



**SEANAD ÉIREANN**

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**AN BILLE UM CHOSAINN IDIRNÁISIÚNTA, 2026  
INTERNATIONAL PROTECTION BILL 2026**

**LEASUITHE COISTE  
COMMITTEE AMENDMENTS**

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# SEANAD ÉIREANN

## AN BILLE UM CHOSAINN IDIRNÁISIÚNTA, 2026 —AN COISTE

### INTERNATIONAL PROTECTION BILL 2026 —COMMITTEE STAGE

#### *Leasuithe Amendments*

*\*Government amendments are denoted by an asterisk*

#### SECTION 1

1. In page 16, between lines 27 and 28, to insert the following:

“(3) The Minister shall, prior to the commencement of this Act, lay before each House of the Oireachtas a report outlining—

- (a) the administrative, operational and staffing arrangements established to support the performance of functions arising under this Act,
- (b) the resources assigned for the purpose of implementing this Act, including staffing levels, accommodation capacity, interpretation services, legal assistance provision and IT systems,
- (c) the steps taken to ensure that all relevant bodies, agencies and contractors are prepared to carry out the functions conferred upon them under this Act, and
- (d) an indicative implementation timetable.”.

—*Senators Nicole Ryan, Chris Andrews, Pauline Tully, Joanne Collins, Maria McCormack, Conor Murphy.*

2. In page 16, after line 33, to insert the following:

“(4) No provision of this Act other than *section 126*, and an order made under *section 126 (i)*, shall come into operation under *subsection (2)* unless an order commencing the operation of *section 126* and an order or orders designating premises has been made by the Minister.

(5) No orders made under this section shall have effect unless a resolution approving the making of the order has previously been adopted by each House of the Oireachtas.”.

—*Senator Michael McDowell.*

#### SECTION 2

3. In page 16, after line 33, to insert the following:

#### **“Sovereignty of State in matters of international protection**

2. (1) Nothing in this Act shall be construed as limiting the sovereign authority of the State, exercised through the Oireachtas, to determine policy in respect of immigration and

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international protection.

- (2) No provision of this Act shall be interpreted as delegating such authority to any external body or institution without the express approval of the Oireachtas by primary legislation.”.

—*Senators Nicole Ryan, Chris Andrews, Pauline Tully, Joanne Collins, Maria McCormack, Conor Murphy.*

4. In page 16, after line 33, to insert the following:

**“Annual report on sovereignty and external obligations**

2. (1) The Minister shall, not later than 31 March each year, lay before the Oireachtas a report detailing:
- (a) the extent to which the State’s international protection system remains under domestic control;
  - (b) obligations arising from EU or international agreements during the preceding year;
  - (c) steps taken to ensure that Irish sovereignty and democratic oversight are maintained.
- (2) The report shall be referred to the Joint Oireachtas Committee on Justice for consideration.”.

—*Senators Nicole Ryan, Chris Andrews, Pauline Tully, Joanne Collins, Maria McCormack, Conor Murphy.*

5. In page 16, after line 33, to insert the following:

**“Assessment of Common Travel Area impacts**

2. (1) The Government shall prepare and publish an assessment of the potential and actual impacts on the Common Travel Area arising from the operation of this Act.
- (2) An assessment under *subsection (1)* shall include—
- (a) analysis of any implications for the movement of persons between the State and Britain,
  - (b) consideration of the effect of international protection procedures on CTA integrity and cooperation,
  - (c) evaluation of any risks of displacement or diversion effects within the CTA, and
  - (d) measures proposed to mitigate identified impacts.
- (3) The Government shall consult with relevant Departments, agencies, and stakeholders, including those with responsibility for immigration control, border management, and CTA coordination.
- (4) An assessment prepared under this section shall be laid before each House of the

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Oireachtas not later than 12 months after the commencement of this section, and thereafter at intervals not exceeding three years.”.

—*Senators Nicole Ryan, Chris Andrews, Pauline Tully, Joanne Collins, Maria McCormack, Conor Murphy.*

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\*6. In page 17, between lines 6 and 7, to insert the following:

“ “Act of 1995” means the Civil Legal Aid Act 1995;”.

\*7. In page 18, line 3, after “2013/32/EU” to insert the following:

“, as amended by Regulation (EU) 2026/463 of the European Parliament and of the Council of 24 February 2026 and Regulation (EU) 2026/464 of the European Parliament and of the Council of 24 February 2026”.

8. In page 18, between lines 12 and 13, to insert the following:

“ “Common Travel Area” means the area consisting of the State and the United Kingdom of Great Britain and Northern Ireland in respect of which the nationals of either jurisdiction generally have freedom to travel from one jurisdiction to the other and to reside there without any visa or residence permit;”.

—*Senator Michael McