, by a person who was a social worker or social care worker at the time of the making of the record, as part of a professional practice relating to assessing or supporting the welfare of a complainant or any related intervention by the social worker or social care worker.

- (2) There shall be a presumption against the disclosure of all applicable records. The presumption against disclosure may only be rebutted in accordance with subsection (11) and (12), furthermore—
  - (a) applicable records may not be disclosed to the accused in proceedings for a sexual offence without the leave of the court in accordance with this section, and
  - (b) no one shall request access to a counselling record nor shall a counselling record be disclosed to the prosecutor or to the accused in proceedings for a sexual offence without the leave of the court in accordance with this section.
- (3) Where, in criminal proceedings for a sexual offence, the prosecutor or the accused is of the opinion that an applicable record ought to be disclosed to the accused under subsection (11), the prosecutor or the accused, as the case may be, shall make an application (in this section referred to as a ‘disclosure application’), in writing, to the court setting out—
  - (a) the specific applicable record sought, or particulars identifying same,
  - (b) cogent reasons for seeking the applicable record which engage with the facts of the case, and
  - (c) the grounds relied upon to establish that it is likely to be relevant to an issue at trial.
- (4) A disclosure application under subsection (2) must be made within 28 days of service of the book of evidence (or the service of a précis of evidence in the District Court) and must be made on notice to the prosecutor or accused, as applicable.
- (5) Where a disclosure application is made under subsection (3), the court shall consider the application and where it is satisfied that the grounds relied upon in the application—
  - (a) establish that the record is likely to be relevant to an issue at trial, the court shall order that a hearing referred to in subsection (8) be held, or
  - (b) do not establish that the record is likely to be relevant to an issue at trial, the court shall refuse the application.

- (6) Where the court orders, under subsection (5)(a), that a hearing referred to in subsection (8) be held—
- (a) the court may order that the person who has possession or control of the applicable record concerned shall produce the record to the prosecutor not later than the beginning of such period in advance of the hearing as may be prescribed in rules of court but the court may not make such an order in respect of counselling records,
  - (b) the court may order that the person who has possession or control of the applicable record concerned, including a counselling record, shall produce the applicable record to the court only, in a confidential manner as prescribed in rules of court, and not later than the beginning of such period in advance of the hearing as may be prescribed in rules of court, and
  - (c) without prejudice to subsection (7), the prosecutor shall, not later than the beginning of such period as may be prescribed in rules of court, notify the person who has possession or control of the applicable record concerned, the complainant, and any other person to whom the prosecutor believes the applicable record relates of the order of the court under subsection (5)(a) and, where applicable, paragraphs (a) and (b).
- (7) The court may, at any time, order that a disclosure application be notified to any person to whom it believes the applicable record may relate.
- (8) The court shall hold a hearing to determine whether the content of the applicable record should be disclosed to the accused.
- (9) The person who has possession or control of the applicable record, the complainant and any other person to whom the applicable record relates shall be entitled to appear and be heard at the hearing referred to in subsection (8).
- (10) In determining, at the hearing referred to in subsection (8), whether the content of the applicable record should be disclosed to the accused under subsection (11), the court shall take the following factors, in particular, into account:
- (a) the extent to which the record is necessary for the accused to defend the charges against him or her;
  - (b) the probative value of the record;
  - (c) the reasonable expectation of privacy with respect to the record;
  - (d) the potential prejudice to the right to privacy of any person to whom the record relates;
  - (e) the public interest in encouraging the reporting of sexual offences;

- (f) the public interest in encouraging complainants of sexual offences to engage with the provision of services by a child protection professional, a competent person, a medical professional, a social care worker or a social worker;
  - (g) the effect of the determination on the integrity of the trial process;
  - (h) the likelihood that disclosing, or requiring the disclosure of, the record will cause harm to the complainant including the nature and extent of that harm;
  - (i) whether disclosure of the applicable records is sought on the basis of a discriminatory belief or basis.
- (11) Subject to subsections (12), (13) and (14), a court shall not, after the hearing referred to in subsection (8), order disclosure of the content of the applicable record concerned to the accused, and where applicable, the prosecutor, unless the court is satisfied, having examined the record, that—
- (a) the record is likely to be relevant to an issue at trial,
  - (b) the information contained in the record cannot reasonably be obtained by any other means, and
  - (c) one or both of the following apply:
    - (i) there would be a real risk of an unfair trial in the absence of such disclosure;
    - (ii) it is otherwise in the interests of justice to so order.
- (12) The Court shall not order disclosure of the content of a counselling record to the accused, and where applicable, the prosecutor, unless the court is satisfied, having examined the record, that the information contained in the record cannot reasonably be obtained by any other means and there would be a real risk of an unfair trial in the absence of such disclosure.
- (13) The provisions within this section are mandatory. However, a complainant may, either in response to an application under this section or of their own motion through their own legal representation, indicate their consent to the disclosure of an applicable record to the court. Such consent should be fully-informed, based on legal advice and should be given directly to the court. In the event that a complainant wishes to provide their consent of their own motion, such application should be made on notice to the prosecutor and the accused within 28 days of service of the book of evidence or the précis of evidence as the case may be.
- (14) (a) Where an order is made pursuant to subsection (11), (12) or (13), in the interests of justice and to protect the right to privacy of any person to whom the applicable record relates, the court shall only

grant disclosure of such specific material as is strictly necessary and the court may impose any condition it considers necessary on the disclosure of the record.

- (b) Without prejudice to the generality of paragraph (a), one or more of the following conditions may be included in an order made pursuant to subsection (11), (12) or (13)—
  - (i) that a part of the content of the applicable record be redacted,
  - (ii) that a copy of the applicable record and not the original be disclosed,
  - (iii) that the applicable record be viewed only at the offices of the court,
  - (iv) that no copies, or only a limited number of copies, of the applicable record, be made,
  - (v) that information concerning the address, telephone number or place of employment of any person named in the applicable record be redacted from the record, or
  - (vi) that the applicable record be returned to the person who owns or controls the said record.
- (c) An applicable record that is disclosed to the accused pursuant to subsection (11), (12) or (13) must only be used for the purposes of the criminal proceedings for which the record has been disclosed and may not be disclosed to any person without leave of the court.
- (15) The court shall provide reasons for ordering, or refusing to order, disclosure of the content of an applicable record pursuant to subsection (11) or (12).
- (16) Where, upon application by the accused, the court considers that the interests of justice require the making of a disclosure application after the period permitted in subsection (3), the court may direct that such an application may be made.
- (17) For the purposes of a hearing pursuant to subsection (8), all persons, other than officers of the court, persons directly concerned in the hearing and such other persons (if any) as the court may determine, shall be excluded from the court during the hearing.
- (18) In addition to the meaning assigned to that expression by section 27 of the Act of 1995, ‘legal aid’ in that Act means representation by a solicitor or barrister, engaged by the Legal Aid Board under section 11 of that Act, on behalf of a complainant or witness in relation to an application pursuant to this section.
- (19) Where any applicable record or counselling record containing opinion, interpretation, or third-party summaries is admitted in evidence, the judge shall issue a warning to the jury that such material is indirect,

interpretive, may contain factual errors and should not be treated as a verbatim account of the complainant's words or actions in particular where the complainant did not have any opportunity to review or correct such contents.

- (20) The Minister shall, within 18 months of the commencement of this section, conduct a review of its operation and lay a report of that review before both Houses of the Oireachtas.”.”.

—Alan Kelly.

18. In page 18, to delete lines 31 to 35, to delete pages 19 to 22, and in page 23, to delete lines 1 to 18 and substitute the following:

**“Amendment of section 19A of Criminal Evidence Act 1992**

13. The Criminal Evidence Act 1992 is amended by the substitution of the following section for section 19A:

**“19A. (1)** In this section—

‘competent person’ means a person who has undertaken training or study, or has experience, relevant to the process of counselling;

‘counselling’ means listening to and giving verbal or other support or encouragement to a person, or advising or providing therapy or other treatment to a person (whether or not for remuneration);

‘counselling record’ means any record, or part of a record, made by any means by a competent person in connection with the provision of counselling to a person in respect of whom a sexual offence is alleged to have been committed (“the complainant”);

‘court’ means the Circuit Criminal Court or the Central Criminal Court;

‘sexual offence’ means an offence referred to in the Schedule to the Sex Offenders Act 2001.

- (2) For the purposes of any criminal proceedings in respect of a sexual offence, counselling records shall be deemed to be hearsay evidence, and any statement contained in such records shall be treated as an out of court statement tendered for the truth of its contents, regardless of—
- (a) the form of the record,
  - (b) whether the statement is verbatim or summarised, or
  - (c) whether the statement is expressed as fact, opinion, or impression.
- (3) Notwithstanding any other provision of law, no record that consists of, or includes, counselling records or therapeutic records relating to a complainant shall, in any circumstances, be—

- (a) sought,
- (b) inspected,
- (c) produced to a court,
- (d) disclosed to the accused, the prosecutor, or any other party, or
- (e) admitted in evidence,

in any proceedings for a sexual offence, save that nothing in this subsection prevents a complainant from voluntarily disclosing their own counselling or therapeutic records to any person of their choosing.

- (4) For the purposes of subsection (3), ‘counselling records or therapeutic records’ includes any record created in the course of, or for the purpose of, counselling, psychotherapy, psychological support, mental health treatment, or any related therapeutic service, whether provided by a professional, volunteer, or support organisation.
- (5) No person, including the accused, the prosecutor, or any other party, shall make an application to the court seeking the production, inspection, disclosure, or admission of any record to which subsection (3) applies.
- (6) Any purported application made in contravention of subsection (5) shall be void and shall not be accepted for filing or considered by the court.
- (7) No person shall directly or indirectly contact a record holder, a complainant, or any other person for the purpose of seeking, requesting, or encouraging the disclosure of a record to which subsection (3) applies.
- (8) A record holder shall not comply with any request, demand, or purported court order for the production or disclosure of a record to which subsection (3) applies.
- (9) A court shall not compel, direct, or invite the production or disclosure of a record to which subsection (3) applies.
- (10) Nothing in this section prevents a complainant from voluntarily disclosing their own counselling or therapeutic records to any person of their choosing, provided that such disclosure is not compelled, requested, or encouraged by any party to the proceedings.
- (11) Rules of court may be made for the purpose of giving full effect to this section.”.”.

—Matt Carthy, Mark Ward.

19. In page 18, to delete lines 31 to 35, to delete pages 19 to 22, and in page 23, to delete lines 1 to 18 and substitute the following:

“16. The Criminal Evidence Act 1992 is amended by the deletion of section 19A and the substitution of the following:

“19A. (1) In this section—

‘competent person’ means a person who has undertaken training or study or has experience relevant to the process of counselling;

‘complainant’ the person an offence is alleged to have been committed against;

‘counselling’ means listening to and giving verbal or other support or encouragement to a person, or advising or providing therapy or other treatment to a person (whether or not for remuneration);

‘counselling record’ means any record, or part of a record, made by any means, by a competent person in connection with the provision of counselling to a person in respect of whom an offence is alleged to have been committed (‘the complainant’), which the prosecutor has had sight of, or about which the prosecutor has knowledge, and in relation to which there is a reasonable expectation of privacy;

(2) A counselling record shall not be disclosed in any criminal proceedings unless the complainant has consented to the disclosure.

(3) A person shall not be required, in or in connection with any criminal proceedings, to produce a counselling record unless the complainant has consented to the production of a counselling record.”.”

—Ruth Coppinger, Richard Boyd Barrett, Paul Murphy.

20. In page 18, to delete lines 32 to 35, to delete pages 19 to 22, and in page 23, to delete lines 1 to 18 and substitute the following:

“19A. (1) In this section—

‘Act of 1950’ means the Nurses Act 1950;

‘Act of 1985’ means the Nurses Act 1985;

‘Act of 1995’ means the Civil Legal Aid Act 1995;

‘Act of 2005’ means the Health and Social Care Professionals Act 2005;

‘Act of 2011’ means the Nurses and Midwives Act 2011;

‘applicable record’, in relation to criminal proceedings for a sexual offence, means a child protection record, a counselling record, a medical record or a social work record—

(a) in relation to which there is a reasonable expectation of privacy,

(b) which was not compiled for the purposes of, or in contemplation of, the investigation into, or the prosecution of, the sexual offence concerned, and

(c) whether or not the service the subject of the record was provided for remuneration;

‘child protection’ means an intervention or a series of interventions designed to safeguard children from abuse, neglect, violence, exploitation or harm and to promote their safety, wellbeing and rights;

‘child protection professional’ means a person who has undertaken training or study resulting in a qualification, or who has professional experience, relevant to child protection;

‘child protection record’ means any record, or part of a record, made by any means, by a person who was a child protection professional at the time of the making of the record, in the course of investigating or managing concerns, or carrying out assessments or interventions, in relation to the safety, welfare, or protection of a complainant when the complainant was a child;

‘complainant’ means a person in respect of whom a sexual offence is alleged to have been committed;

‘competent person’ means a person who has undertaken training or study or has experience relevant to the process of counselling;

‘counselling’ means listening to and giving verbal or other support or encouragement to a person, or advising or providing therapy or other treatment to a person ;

‘counselling record’ means any record, or part of a record, made by any means, by a competent person in connection with the provision of counselling to a complainant;

‘court’ means the District Court, Circuit Criminal Court or the Central Criminal Court;

‘disclosure application’ has the meaning assigned to it by subsection (5);

‘medical professional’ means—

(a) a registered medical practitioner,

(b) a registered midwife; or

(c) a registered nurse,

‘medical record’ means any record, or part of a record, made by any means, relating to the medical treatment of a complainant by, or ordered or initiated by, a person who was a medical professional at the time of the making of the record;

‘registered medical practitioner’, in relation to a particular point in time, means a person—

- (a) who was a registered medical practitioner within the meaning of section 2 of the Medical Practitioners Act 2007,
- (b) whose name was entered in the General Register of Medical Practitioners established under section 26 of the Medical Practitioners Act 1978, or
- (c) who was registered in the Register of Medical Practitioners prepared and established under the Medical Practitioners Act 1927, at that point in time;

‘registered midwife’, in relation to a particular point in time, means a person whose name was entered in—

- (a) the midwives division of the register of nurses and midwives established under section 46(1) of the Act of 2011,
- (b) the midwives division of the register of nurses established under section 27 of the Act of 1985, or
- (c) the midwives division of the register of nurses maintained under section 41 of the Act of 1950, at that point in time;

‘registered nurse’, in relation to a particular point in time, means a person—

- (a) whose name was entered in the nurses division of the register of nurses and midwives established under section 46(1) of the Act of 2011,
- (b) other than a registered midwife, whose name was entered in the register of nurses established under section 27 of the Act of 1985,
- (c) other than a registered midwife, whose name was entered in the register of nurses maintained under section 41 of the Act of 1950, or
- (d) who was registered in the register kept in pursuance of the Nurses Registration (Ireland) Act 1919, at that point in time;

‘social care worker’—

- (a) in relation to a particular point in time prior to the establishment under section 36 of the Act of 2005 of the register of members of the profession of social care worker, means a person who was practising as such and who held a qualification that is listed opposite the profession of social care worker in the third column of Schedule 3 to the Act of 2005 or a corresponding qualification, within the meaning of Part 9 of that Act, to that qualification, or

- (b) in relation to a particular point in time following the establishment of that register, means a person whose name was entered in that register, at that point in time;

‘social worker’—

- (a) in relation to a particular point in time prior to the establishment under section 36 of the Act of 2005 of the register of members of the profession of social worker, means a person who was practising as such and who held a qualification that is listed opposite the profession of social worker in the third column of Schedule 3 to the Act of 2005 or a qualification that is a corresponding qualification, within the meaning of Part 9 of that Act, to that qualification, or
- (b) in relation to a particular point in time following the establishment of that register, means a person whose name was entered in that register, at that point in time;

‘sexual offence’ means an offence referred to in the Schedule to the Sex Offenders Act 2001;

‘social work record’ means any record, or part of a record, made by any means, by a person who was a social worker or social care worker at the time of the making of the record, as part of a professional practice relating to assessing or supporting the welfare of a complainant or any related intervention by the social worker or social care worker.

- (2) There shall be a presumption against the disclosure of all applicable records, The presumption may only be rebutted in accordance with subsection (13) and (14).
- (3) Applicable records may not be disclosed to the accused in proceedings for a sexual offence without the leave of the court in accordance with this section.
- (4) No one shall request access to a counselling record nor shall a counselling record be disclosed to the prosecutor or to the accused in proceedings for a sexual offence without the leave of the court in accordance with this section.
- (5) Where, in criminal proceedings for a sexual offence, the prosecutor or the accused is of the opinion that an applicable record ought to be disclosed to the accused under subsection (13), the prosecutor or the accused, as the case may be, shall make an application (in this section referred to as a ‘disclosure application’), in writing, to the court setting out—
  - (a) the specific applicable record sought, or particulars identifying same,
  - (b) cogent reasons for seeking the applicable record which engage with

the facts of the case, and

- (c) the grounds relied upon to establish that it is likely to be relevant to an issue at trial.
- (6) A disclosure application under subsection (5) must be made within 28 days of service of the book of evidence (or the service of a précis of evidence in the District Court) and must be made on notice to the prosecutor or accused, as applicable.
- (7) Where a disclosure application is made under subsection (5), the court shall consider the application and where it is satisfied that the grounds relied upon in the application—
  - (a) establish that the record is likely to be relevant to an issue at trial, the court shall order that a hearing referred to in subsection (10) be held, or
  - (b) do not establish that the record is likely to be relevant to an issue at trial, the court shall refuse the application.
- (8) Where the court orders, under subsection (7)(a), that a hearing referred to in subsection (10) be held—
  - (a) the court may order that the person who has possession or control of the applicable record concerned shall produce the record to the prosecutor not later than the beginning of such period in advance of the hearing as may be prescribed in rules of court but the court may not make such an order in respect of counselling records, and
  - (b) the court may order that the person who has possession or control of the applicable record concerned, including a counselling record, shall produce the applicable record to the court only, in a confidential manner as prescribed in rules of court, and not later than the beginning of such period in advance of the hearing as may be prescribed in rules of court, and
  - (c) without prejudice to subsection (9), the prosecutor shall, not later than the beginning of such period as may be prescribed in rules of court, notify the person who has possession or control of the applicable record concerned, the complainant, and any other person to whom the prosecutor believes the applicable record relates of the order of the court under subsection (7)(a) and, where applicable, paragraph(a).
- (9) The court may, at any time, order that a disclosure application be notified to any person to whom it believes the applicable record may relate.
- (10) The court shall hold a hearing to determine whether the content of the applicable record should be disclosed to the accused.
- (11) The person who has possession or control of the applicable record, the

complainant and any other person to whom the applicable record relates shall be entitled to appear and be heard at the hearing referred to in subsection (10).

- (12) In determining, at the hearing referred to in subsection (10), whether the content of the applicable record should be disclosed to the accused under subsection (13), the court shall take the following factors, in particular, into account:
  - (a) the extent to which the record is necessary for the accused to defend the charges against him;
  - (b) the probative value of the record;
  - (c) the reasonable expectation of privacy with respect to the record;
  - (d) the potential prejudice to the right to privacy of any person to whom the record relates;
  - (e) the public interest in encouraging the reporting of sexual offences;
  - (f) the public interest in encouraging complainants of sexual offences to engage with the provision of services by a child protection professional, a competent person, a medical professional, a social care worker or a social worker;
  - (g) the effect of the determination on the integrity of the trial process;
  - (h) the likelihood that disclosing, or requiring the disclosure of, the record will cause harm to the complainant including the nature and extent of that harm;
  - (i) whether disclosure of the applicable records is sought on the basis of a discriminatory belief or basis.
- (13) Subject to subsections (14), (15) and (16), a court shall not, after the hearing referred to in subsection (10), order disclosure of the content of the applicable record concerned to the accused, and where applicable, the prosecutor, unless the court is satisfied, having examined the record, that—
  - (a) the record is likely to be relevant to an issue at trial,
  - (b) the information contained in the record cannot reasonably be obtained by any other means, and
  - (c) one or both of the following apply:
    - (i) there would be a real risk of an unfair trial in the absence of such disclosure;
    - (ii) it is otherwise in the interests of justice to so order.
- (14) The Court shall not order disclosure of the content of a counselling record to the accused unless the court is satisfied that there would be a

real risk of an unfair trial in the absence of such disclosure and the information contained in the record cannot reasonably be obtained by any other means.

- (15) The provisions of the within section are mandatory. However, a complainant may, either in response to an application under this section or of their own motion through their own legal representation, indicate their consent to the disclosure of an applicable record to the court. Such consent should be fully-informed, based on legal advice and should be given directly to the court. In the event that a complainant wishes to provide their consent of their own motion, such application should be made on notice to the prosecutor and the accused within 28 days of service of the book of evidence or the précis of evidence as the case may be.
- (16) (a) Where an order is made pursuant to subsection (13), (14) or (15), in the interests of justice and to protect the right to privacy of any person to whom the applicable record relates, the court shall only grant disclosure of such specific material as is strictly necessary and the court may impose any condition it considers necessary on the disclosure of the record.
- (b) Without prejudice to the generality of paragraph (a), one or more of the following conditions may be included in an order made pursuant to subsection (13), (14) or (15)—
- (i) that a part of the content of the applicable record be redacted,
  - (ii) that a copy of the applicable record and not the original be disclosed,
  - (iii) that the applicable record be viewed only at the offices of the court,
  - (iv) that no copies, or only a limited number of copies, of the applicable record, be made,
  - (v) that information concerning the address, telephone number or place of employment of any person named in the applicable record be redacted from the record,
  - (vi) that the applicable record be returned to the person who owns or controls the said record,
- (c) An applicable record that is disclosed to the accused pursuant to subsection (13), (14) or (15) must only be used for the purposes of the criminal proceedings for which the record has been disclosed and may not be disclosed to any person without leave of the court.
- (17) The court shall provide reasons for ordering, or refusing to order, disclosure of the content of a applicable record pursuant to subsection (13) or (14).

- (18) Where, upon application by the accused, the court considers that the interests of justice require the making of a disclosure application after the period permitted in subsection (6), the court may direct that such an application may be made.
- (19) For the purposes of a hearing pursuant to subsection (10), all persons, other than officers of the court, persons directly concerned in the hearing and such other persons (if any) as the court may determine, shall be excluded from the court during the hearing.
- (20) In addition to the meaning assigned to that expression by section 27 of the Act of 1995, "legal aid" in that Act means representation by a solicitor or barrister, engaged by the Legal Aid Board under section 11 of that Act, on behalf of a complainant or witness in relation to an application pursuant to this section.
- (21) Where any applicable record or counselling record containing opinion, interpretation, or third-party summaries is admitted in evidence, the judge shall issue a warning to the jury that such material is indirect, interpretive, may contain factual errors and should not be treated as a verbatim account of the complainant's words or actions in particular where the complainant did not have any opportunity to review or correct such contents.
- (22) The Minister shall, within 18 months of the commencement of this section, conduct a review of its operation and lay a report of that review before both Houses of the Oireachtas.
- (23) (a) The amendment of section 19A of the Act of 1992 effected by subsection (1) shall not apply in respect of criminal proceedings for a sexual offence (within the meaning of the said section 19A) that were instituted prior to the coming into operation of subsection (1).
- (b) For the purposes of paragraph (a), criminal proceedings are instituted—
- (i) when a summons or warrant of arrest is issued in respect of an offence,
- (ii) when a person is arrested without a warrant, or
- (ii) when a person is remanded for trial pursuant to Chapter IV of Part V of the Defence Act 1954.
- (24) In this section, "Act of 1992" means the Criminal Evidence Act 1992."."

—Paula Butterly.

**21.** In page 21, line 30, to delete "subsection (2)" and substitute "subsections (2)".

—An tAire Dlí agus Cirt, Gnóthaí Baile agus Imirce.

22. In page 22, between lines 30 and 31, to insert the following:

“(e) after subsection (9) to insert the following—

“(9A) All applicable records carry the presumption of confidentiality.”,

—Ruth Coppinger, Richard Boyd Barrett, Paul Murphy.

23. In page 22, to delete lines 38 to 41, and in page 23, to delete lines 1 to 5 and substitute the following:

“(11) Subject to subsections (11A), (11B) and (12), a court shall not, after the hearing referred to in subsection (8), order disclosure of the content of the applicable record concerned to the accused, and where applicable, the prosecutor, unless the court is satisfied, having examined the record, that—

(a) the information contained in the record cannot reasonably be obtained by any other means, and

(b) there would be a real risk of an unfair trial in the absence of such disclosure.

(11A) The Court shall not order disclosure of the content of a counselling record to the accused unless the court is satisfied that there would be a real risk of an unfair trial in the absence of such disclosure and the information contained in the record cannot reasonably be obtained by any other means.

(11B) The provisions of the within section are mandatory. However, a complainant may, either in response to an application under this section or of their own motion through their own legal representation, indicate their consent to the disclosure of an applicable record to the court. Such consent should be fully-informed, based on legal advice and should be given directly to the court. In the event that a complainant wishes to provide their consent of their own motion, such application should be made on notice to the prosecutor and the accused within 28 days of service of the book of evidence or the précis of evidence as the case may be.”,

—Ruth Coppinger, Richard Boyd Barrett, Paul Murphy.

24. In page 23, to delete lines 2 to 5 and substitute the following:

“(b) there would be a real risk of an unfair trial in the absence of such disclosure.”,

—Matt Carthy, Mark Ward.

25. In page 23, between lines 5 and 6, to insert the following:

“(g) by the insertion of the following after subsection (11):

“(11A) Where an applicable record containing analysis, opinion or interpretation by the record-maker is adduced in evidence in

proceedings before a jury, the court shall give a warning to the jury outlining the nature and limitations of such evidence, including that it may constitute a third-party interpretation and not a direct account of fact.”.”.

—Matt Carthy, Mark Ward.

26. In page 23, between lines 8 and 9, to insert the following:

“(i) by the insertion of the following subsection:

“(17) Where any applicable record or counselling record containing opinion, interpretation, or third-party summaries is admitted in evidence, the judge shall issue a warning to the jury that such material is indirect, interpretive, may contain factual errors and should not be treated as a verbatim account of the complainant’s words or actions in particular where the complainant did not have any opportunity to review or correct such contents.”.”.

—Ruth Coppinger, Richard Boyd Barrett, Paul Murphy.

27. In page 23, between lines 18 and 19, to insert the following:

“(4) The Minister shall, not later than 18 months after the commencement of this section, carry out a review of the operation of the changes to the Act of 1992 by this Act.”.

—Ruth Coppinger, Richard Boyd Barrett, Paul Murphy.

28. In page 23, between lines 18 and 19, to insert the following:

**“Review of operation of section 19A of Criminal Evidence Act 1992**

17. (1) The Minister shall, not later than 2 years after the coming into operation of *section 16*, cause a review to be carried out of the operation of section 19A of the Criminal Evidence Act 1992.

(2) A review under *subsection (1)* shall include an examination of—

- (a) the effectiveness of the provisions in protecting the privacy rights of complainants,
- (b) the extent to which applicable records are the subject of disclosure applications,
- (c) the impact of the provisions on the fairness of criminal proceedings, and
- (d) the operation in practice of the procedures introduced by section 19A of the Criminal Evidence Act 1992, including timelines and procedural safeguards.

(3) The Minister shall, as soon as practicable after the completion of a review under this section, prepare and lay before each House of the Oireachtas a report setting out—

- (a) the findings of the review, and
- (b) any recommendations for legislative or administrative changes arising from those findings.”.

—Matt Carthy, Mark Ward.

29. In page 23, between lines 18 and 19, to insert the following:

**“Annual reporting and publication of anonymised data**

17. (1) The Minister shall, in respect of each calendar year, cause to be compiled and published a report containing anonymised statistical data relating to the operation of section 19A of the Criminal Evidence Act 1992.
- (2) A report under *subsection (1)* shall include anonymised information in relation to—
- (a) the number of disclosure applications made,
  - (b) the number of such applications granted, refused, or withdrawn,
  - (c) the categories of applicable records sought,
  - (d) the stage in proceedings at which applications are made, and
  - (e) any other matters that the Minister considers appropriate for the purpose of promoting transparency and public understanding of the operation of section 19A of the Criminal Evidence Act 1992.
- (3) In preparing a report under this section, the Minister shall ensure that no information is included that could reasonably lead to the identification of any complainant or other person to whom an applicable record relates.
- (4) A report under this section shall be laid before each House of the Oireachtas as soon as practicable after its completion.”

—Matt Carthy, Mark Ward.

30. In page 23, between lines 18 and 19, to insert the following:

**“Amendment of Criminal Justice Act 1993**

17. The Criminal Justice Act 1993 is amended by inserting the following section after section 5B:

**“Requirement for sworn character evidence in specified offences**

5C. (1) Where a person is convicted of—

- (a) a homicide offence,
- (b) a serious harm offence,
- (c) a domestic violence offence,
- (d) a coercive control offence,
- (e) a stalking offence,
- (f) a harassment offence, or
- (g) a child abuse offence,

and intends to adduce character evidence for the purpose of the determination of sentence, such evidence shall—

- (i) where given orally, be given on oath, or
  - (ii) where not given orally, be given by affidavit.
- (2) Subsection (1) applies whether the evidence is given by the convicted person or by any other person on his or her behalf.
  - (3) Subsection (1) shall apply only in respect of a person who is convicted of the offences listed in that subsection after the coming into operation of this Act.”.”.

—Matt Carthy, Mark Ward.

31. In page 23, between lines 23 and 24, to insert the following:

**“Amendment of Criminal Justice (Victims of Crime) Act 2017**

18. The Criminal Justice (Victims of Crime) Act 2017 is amended by the insertion of the following after section 8:

**“Information regarding death of offender**

- 8A. (1) A victim shall, insofar as is practicable and without delay, be informed by An Garda Síochána, the Irish Prison Service, the Probation Service, or any other relevant competent authority, of the death of the offender who committed the criminal offence against them, where that offender was—
- (a) serving a custodial sentence,
  - (b) subject to post-release supervision,
  - (c) under the supervision of the Probation Service,
  - (d) otherwise within the criminal justice system in circumstances where information relating to their status is ordinarily communicated to victims, or
  - (e) subject to the notification requirements of the Sex Offenders Act 2001.
- (2) The duty under subsection (1) applies whether or not the offender was, at the time of death, still serving a sentence or subject to any form of supervision, provided that the offender remained within a category in respect of which competent authorities ordinarily hold and communicate status information to victims.
- (3) The Minister may issue guidelines to ensure the consistent application of this section across all competent authorities.”.”.

—Matt Carthy, Mark Ward.

32. In page 23, line 29, to delete “section 38(1) and section 45” and substitute “sections 38(1) and 45”.

—An tAire Dlí agus Cirt, Gnóthaí Baile agus Imirce.

33. In page 24, line 23, to delete “Act of 2006” and substitute “Criminal Justice Act 2006”.

—An tAire Dlí agus Cirt, Gnóthaí Baile agus Imirce.

34. In page 28, to delete lines 15 to 19 and substitute the following:

“29. Section 35A of the Act of 2003 is amended—

(a) in subsection (2), by the substitution of “in relation to such detention, upon request of the person concerned and, for that purpose, the High Court shall have the same powers in relation to remand as it would have if the person were brought before it charged with an indictable offence” for “in relation to such detention”, and

(b) by the insertion of the following subsection after subsection (2):

“(3) A retrial or appeal referred to in subsection (2) shall commence without delay.”.

—An tAire Dlí agus Cirt, Gnóthaí Baile agus Imirce.

35. In page 28, line 33, to delete “Act of 2006” and substitute “Criminal Justice Act 2006”.

—An tAire Dlí agus Cirt, Gnóthaí Baile agus Imirce.

36. In page 29, between lines 16 and 17, to insert the following:

## “PART 11

### AMENDMENT OF INTERNATIONAL CRIMINAL COURT ACT 2006

#### **Definition (*Part 11*)**

32. In this Part, “Act of 2006” means the International Criminal Court Act 2006.”.

—An tAire Dlí agus Cirt, Gnóthaí Baile agus Imirce.

37. In page 29, between lines 16 and 17, to insert the following:

#### **“Amendment of section 2 of Act of 2006**

33. Section 2 of the Act of 2006 is amended—

(a) in subsection (1)—

(i) by the substitution of the following definition for the definition of “Statute”:

“ ‘Statute’, subject to section 64A, means the Rome Statute of the International Criminal Court, done at Rome on 17 July 1998, as amended by the text set out—

(a) in Annex I of Resolution RC/Res.5, adopted on 10 June 2010 pursuant to Article 121 (the text of which amendment in the English language is set out in paragraph 1 of Part 1 of Schedule 1A),

- (b) in Annex I of Resolution RC/Res.6, adopted on 11 June 2010 pursuant to Article 121 (the text of which amendment in the English language is set out in Part 2 of Schedule 1A),
- (c) in Annexes I to III of Resolution ICC-ASP/16/Res.4, adopted on 14 December 2017 pursuant to Article 121 (the text of which amendment in the English language is set out in paragraph 2 of Part 1 of Schedule 1A), and
- (d) in Annex I of Resolution ICC-ASP/18/Res.5, adopted on 6 December 2019 pursuant to Article 121 (the text of which amendment in the English language is set out in paragraph 3 of Part 1 of Schedule 1A);”,

and

- (ii) by the insertion of the following definitions:

“ ‘crime of aggression’ has the same meaning as it has in Article 8 *bis*;  
‘crime within the jurisdiction of the International Criminal Court’ means, subject to subsection (1A), any of the following:

- (a) genocide (within the meaning of section 6(1));
- (b) a crime against humanity (within the meaning of section 6(1));
- (c) a war crime (within the meaning of section 6(1));
- (d) the crime of aggression;
- (e) the intentional committing of any of the acts specified in Article 70.1 (offences against the administration of justice);
- (f) an act specified in a relevant amendment and prescribed in an order made under section 64A;

‘relevant amendment’ has the meaning assigned to it by section 64A;”,

and

- (b) by the insertion of the following subsection after subsection (1):

“(1A) In this Act, a reference to a crime within the jurisdiction of the International Criminal Court shall be construed as including any act in respect of which Article 25, 27 or 28 provides that a person who commits such an act shall be criminally responsible for any of the acts referred to in paragraphs (a) to (f) of the definition of crime within the jurisdiction of the International Criminal Court in subsection (1).”.

—An tAire Dlí agus Cirt, Gnóthaí Baile agus Imirce.

38. In page 29, between lines 16 and 17, to insert the following:

**“Amendment of section 6 of Act of 2006**

34. Section 6 of the Act of 2006 is amended by the insertion of the following subsection after subsection (2):

“(3) A reference in this section to an Article shall not be construed as a reference to that Article as amended by a relevant amendment.”.”.

—An tAire Dlí agus Cirt, Gnóthaí Baile agus Imirce.

39. In page 29, between lines 16 and 17, to insert the following:

**“Amendment of section 8 of Act of 2006**

35. Section 8 of the Act of 2006 is amended—

(a) by the substitution of the following subsection for subsection (1):

“(1) Subject to subsection (1A), any person who does any act specified in Article 25.3 (individual criminal responsibility), other than an act in relation to the crime of aggression, is guilty of an offence (in this Act referred to as an ‘ancillary offence’).”.

and

(b) by the insertion of the following subsection after subsection (1):

“(1A) For the purposes of subsection (1), a reference in Article 25.3 to a crime within the jurisdiction of the Court shall not be construed in accordance with the text of the Statute as amended by a relevant amendment.”.”.

—An tAire Dlí agus Cirt, Gnóthaí Baile agus Imirce.

40. In page 29, between lines 16 and 17, to insert the following:

**“Amendment of section 9 of Act of 2006**

36. Section 9 of the Act of 2006 is amended by the insertion of the following subsection after subsection (4):

“(5) Without prejudice to the generality of subsection (4), proceedings may not be taken in respect of—

(a) an alleged war crime in respect of an alleged infringement of subparagraph (b)(xxvii), (b)(xxviii), (b)(xxix), (e)(xiii), (e)(xiv), (e)(xv), (e)(xvi), (e)(xvii), (e)(xviii) or (e)(xix) of Article 8.2, or

(b) an alleged ancillary offence relating to an alleged infringement referred to in paragraph (a),

where such alleged infringement or alleged ancillary offence, as the case may be, is in respect of conduct that occurred before the coming

into operation of *paragraph (a)(i) of section 33\** of the *Criminal Law, Civil Law and Defence (Miscellaneous Provisions) Act 2026*.”.”.

—An tAire Dlí agus Cirt, Gnóthaí Baile agus Imirce.

[\*This is a reference to a section proposed to be inserted by amendment No. 37.]

41. In page 29, between lines 16 and 17, to insert the following:

**“Amendment of section 12 of Act of 2006**

37. Section 12 of the Act of 2006 is amended by the insertion of the following subsection after subsection (4):

“(4A) The reference in subsection (2)(a) to Article 8.2 shall not be construed as a reference to that Article as amended by a relevant amendment.”.”.

—An tAire Dlí agus Cirt, Gnóthaí Baile agus Imirce.

42. In page 29, between lines 16 and 17, to insert the following:

**“Amendment of section 62 of Act of 2006**

38. Section 62(1) of the Act of 2006 is amended by the substitution of “an ICC offence, offence under section 11(1) or other serious offence” for “an ICC offence or other serious offence”.”.

—An tAire Dlí agus Cirt, Gnóthaí Baile agus Imirce.

43. In page 29, between lines 16 and 17, to insert the following:

**“Order for purpose of definition of crime within jurisdiction of International Criminal Court**

39. The Act of 2006 is amended by the insertion of the following section after section 64:

“64A. (1) The Government, on the request of the Minister made after consultation with the Minister for Foreign Affairs and Trade, may by order prescribe as a crime within the jurisdiction of the International Criminal Court an act specified in an amendment adopted under Article 121 or 123, on or after the coming into operation of this section, to Article 6, 7, 8 or 8 *bis* (in this Act referred to as a ‘relevant amendment’), whether or not such relevant amendment has entered into force.

(2) Where an order has been made under subsection (1), references to the Statute in the following provisions shall be construed as references to the Statute as amended by the relevant amendment:

(a) section 3, except in so far as that section relates to proceedings under Part 2;

(b) section 4;

- (c) Parts 3 to 5;
  - (d) sections 58 to 59;
  - (e) section 63.
- (3) Where an order is proposed to be made under this section, a draft of the order shall be laid before each House of the Oireachtas and the order shall not be made until a resolution approving the draft has been passed by each such House.”.”.

—An tAire Dlí agus Cirt, Gnóthaí Baile agus Imirce.

44. In page 29, between lines 16 and 17, to insert the following:

**“Further amendment of Act of 2006: crimes within jurisdiction of International Criminal Court**

40. The Act of 2006 is amended—

- (a) in section 4(1)(b), by the substitution of “crimes within the jurisdiction of the International Criminal Court” for “offences within the jurisdiction of the Court”,
- (b) in section 19, by the substitution of “a crime within the jurisdiction of the International Criminal Court” for “an ICC offence” in both places where it occurs,
- (c) in section 22(1)(c)(i), by the substitution of “a crime within the jurisdiction of the International Criminal Court” for “an ICC offence or an offence under section 11(1)(a)”,
- (d) in section 31(1)(b), by the substitution of “a crime within the jurisdiction of the International Criminal Court” for “an ICC offence”,
- (e) in section 37, in paragraph (a) of the definition of “gift caught by this Part”, by the substitution of “a crime within the jurisdiction of the International Criminal Court” for “an ICC offence”,
- (f) in section 38, by the substitution of “a crime within the jurisdiction of the International Criminal Court” for “an ICC offence” in each place where it occurs,
- (g) in section 50—
  - (i) in subsection (1B), by the substitution of “crime within the jurisdiction of the International Criminal Court” for “ICC offence”,
  - (ii) in subsection (1L), by the substitution of “crime within the jurisdiction of the International Criminal Court” for “ICC offence”,
  - (iii) in subsection (3)(a), by the substitution of “a crime within the jurisdiction of the International Criminal Court” for “an ICC offence”, and
  - (iv) in subsection (12), by the substitution of “a crime within the jurisdiction of the International Criminal Court” for “an ICC offence” in each place where it occurs,

- (h) in section 50A, by the substitution of “crime within the jurisdiction of the International Criminal Court” for “ICC offence” in both places where it occurs,
- (i) in section 51(7)(d), by the substitution of “a crime within the jurisdiction of the International Criminal Court” for “an ICC offence”,
- (j) in section 52, by the substitution of “a crime within the jurisdiction of the International Criminal Court” for “an ICC offence” in each place where it occurs,
- (k) in section 53(1), by the substitution of “a crime within the jurisdiction of the International Criminal Court” for “an ICC offence”, and
- (l) in section 63(3)(b), by the substitution of “crimes within the jurisdiction of the International Criminal Court” for “offences within the jurisdiction of the Court”.”.

—An tAire Dlí agus Cirt, Gnóthaí Baile agus Imirce.

45. In page 29, between lines 16 and 17, to insert the following:

**“Amendment of Act of 2006 – insertion of Schedule 1A**

41. The Act of 2006 is amended by the insertion of the text set out in the *Schedule* as Schedule 1A to that Act.”.

—An tAire Dlí agus Cirt, Gnóthaí Baile agus Imirce.

46. In page 30, line 21, to delete “Criminal Law (Sexual Offences) Act 2017” and substitute “Act of 2017”.

—An tAire Dlí agus Cirt, Gnóthaí Baile agus Imirce.

47. In page 30, to delete lines 23 to 28 and substitute the following:

“**45A.** (1) (a) A person who offers a tenancy of, or a licence, in relation to, relevant accommodation, which tenancy or licence is of a type that would ordinarily be granted in exchange for payment, to another person in exchange for that, or any other a person, engaging in sexual activity with the offering person, or any other another person, in lieu of payment in respect of the tenancy or licence, shall be guilty of an offence.

- (b) The person referred to in paragraph (a) shall also be guilty of an offence where they threaten or cause the cancellation or termination of a tenancy or licence if sexual activity is refused.”.

—Matt Carthy, Mark Ward.

48. In page 30, between lines 35 and 36, to insert the following:

“(2A) (a) Where an offence under this Act is committed by a body corporate and the offence is proved to have been committed with the consent or connivance of, or to be attributable to any wilful neglect of, a person who, when the offence was committed, was a director, manager, secretary or other officer of the body corporate or of a

person purporting to act in such a capacity, that person, as well as the body corporate, is guilty of an offence and is liable to be proceeded against and punished as if guilty of the first-mentioned offence.

- (b) Where the affairs of a body corporate are managed by its members, subsection (1)\* applies in relation to the acts or defaults of a member in connection with his or her functions of management as if he or she were a director or manager of the body corporate.”.”.

—Matt Carthy, Mark Ward.

[\*This is a reference to a subsection proposed to be inserted by amendment No. 47.]

49. In page 30, to delete lines 36 to 39, and in page 31, to delete lines 1 and 2 and substitute the following:

“(3) In any proceedings for an offence under subsection (2), it shall be a defence for the accused to show that he or she did not know and had no reasonable reason to suspect, having taken steps appropriate to their role, that the advertisement related to an offer of a tenancy of, or licence in relation to, relevant accommodation, in exchange for a person engaging in sexual activity with another person in lieu of payment in respect of the tenancy or licence.”.

—Matt Carthy, Mark Ward.

50. In page 31, between lines 22 and 23, to insert the following:

“(d) an informal tenancy,”.

—Matt Carthy, Mark Ward.

51. In page 35, between lines 11 and 12, to insert the following:

## “PART 14

### DISREGARD OF CERTAIN HISTORICAL CONVICTIONS AND OTHER DETERMINATIONS

#### **Interpretation (*Part 14*)**

40. In this Part—

“Act of 1907” means the Probation of Offenders Act 1907;

“Act of 2010” means the Civil Partnership and Certain Rights and Obligations of Cohabitants Act 2010;

“additional information”, in relation to an application, includes a media report (howsoever described), relating to the arrest, questioning, cautioning, charging, proceedings on foot of the charge but preliminary to the conviction, prosecution, conviction or sentencing of a person, in respect of which the applicable conviction or other determination relates;

“applicable activity” means, in relation to an application, the sexual activity or activities to which an applicable conviction or other determination concerned relates;

“applicable conviction or other determination” means a conviction or other determination the subject of an application;

“applicant” has the meaning assigned to it by *section 42\**;

“application” has the meaning assigned to it by *section 41\*\**;

“caution” means a formal written warning or notice administered to a person by a member of An Garda Síochána in lieu of the person being charged with an offence;

“certificate of disregard” has the meaning assigned to it by *section 46\*\*\**;

“circumstances ancillary” means, in relation to a conviction or other determination, any or all of the following:

- (a) the offence the subject of the conviction or other determination;
- (b) the conduct constituting that offence;
- (c) any arrest, questioning or cautioning of the relevant person prior to being charged with the offence;
- (d) the charging of the relevant person with the offence;
- (e) any proceedings on foot of the charge but preliminary to the conviction or other determination;
- (f) any penalty or other order of a court concerned, made on foot of the conviction;
- (g) any proceedings, by way of appeal or otherwise, for reviewing the conviction or other determination or any penalty imposed on foot of the conviction;
- (h) anything done in pursuance of, or undergone in compliance with, any order made in connection with or as a result of the conviction or other determination;

“civil partner” shall be construed in accordance with section 3 of the Act of 2010;

“cohabitant” means a cohabitant within the meaning of section 172(1) of the Act of 2010;

“consent” has the same meaning as it has in section 9 of the Criminal Law (Rape) (Amendment) Act 1990;

“conviction”, in relation to a person, means the conviction by a court of the person of an offence or, in the case of an appeal whether against conviction or sentence or both, the final determination by a court of the appeal, or the withdrawal of the appeal;

“disregard” shall be construed in accordance with *section 47\*\*\*\**;

“disregarded conviction or other determination” means a conviction or other determination in respect of which a certificate of disregard is in effect;

“enactment” has the same meaning as it has in the Interpretation Act 2005;

“guardian” means, in relation to a relevant person who is deceased, a person who—

- (a) was a guardian of the relevant person pursuant to the Guardianship of Infants Act 1964, or
- (b) was appointed to be the guardian of the relevant person by—
  - (i) a deed or will, or
  - (ii) an order of a court in the State,and was not removed from office;

“immediate family member” means, in relation to a relevant person who is deceased, a parent, step-parent, guardian, spouse, civil partner, cohabitant, partner or child of the relevant person;

“independent assessor” has the meaning assigned to it by *section 49*\*\*\*\*\*;

“independent assessor’s recommendation” has the meaning assigned to it by *section 49*\*\*\*\*\*;

“independent person” has the meaning assigned to it by *section 43*\*\*\*\*\*;

“independent person’s recommendation” has the meaning assigned to it by *section 45*\*\*\*\*\*;

“independent reviewer” has the meaning assigned to it by *section 43*\*\*\*\*\*;

“independent reviewer’s recommendation” has the meaning assigned to it by *section 48*\*\*\*\*\*;

“Irish Prison Service” means the prison service of the Department of Justice, Home Affairs and Migration, which is charged with the management of prisons within the meaning of section 2 of the Act of 2007;

“notice of revocation” has the meaning assigned to it by *section 50*\*\*\*\*\*;

“other determination” means, in relation to a person—

- (a) a caution administered to the person, or
- (b) an order made by a court in respect of the person under section 1(1) of the Act of 1907;

“participant” means a person who participated in any of the applicable activity or whose participation was sought by whatever means;

“partner” means, in relation to a relevant person who is deceased, a person who was in an intimate and committed personal relationship with the relevant person immediately prior to the relevant person’s death;

“Probation Service” means those officers of the Minister assigned to perform functions in the part of the Department of State for which the Minister is responsible, commonly known by that name;

“public body” means—

- (a) An Garda Síochána,

- (b) the Courts Service,
- (c) the Defence Forces,
- (d) the Irish Prison Service,
- (e) the Office of the Attorney General,
- (f) the Office of the Chief State Solicitor,
- (g) the Office of the Director of Public Prosecutions, or
- (h) the Probation Service;

“record” includes a part of a record and a copy of a record;

“relative” means, in relation to a relevant person who is deceased, a brother, step-brother, sister, step-sister, grandchild, uncle, aunt, niece, nephew, grandniece or grandnephew of the relevant person;

“relevant conviction or other determination”, in relation to a person, means—

- (a) the conviction of the person on or after 6 December 1922 by a court of criminal or military jurisdiction—
  - (i) of the offence of buggery, or
  - (ii) of an offence under—
    - (I) section 62 of the Offences against the Person Act 1861,
    - (II) section 11 of the Criminal Law Amendment Act 1885, or
    - (III) section 1(1)(b) of the Vagrancy Act 1898,

or

- (b) an other determination in relation to an offence referred to in *paragraph (a)*;

“relevant person” has the meaning assigned to it by *section 41* \*\*;

“sexual activity” includes alleged or attempted sexual activity or the solicitation of such activity;

“transferred record” means a record transferred by a public body to the National Archives under the National Archives Act 1986.”.

—An tAire Dlí agus Cirt, Gnóthaí Baile agus Imirce.

[\*This is a reference to a section proposed to be inserted by amendment No. 53.]

[\*\*This is a reference to a section proposed to be inserted by amendment No. 52.]

[\*\*\*This is a reference to a section proposed to be inserted by amendment No. 57.]

[\*\*\*\*This is a reference to a section proposed to be inserted by amendment No. 58.]

[\*\*\*\*\*This is a reference to a section proposed to be inserted by amendment No. 60.]

[\*\*\*\*\*This is a reference to a section proposed to be inserted by amendment No. 54.]

[\*\*\*\*\*This is a reference to a section proposed to be inserted by amendment No. 56.]

[\*\*\*\*\*This is a reference to a section proposed to be inserted by amendment No. 59.]

[\*\*\*\*\*This is a reference to a section proposed to be inserted by amendment No. 61.]

52. In page 35, between lines 11 and 12, to insert the following:

**“Application for certificate of disregard**

41. (1) A person (in this Part referred to as a “relevant person”) who has a relevant conviction or other determination, or if the relevant person is deceased, a person referred to in *section 42(1)(c)\** or *(d)\**, may apply to the Minister under *section 42\** for a certificate of disregard in respect of that relevant conviction or other determination (in this Part referred to as an “application”) where—

- (a) the conduct constituting the offence was sexual activity between persons of the same sex, and
- (b) the relevant person, or, where appropriate, a person referred to in *section 42(1)(c)\** or *(d)\** considers that—
  - (i) each of the criteria specified in *subsection (2)* is satisfied, or
  - (ii) *subsection (3)* applies in relation to the relevant person.

(2) The criteria referred to in *subsection (1)(b)(i)* are the following:

- (a) the relevant person did not cause, or attempt to cause, another person to participate in any of the sexual activity concerned without the consent of that other person;
- (b) the relevant person did not engage, or attempt to engage, in any of the sexual activity concerned with another person who—
  - (i) subject to *subsection (4)*, was under the age of 17 years, or
  - (ii) bore the characteristics of a protected person (within the meaning of section 21 of the Act of 2017);
- (c) the relevant person was not, at the time of any of the sexual activity concerned, a person in authority (within the meaning of section 1 of the Criminal Law (Sexual Offences) Act 2006) in relation to another participant in the sexual activity concerned who—
  - (i) was over the age of 17 years but under the age of 18 years, or
  - (ii) bore the characteristics of a relevant person (within the meaning of section 22 of the Act of 2017);
- (d) the relevant person did not, in the course of the sexual activity, engage in conduct referred to in section 5 of the Act of 2017;
- (e) the relevant person did not pay, give, offer, or promise to pay or give another person money or any other form of remuneration or consideration for the purpose of participating in any of the sexual activity concerned;
- (f) the sexual activity would not, if occurring in the same circumstances at the time

that the relevant person makes the application, constitute an offence.

- (3) The criteria specified in *subsection (2)* shall not apply in circumstances where the relevant person was compelled, coerced or deceived into participating in the sexual activity or otherwise did not consent to the sexual activity the subject of the conviction or other determination, as the case may be.
- (4) *Subsection (2)(b)(i)* shall not apply where any person under the age of 17 years, with whom the relevant person engaged in any of the sexual activity, was at the time the activity concerned took place—
  - (a) either—
    - (i) older than the relevant person, or
    - (ii) not more than 2 years younger than the relevant person,
  - (b) not under 15 years of age, and
  - (c) not the subject of a relationship which involved intimidation or exploitation by the relevant person.
- (5) Notwithstanding *subsection (2)(f)*, the relevant person or, where appropriate, a person referred to in *section 42(1)(c)\** or *(d)\**, may make an application where he or she believes—
  - (a) (for such reasons as shall be stated in the application) that the relevant person would not have been cautioned or prosecuted, as the case may be, in relation to the sexual activity concerned had the sexual activity been heterosexual in nature, and
  - (b) the criteria specified in *paragraphs (a) to (e) of subsection (2)* are satisfied.”.

—An tAire Dlí agus Cirt, Gnóthaí Baile agus Imirce.

[\*This is a reference to a section proposed to be inserted by amendment No. 53.]

53. In page 35, between lines 11 and 12, to insert the following:

**“Procedure for making applications**

42. (1) An application may be made to the Minister—

- (a) by the relevant person concerned,
- (b) by a person nominated in writing by the relevant person to make the application on the relevant person’s behalf,
- (c) where the relevant person is deceased, by an immediate family member, or
- (d) where the relevant person is deceased but there is no immediate family member who can or wishes to make an application, by a relative, other than where there is an objection by an immediate family member to such an application being made in respect of the relevant person,

and a person who makes an application shall in this Part be referred to as an “applicant”.

- (2) An application shall be in writing and in such form and contain such information as the Minister may specify and—
- (a) may include such additional information as the applicant considers relevant to the application,
  - (b) may be accompanied by a statutory declaration made by the relevant person, or another participant in the sexual activity concerned, stating that the relevant conviction or other determination which is the subject of the application satisfies the criteria under *section 41\** for a certificate of disregard, and
  - (c) shall, where an application is one to which *section 41(5)\** applies, set out the reasons as to why the relevant person or, where appropriate, a person referred to in *section 42(1)(c)\*\** or *(d)\*\**, believes that the relevant person would not have been cautioned or prosecuted, as the case may be, in relation to the sexual activity concerned had the sexual activity been heterosexual in nature.
- (3) An application shall be made within a period of 24 months of the commencement of this Part, however, the Minister may, at his or her discretion, accept and consider an application made after the expiry of this period.
- (4) A fee shall not be payable to the Minister in relation to an application.”.

—An tAire Dlí agus Cirt, Gnóthaí Baile agus Imirce.

[\*This is a reference to a section proposed to be inserted by amendment No. 52.]

[\*\*This is a reference to a section proposed to be inserted by amendment No. 53.]

54. In page 35, between lines 11 and 12, to insert the following:

**“Appointment of persons to consider applications and undertake reviews**

43. (1) The Minister shall appoint one or more persons on such terms and conditions as the Minister may determine for the following purposes:
- (a) to consider applications under *sections 44\** and *45\*\** (in this Part referred to as an “independent person”);
  - (b) to carry out reviews under *section 48\*\*\** (in this Part referred to as an “independent reviewer”).
- (2) A person shall not be appointed under *subsection (1)* unless the Minister is satisfied that the person is suitable to be so appointed by reason of his or her possessing such relevant experience, qualifications or specialist knowledge, or satisfying such other criteria, as the Minister considers appropriate having regard to the functions of the person under this Part.
- (3) The Minister may request in writing a person appointed under this section to provide the Minister with such information, and within such period as the Minister may specify in the request, in relation to the carrying out by the person of his or her functions under this Part and, where the Minister makes such a request, the person shall comply with that request.”.

—An tAire Dlí agus Cirt, Gnóthaí Baile agus Imirce.

[\*This is a reference to a section proposed to be inserted by amendment No. 55.]

[\*\*This is a reference to a section proposed to be inserted by amendment No. 56.]

[\*\*\*This is a reference to a section proposed to be inserted by amendment No. 59.]

55. In page 35, between lines 11 and 12, to insert the following:

**“Preliminary assessment of applications**

44. (1) An independent person shall, in respect of any application before him or her, consider the application and may request from any person such further information as the independent person reasonably considers necessary to verify—
- (a) the identity of the applicant,
  - (b) where applicable, the relationship of the applicant to the relevant person, and
  - (c) where *section 42(1)(d)\** applies, confirmation of the circumstances giving rise to the application being brought by the applicant concerned.
- (2) Where the independent person, having had regard to the application and such information, if any, as he or she has obtained under this section, is not satisfied that the applicant is a person who may make the application in accordance with *section 42(1)\**, the independent person shall not consider the application further and shall notify in writing—
- (a) the applicant, informing him or her of the decision and the reasons for that decision, and that he or she may make a request in writing to the Minister, within 28 days of the date of the notification, to seek a review of the decision under *section 48\*\**, and
  - (b) the Minister, informing him or her of the decision, accompanied by the application and such other information, if any, that the independent person obtained in relation to the application.
- (3) Where the independent person, having had regard to such information, if any, as he or she has obtained under this section, is satisfied that the applicant is a person who may make the application in accordance with *section 42(1)\**, the independent person shall proceed to consider the application under *section 45\*\*\**.”.

—An tAire Dlí agus Cirt, Gnóthaí Baile agus Imirce.

[\*This is a reference to a section proposed to be inserted by amendment No. 53.]

[\*\*This is a reference to a section proposed to be inserted by amendment No. 59.]

[\*\*\*This is a reference to a section proposed to be inserted by amendment No. 56.]

56. In page 35, between lines 11 and 12, to insert the following:

**“Consideration by independent person of application**

45. (1) An independent person may, for the purposes of considering an application, request in writing a public body to furnish him or her with copies of any records that the public body may hold or any transferred records that the public body may formerly have

held, which are, or may be, relevant to the consideration of the application, including any record relating to or referencing the arrest, questioning, caution, charge, prosecution, making of an order under section 1(1) or (2) of the Act of 1907, conviction, sentencing, imprisonment or probation supervision of any person in connection with the application concerned.

- (2) Where a public body receives a request from an independent person under *subsection (1)*, the public body shall within 60 days of the date of the request or such longer period as the independent person may allow—
  - (a) provide the independent person with a copy of any record requested, or
  - (b) where the public body is unable to locate any such record, notify the independent person of that fact.
- (3) Having had regard to such information as is contained in the application and such further information, if any, as the independent person may have obtained from a public body under *subsection (2)*, the independent person shall, if he or she considers it necessary, make all further reasonable efforts to locate and obtain such additional information as may assist the independent person to—
  - (a) verify the existence of the applicable conviction or other determination,
  - (b) determine whether the applicable conviction or other determination is a relevant conviction or other determination, or
  - (c) consider whether the relevant conviction or other determination satisfies the criteria under *section 41\** for a certificate of disregard.
- (4) An independent person may consult with any person whom the independent person reasonably considers may be appropriate by reason of that other person's experience, qualifications, specialist knowledge or knowledge of the matters being considered by the independent person.
- (5) An independent person, in considering an application, shall consider whether the criteria in *section 41\** are satisfied and shall consider all other information in his or her possession pursuant to this section for those purposes.
- (6) Without prejudice to the generality of *subsection (5)*, in a case of an application to which *section 41(5)\** applies, the independent person shall consider—
  - (a) whether it is likely that the relevant person would not have been cautioned or prosecuted, as the case may be, in relation to the sexual activity concerned had that activity been heterosexual in nature, and
  - (b) in considering *paragraph (a)*, whether a person, other than a person engaging in the sexual activity concerned, would have been able to observe the sexual activity without actively seeking out the said activity for the purpose of so observing.
- (7) An independent person shall, having considered the application concerned in accordance with this section, make a recommendation in writing (in this Part referred to as an "independent person's recommendation"), providing reasons for that recommendation, to the Minister within 4 months of receipt of the application or such

longer period as the Minister may allow, advising the Minister that the independent person—

- (a) is satisfied that the applicable conviction or other determination should be disregarded and that he or she is recommending that a certificate of disregard be issued, or
  - (b) is not satisfied that the applicable conviction or other determination should be disregarded and that he or she is recommending that a certificate of disregard should not be issued.
- (8) An independent person’s recommendation shall be accompanied by the application, all records and any other information that the independent person obtained in relation to the application.”.

—An tAire Dlí agus Cirt, Gnóthaí Baile agus Imirce.

[\*This is a reference to a section proposed to be inserted by amendment No. 52.]

57. In page 35, between lines 11 and 12, to insert the following:

**“Consideration by Minister of recommendations, etc.**

46. (1) Where the Minister receives an independent person’s recommendation he or she shall consider the recommendation concerned and shall—
- (a) if satisfied that the applicable conviction or other determination should be disregarded, issue to the applicant a certificate (in this Part referred to as a “certificate of disregard”) in respect of the relevant conviction or other determination, or
  - (b) if not satisfied that the applicable conviction or other determination should be disregarded, notify, in writing, the applicant—
    - (i) that the Minister proposes to refuse to issue a certificate of disregard, giving reasons for that decision, and
    - (ii) that he or she may in writing, within 28 days of the date of the notification, request a review of the proposed refusal under *section 48\**.
- (2) A certificate of disregard shall bear the official seal of the Minister and shall have effect from the date of issue.
- (3) Where the Minister issues a certificate of disregard under *subsection (1)(a)*—
- (a) the Minister shall, as soon as practicable, notify, or cause to be notified, each public body which holds or may hold (or which may have transferred to the National Archives) a record relating to the disregarded conviction or other determination or any circumstances ancillary thereto of the certificate of disregard in respect of the conviction or other determination concerned, and
  - (b) each public body notified under *paragraph (a)* shall, as soon as practicable, annotate any such record (including any transferred record) in order to record the disregard of the applicable conviction or other determination in such manner as

does not in any way amend or otherwise alter the record itself but which ensures that, if such record is subsequently consulted or processed for any purpose, the fact of such disregard is clearly and immediately visible.”.

—An tAire Dlí agus Cirt, Gnóthaí Baile agus Imirce.

[\*This is a reference to a section proposed to be inserted by amendment No. 59.]

58. In page 35, between lines 11 and 12, to insert the following:

**“General effect of certificate of disregard and related matters**

47. (1) A person shall not be required—

- (a) by any enactment or rule of law,
- (b) pursuant to the exercise of any law of the State or of another state, or
- (c) by the provisions of any agreement or arrangement with any party in the State or another state which purports to require the person to disclose a conviction or other determination incurred by the person or any circumstances ancillary thereto,

to disclose a disregarded conviction or other determination or any circumstances ancillary thereto.

(2) Notwithstanding any other enactment or rule of law, where a question is put to a person purporting to seek information in relation to the person’s previous convictions or other determinations or any circumstances ancillary thereto—

- (a) the question shall be regarded as not applying to a disregarded conviction or other determination and the person may respond accordingly, and
- (b) the person shall not incur any liability or be otherwise prejudiced in law because that person did not disclose the disregarded conviction or other determination or circumstances ancillary thereto.

(3) Notwithstanding any other enactment or rule of law, in any proceedings before a court—

- (a) no evidence shall be admissible to show that a person has—
  - (i) committed,
  - (ii) been arrested in relation to,
  - (iii) received a caution in relation to,
  - (iv) been charged with,
  - (v) been prosecuted for,
  - (vi) received a conviction for,
  - (vii) been the subject of an order under section 1(1) or (2) of the Act of 1907, or
  - (viii) been sentenced in respect of,

an offence, the subject of a disregarded conviction or other determination, and

- (b) in any such proceedings the person shall not be asked, and if asked shall not be required to answer, any question which cannot be answered without disclosing the disregarded conviction or other determination or circumstances ancillary thereto.
- (4) *Subsections (1) to (3)* are without prejudice to the right of a person to disclose a disregarded conviction or other determination of which the person is the subject.
- (5) Notwithstanding any other enactment or rule of law, where an enquiry is put to An Garda Síochána under any procedure whereby a person may lawfully seek information regarding any conviction or other determination incurred by another person, An Garda Síochána shall not, in response to such enquiry, disclose a disregarded conviction or other determination or any circumstances ancillary thereto.
- (6) Where An Garda Síochána provides a copy of a person's criminal record at that person's request, An Garda Síochána shall not include information relating to a disregarded conviction unless so requested by the person and, if so requested, shall provide such information separately from information concerning that person's other convictions (if any).
- (7) Where a conviction or other determination has been disregarded, the fact of such conviction or other determination, or any circumstances ancillary thereto, shall not be a proper ground for dismissing or excluding the person the subject of said conviction or other determination from any office, profession, occupation or employment, or for prejudicing him or her in any way in any occupation or employment.
- (8) This section applies to a response given on or after the date of issue of a certificate of disregard to—
  - (a) a request made (either orally or in writing), or
  - (b) a requirement notified (either orally or in writing),

before or after the said date seeking, or requiring, as the case may be, information in relation to a person's previous convictions or other determinations where the information sought or required, as the case may be, relates to a conviction or other determination to which the said certificate of disregard applies.

- (9) In this section—

“court” means any court in the State exercising jurisdiction under civil, criminal or military law;

“state”, in relation to a state other than the State, includes a territory, whether in the state or outside it, for whose external relations the state or its government is wholly or partly responsible and references to a state shall be construed as including references to a subdivision of the government of the state or a national, regional or local entity of the state.”.

—An tAire Dlí agus Cirt, Gnóthaí Baile agus Imirce.

59. In page 35, between lines 11 and 12, to insert the following:

**“Reviews of decisions and proposed refusals**

48. (1) An applicant may request in writing a review of a decision in accordance with *section 44(2)\** or a proposed refusal under *section 46(1)(b)\*\**, and where he or she does so, the request shall include reasons for seeking the review and may be accompanied by such supporting documentation as the applicant considers appropriate for the purpose of the review.
- (2) Where the Minister receives a request for a review under *subsection (1)* he or she shall, unless he or she reasonably considers the request to be frivolous, vexatious or otherwise manifestly unfounded, appoint a person, other than the independent person who made the decision under *section 44(2)\** or the recommendation under *section 45\*\*\**, as the case may be, as an independent reviewer for the purposes of carrying out a review.
- (3) The Minister shall, upon appointing an independent reviewer, provide him or her with a copy of the application, any records or information obtained by the independent person under *section 44\** or *section 45\*\*\**, as the case may be, and where applicable, the independent person’s recommendation under *section 45\*\*\**.
- (4) *Section 44(1)\** shall apply to a review of a decision under *section 44(2)\** as it applies to a consideration by an independent person of an application under that section, with any necessary modifications.
- (5) *Subsections (3) to (6) of section 45\*\*\** shall apply to a review of a proposed refusal under *section 46(1)(b)\*\** as they apply to a consideration by an independent person of an application under that section, with any necessary modifications.
- (6) An independent reviewer shall, having reviewed the documentation provided under *subsection (3)* and any information obtained under this section, make a recommendation in writing (in this Part referred to as an “independent reviewer’s recommendation”), providing reasons for that recommendation, to the Minister within 28 days after the independent reviewer was appointed or such longer period as the Minister may allow, as to whether or not the Minister should—
- (a) affirm the decision made under *section 44(2)\**, or
- (b) affirm the proposed refusal to issue a certificate of disregard under *section 46(1)(b)\*\**.
- (7) The Minister, having considered an independent reviewer’s recommendation made under *subsection (6)(a)*, may—
- (a) decide to affirm the decision made under *section 44(2)\** and refuse to consider the application further, in which case the Minister shall inform in writing the applicant of the decision and give reasons for that decision, or
- (b) decide to refuse to affirm the decision made under *section 44(2)\**, in which case the Minister shall inform in writing the applicant of the decision.
- (8) Where *subsection (7)(b)* applies, the Minister shall, under *section 43(1)(a)\*\*\*\**,

appoint a person (other than the independent person who made the decision under *section 44(2)\** or the independent reviewer who considered or reviewed the decision concerned) to proceed to consider the application under *section 45\*\*\**.

- (9) The Minister, having considered an independent reviewer's recommendation made under *subsection (6)(b)*, may—
- (a) refuse to issue a certificate of disregard, in which case the Minister shall inform in writing the applicant and give reasons for the decision, or
  - (b) issue a certificate of disregard, in which case the Minister shall, accordingly, issue such certificate under *section 46\*\**.”.

—An tAire Dlí agus Cirt, Gnóthaí Baile agus Imirce.

[\*This is a reference to a section proposed to be inserted by amendment No. 55.]

[\*\*This is a reference to a section proposed to be inserted by amendment No. 57.]

[\*\*\*This is a reference to a section proposed to be inserted by amendment No. 56.]

[\*\*\*\*This is a reference to a section proposed to be inserted by amendment No. 54.]

60. In page 35, between lines 11 and 12, to insert the following:

#### **“Revocation of certificate of disregard**

49. (1) Where, subsequent to the issuance of a certificate of disregard in respect of a relevant person, the Minister—

- (a) having received information which causes him or her to reasonably believe that an application upon which the certificate of disregard was granted included, or was supported by, false or misleading information or documentation, and
- (b) having consulted with such persons as he or she reasonably considers may be appropriate by reason of that other person's experience, qualifications, specialist knowledge or knowledge of the matters concerned,

is no longer satisfied that the disregarded conviction or other determination concerned should be the subject of a certificate of disregard, the Minister shall notify in writing the applicant concerned that he or she proposes to revoke the certificate of disregard.

(2) A notification under *subsection (1)* shall—

- (a) set out the reasons for the Minister's belief that the certificate of disregard in respect of the disregarded conviction or other determination concerned should be revoked, and
- (b) inform the applicant that he or she may in writing, within 28 days of the date of the notification, request a review of the proposed revocation.

(3) An applicant may in writing request a review under *subsection (2)(b)* and any such request—

- (a) shall include the reasons why the applicant considers that the certificate of disregard should not be revoked, and

- (b) may be accompanied by such supporting documentation as the applicant considers appropriate.
- (4) Where the Minister receives a request for a review of a proposed revocation under *subsection (3)*, he or she shall, subject to *subsection (5)*, unless he or she reasonably considers the request to be frivolous, vexatious or otherwise manifestly unfounded, appoint a person (in this Part referred to as an “independent assessor”), other than the independent person who considered the application under *section 44\** or *45\*\** or, where applicable, the independent reviewer who carried out a review under *section 48\*\*\**, to carry out such review of the proposed revocation.
- (5) The Minister shall appoint on such terms and conditions as he or she may determine a retired judge of the Circuit Court, the High Court, the Court of Appeal or the Supreme Court to be an independent assessor to undertake a review under this section.
- (6) The Minister shall, upon appointing an independent assessor, provide him or her with—
  - (a) a copy of the application together with any records or information obtained under *section 45\*\** and the recommendation under that section, and where applicable, any information obtained under *section 48\*\*\**, and
  - (b) the information referred to in *subsection (1)*.
- (7) An independent assessor shall, if he or she considers it necessary, make such further reasonable efforts to locate and obtain such additional information as may assist the independent assessor to carry out a review of a proposed revocation.
- (8) An independent assessor may consult with any person whom the independent assessor reasonably considers may be appropriate by reason of that other person’s experience, qualifications, specialist knowledge or knowledge of the matters being considered by the independent assessor.
- (9) An independent assessor shall, within 14 days of his or her appointment or such longer period as the Minister may allow, review the documentation provided under *subsection (6)* and any information obtained under this section, and shall consider whether he or she is satisfied—
  - (a) that the application included, or was supported by, false or misleading information or documentation, and
  - (b) that in all the circumstances, it is likely that the independent person would not have recommended that a certificate of disregard should be issued in respect of the relevant conviction or other determination concerned had the application not included, or had not been supported by, such false or misleading information or documentation.
- (10) Where an independent assessor has completed his or her assessment under *subsection (9)*, he or she shall furnish the Minister with a recommendation in writing (in this Part referred to as an “independent assessor’s recommendation”) recommending—
  - (a) where the independent assessor is not satisfied of the matters specified in *paragraphs (a) and (b) of subsection (9)*, that the certificate of disregard should

not be revoked, giving reasons for the recommendation, or

- (b) where the independent assessor is satisfied of the matters specified in *paragraphs (a) and (b) of subsection (9)*, that the certificate of disregard should be revoked, giving reasons for the recommendation.
- (11) The Minister may request in writing a person appointed under *subsection (4)* to provide the Minister with such information, and within such period as the Minister may specify in the request, in relation to the carrying out by the person of his or her functions under this Part and, where the Minister makes such a request, the person shall comply with that request.
- (12) For the purposes of this section and *section 50\*\*\*\**, where the relevant person is alive but is not the applicant, “applicant” shall be construed as a reference to both the applicant and the relevant person.”.

—An tAire Dlí agus Cirt, Gnóthaí Baile agus Imirce.

[\*This is a reference to a section proposed to be inserted by amendment No. 55.]

\*\*This is a reference to a section proposed to be inserted by amendment No. 56.]

\*\*\*This is a reference to a section proposed to be inserted by amendment No. 59.]

\*\*\*\*This is a reference to a section proposed to be inserted by amendment No. 61.]

61. In page 35, between lines 11 and 12, to insert the following:

**“Notice of revocation**

50. (1) Where the Minister receives an independent assessor’s recommendation he or she shall consider the recommendation concerned and shall—
- (a) if satisfied that the certificate of disregard should be revoked, issue to the applicant a notice (in this Part referred to as a “notice of revocation”) and any such notice shall be accompanied by reasons in writing for the decision to revoke the certificate of disregard concerned, or
  - (b) if not satisfied that the certificate of disregard should be revoked, notify, in writing, the applicant of his or her decision not to revoke the certificate of disregard concerned.
- (2) Where the Minister issues a notice of revocation—
- (a) he or she shall, as soon as practicable, notify, or cause to be notified, each public body that holds or may hold (or which may have transferred to the National Archives) a record relating to the previously disregarded conviction or other determination or any circumstances ancillary thereto, and
  - (b) each public body notified under *paragraph (a)* shall, as soon as practicable, annotate any such record in order to reflect the revocation of the disregard in such manner as ensures that, where any such record (including any transferred record) is processed for any purpose, the fact of such revocation is clearly and immediately visible.

- (3) A notice of revocation shall bear the official seal of the Minister and shall have effect from the date of issue.”.

—An tAire Dlí agus Cirt, Gnóthaí Baile agus Imirce.

62. In page 35, between lines 11 and 12, to insert the following:

**“Public awareness of Part**

51. The Minister shall make such reasonable efforts, including by the holding of a public information campaign, as he or she considers appropriate to promote awareness among the public, and in particular relevant persons, including among persons residing outside the State, of this Part, including the process for the making and consideration of applications and the effect of *section 47\**.”.

—An tAire Dlí agus Cirt, Gnóthaí Baile agus Imirce.

[\*This is a reference to a section proposed to be inserted by amendment No. 58.]

63. In page 35, between lines 11 and 12, to insert the following:

**“Personal data under Part**

52. (1) Personal data processed for the purposes of the performance of their respective functions under this Part by the Minister, a public body, or an independent person, independent reviewer or independent assessor appointed by the Minister under this Part shall be so processed in accordance with the Data Protection Regulation and the Data Protection Act 2018.
- (2) The Minister is designated as data controller in relation to personal data processed by an independent person, independent reviewer or independent assessor for the purposes of the performance by the independent person, independent reviewer or independent assessor of his or her functions under this Part.
- (3) Where the Minister, independent person, independent reviewer or independent assessor receives or obtains a copy of a record or any other written information (other than a media report) under *section 42\**, *44\*\**, *45\*\*\**, *48\*\*\*\** or *49\*\*\*\*\**, he or she shall redact from such copy or from such other written information—
- (a) any information relating to any other offence committed, or alleged to have been committed, by the relevant person unless—
- (i) such information may, in the opinion of the Minister or the independent person, independent reviewer or independent assessor (as the case may be), assist in considering whether the applicable conviction or other determination should be the subject of a certificate of disregard, or
- (ii) the relevant person is deceased,
- and
- (b) in such manner as to avoid hindering a consideration of whether the applicable conviction or other determination should be the subject of a certificate of

disregard, any information which may identify, or could be used to identify, a living person other than the relevant person in connection with the applicable activity or any other offence or alleged offence.

(4) In this section—

“data controller” has the meaning it has in the Data Protection Regulation;

“Data Protection Regulation” means Regulation (EU) 2016/679 of the European Parliament and of the Council of 27 April 2016 on the protection of natural persons with regard to the processing of personal data and on the free movement of such data, and repealing Directive 95/46/EC (General Data Protection Regulation);

“personal data” has the same meaning as it has in the Data Protection Regulation.”.

—An tAire Dlí agus Cirt, Gnóthaí Baile agus Imirce.

[\*This is a reference to a section proposed to be inserted by amendment No. 53.]

[\*\*This is a reference to a section proposed to be inserted by amendment No. 55.]

[\*\*\*This is a reference to a section proposed to be inserted by amendment No. 56.]

[\*\*\*\*This is a reference to a section proposed to be inserted by amendment No. 59.]

[\*\*\*\*\*This is a reference to a section proposed to be inserted by amendment No. 60.]

64. In page 35, between lines 11 and 12, to insert the following:

**“Limitation of Part**

53. Nothing in this Part shall operate to—

- (a) confer any right on any person,
- (b) create any cause of action, or
- (c) impose any liability on the State or on any person.”.

—An tAire Dlí agus Cirt, Gnóthaí Baile agus Imirce.

65. In page 35, line 32, after “section” to insert “or for the purposes of advising on and facilitating the complainant or witness giving consent in accordance with subsection (15)\*”.

—Paula Butterly.

[\*This is a reference to a subsection proposed to be inserted by amendment No. 20.]

66. In page 35, between lines 32 and 33, to insert the following:

**“Amendment of section 33 of Domestic Violence Act 2018**

42. Section 33 of the Domestic Violence Act 2018 is amended by the substitution of the following for subsection (1):

“(1) A respondent who—

- (a) contravenes a safety order, a barring order, an interim barring order, an emergency barring order or a protection order, or

(b) while a barring order, an emergency barring order or an interim barring order is in force, refuses to permit the applicant or a dependent person to enter and remain in the place to which the order relates, or does any act for the purpose of preventing the applicant or dependent person from so doing,

commits an offence and shall be liable—

- (i) on summary conviction, to a class B fine or to imprisonment for a term not exceeding 12 months, or both, or
- (ii) on conviction on indictment, to imprisonment for a term not exceeding 5 years.”.”.

—Matt Carthy, Mark Ward.

67. In page 36, line 10, after “section” to insert “33,”.

—Matt Carthy, Mark Ward.

68. In page 36, between lines 11 and 12, to insert the following:

**“Amendment of Prosecution of Offences Act 1974**

43. The Prosecution of Offences Act 1974 is amended by the insertion of the following section after section 8:

**“Transfer of prosecution functions from An Garda Síochána**

- 8A. (1) The responsibility for the initiation and conduct of all criminal proceedings shall rest with the Director of Public Prosecutions or with such legally qualified persons as may be authorised by the Director under this Act.
- (2) A member of An Garda Síochána shall not initiate, conduct, or appear on behalf of the prosecution in any criminal proceedings.
- (3) All criminal proceedings commenced after the coming into operation of this section shall be prosecuted by—
- (a) the Director of Public Prosecutions, or
  - (b) a solicitor or barrister appointed or authorised by the Director for that purpose.
- (4) The Minister may make regulations providing for the appointment, training, and functions of legally qualified prosecutors for the purposes of subsection (3).
- (5) Any enactment that confers a power on a member of An Garda Síochána to prosecute an offence shall be construed as conferring that power on the Director of Public Prosecutions.

**Consequential amendments**

8B. (1) Any reference in any enactment to a prosecution brought by a member

of An Garda Síochána shall be construed as a reference to a prosecution brought by the Director of Public Prosecutions.

- (2) The Minister may by regulations make such incidental, supplementary, or consequential provisions as are necessary to give full effect to section 8A.”.”.

—Matt Carthy, Mark Ward.

69. In page 36, between lines 14 and 15, to insert the following:

**“Amendment of Schedule 5 to Social Welfare Consolidation Act 2005**

44. Schedule 5 to the Social Welfare Consolidation Act 2005 is amended in paragraph 1(4) by the insertion of “the Courts Service,” after “the Companies Registration Office,”.”.

—An tAire Dlí agus Cirt, Gnóthaí Baile agus Imirce.

70. In page 36, between lines 30 and 31, to insert the following:

**“Amendment of section 37 of Criminal Justice (Miscellaneous Provisions) Act 2023**

47. Section 37(1) of the Criminal Justice (Miscellaneous Provisions) Act 2023 is amended by the substitution of “section 96 of the Family Courts Act 2024” for “section 40 of the Civil Liability and Courts Act 2004”.”.

—An tAire Dlí agus Cirt, Gnóthaí Baile agus Imirce.

71. In page 37, after line 3, to insert the following:

**“Amendment of section 95 of Family Courts Act 2024**

48. Section 95 of the Family Courts Act 2024 is amended, in the definition of “relevant enactment”, by the insertion of the following paragraph after paragraph (l):

“(la) section 37 of the Criminal Justice (Miscellaneous Provisions) Act 2023;”.”.

—An tAire Dlí agus Cirt, Gnóthaí Baile agus Imirce.

72. In page 37, after line 3, to insert the following:

“SCHEDULE

*Section 41\**

AMENDMENTS TO ROME STATUTE OF THE INTERNATIONAL CRIMINAL COURT

“SCHEDULE 1A

*AMENDMENTS TO ROME STATUTE OF THE INTERNATIONAL CRIMINAL COURT*

## PART 1

### AMENDMENTS TO ARTICLE 8 OF STATUTE

1. Amendment to Statute set out in Annex I of Resolution RC/Res.5, adopted on 10 June 2010 pursuant to Article 121 of the Statute

#### **Amendment to article 8**

*Add to article 8, paragraph 2 (e), the following:*

- “(xiii) Employing poison or poisoned weapons;
- (xiv) Employing asphyxiating, poisonous or other gases, and all analogous liquids, materials or devices;
- (xv) Employing bullets which expand or flatten easily in the human body, such as bullets with a hard envelope which does not entirely cover the core or is pierced with incisions.”

2. Amendment to Statute set out in Annexes I to III of Resolution ICC-ASP/16/Res.4, adopted on 14 December 2017 pursuant to Article 121 of the Statute

#### **Annex I**

##### **Amendment to be inserted as article 8-2-b)xxvii) and article 8-2-e)xvi) of the Rome Statute**

Employing weapons, which use microbial or other biological agents, or toxins, whatever their origin or method of production;

#### **Annex II**

##### **Amendment to be inserted as article 8-2-b)xxviii) and article 8-2-e)xvii)**

Employing weapons the primary effect of which is to injure by fragments which in the human body escape detection by X-rays;

#### **Annex III**

##### **Amendment to be inserted as article 8-2-b)xxix) and article 8-2-e)xviii)**

Employing laser weapons specifically designed, as their sole combat function or as one of their combat functions, to cause permanent blindness to unenhanced vision, that is to the naked eye or to the eye with corrective eyesight devices;

3. Amendment to Statute set out in Annex I of Resolution ICC-ASP/18/Res.5, adopted on 6 December 2019 pursuant to Article 121 of the Statute

**Amendment to be inserted as article 8-2-e)-xix) of the Rome Statute**

Intentionally using starvation of civilians as a method of warfare by depriving them of objects indispensable to their survival, including willfully impeding relief supplies.

PART 2

AMENDMENT TO STATUTE SET OUT IN ANNEX I OF RESOLUTION RC/RES.6, ADOPTED ON 11 JUNE 2010 PURSUANT TO ARTICLE 121 OF THE STATUTE

1. *Article 5, paragraph 2, of the Statute is deleted.*
2. *The following text is inserted after article 8 of the Statute:*

**Article 8 bis**

**Crime of aggression**

1. For the purpose of this Statute, “crime of aggression” means the planning, preparation, initiation or execution, by a person in a position effectively to exercise control over or to direct the political or military action of a State, of an act of aggression which, by its character, gravity and scale, constitutes a manifest violation of the Charter of the United Nations.
2. For the purpose of paragraph 1, “act of aggression” means the use of armed force by a State against the sovereignty, territorial integrity or political independence of another State, or in any other manner inconsistent with the Charter of the United Nations. Any of the following acts, regardless of a declaration of war, shall, in accordance with United Nations General Assembly resolution 3314 (XXIX) of 14 December 1974, qualify as an act of aggression:
  - a) The invasion or attack by the armed forces of a State of the territory of another State, or any military occupation, however temporary, resulting from such invasion or attack, or any annexation by the use of force of the territory of another State or part thereof;
  - b) Bombardment by the armed forces of a State against the territory of another State or the use of any weapons by a State against the territory of another State;
  - c) The blockade of the ports or coasts of a State by the armed forces of another State;
  - d) An attack by the armed forces of a State on the land, sea or air forces, or marine and air fleets of another State;
  - e) The use of armed forces of one State which are within the territory of another State with the agreement of the receiving State, in contravention of the conditions

provided for in the agreement or any extension of their presence in such territory beyond the termination of the agreement;

- f) The action of a State in allowing its territory, which it has placed at the disposal of another State, to be used by that other State for perpetrating an act of aggression against a third State;
- g) The sending by or on behalf of a State of armed bands, groups, irregulars or mercenaries, which carry out acts of armed force against another State of such gravity as to amount to the acts listed above, or its substantial involvement therein

3. *The following text is inserted after article 15 of the Statute:*

**Article 15 bis**

**Exercise of jurisdiction over the crime of aggression (State referral, *proprio motu*)**

1. The Court may exercise jurisdiction over the crime of aggression in accordance with article 13, paragraphs (a) and (c), subject to the provisions of this article.
2. The Court may exercise jurisdiction only with respect to crimes of aggression committed one year after the ratification or acceptance of the amendments by thirty States Parties.
3. The Court shall exercise jurisdiction over the crime of aggression in accordance with this article, subject to a decision to be taken after 1 January 2017 by the same majority of States Parties as is required for the adoption of an amendment to the Statute.
4. The Court may, in accordance with article 12, exercise jurisdiction over a crime of aggression, arising from an act of aggression committed by a State Party, unless that State Party has previously declared that it does not accept such jurisdiction by lodging a declaration with the Registrar. The withdrawal of such a declaration may be effected at any time and shall be considered by the State Party within three years.
5. In respect of a State that is not a party to this Statute, the Court shall not exercise its jurisdiction over the crime of aggression when committed by that State's nationals or on its territory.
6. Where the Prosecutor concludes that there is a reasonable basis to proceed with an investigation in respect of a crime of aggression, he or she shall first ascertain whether the Security Council has made a determination of an act of aggression committed by the State concerned. The Prosecutor shall notify the Secretary-General of the United Nations of the

situation before the Court, including any relevant information and documents.

7. Where the Security Council has made such a determination, the Prosecutor may proceed with the investigation in respect of a crime of aggression.
8. Where no such determination is made within six months after the date of notification, the Prosecutor may proceed with the investigation in respect of a crime of aggression, provided that the Pre-Trial Division has authorized the commencement of the investigation in respect of a crime of aggression in accordance with the procedure contained in article 15, and the Security Council has not decided otherwise in accordance with article 16.
9. A determination of an act of aggression by an organ outside the Court shall be without prejudice to the Court's own findings under this Statute.
10. This article is without prejudice to the provisions relating to the exercise of jurisdiction with respect to other crimes referred to in article 5.

4. *The following text is inserted after article 15 bis of the Statute:*

**Article 15 *ter***

**Exercise of jurisdiction over the crime of aggression (Security Council referral)**

1. The Court may exercise jurisdiction over the crime of aggression in accordance with article 13, paragraph (b), subject to the provisions of this article.
2. The Court may exercise jurisdiction only with respect to crimes of aggression committed one year after the ratification or acceptance of the amendments by thirty States Parties.
3. The Court shall exercise jurisdiction over the crime of aggression in accordance with this article, subject to a decision to be taken after 1 January 2017 by the same majority of States Parties as is required for the adoption of an amendment to the Statute.
4. A determination of an act of aggression by an organ outside the Court shall be without prejudice to the Court's own findings under this Statute.
5. This article is without prejudice to the provisions relating to the exercise of jurisdiction with respect to other crimes referred to in article 5.

5. *The following text is inserted after article 25, paragraph 3, of the Statute:*

3 bis. In respect of the crime of aggression, the provisions of this article shall apply only to persons in a position effectively to exercise control over or to direct the political or military action of a State

6. *The first sentence of article 9, paragraph 1, of the Statute is replaced by the following sentence:*

1. Elements of Crimes shall assist the Court in the interpretation and application of articles 6, 7, 8 and 8 bis.

7. *The chapeau of article 20, paragraph 3, of the Statute is replaced by the following paragraph; the rest of the paragraph remains unchanged:*

3. No person who has been tried by another court for conduct also proscribed under article 6, 7, 8 or 8 bis shall be tried by the Court with respect to the same conduct unless the proceedings in the other court:”.”.

—An tAire Dlí agus Cirt, Gnóthaí Baile agus Imirce.

[\*This is a reference to a section proposed to be inserted by amendment No. 52.]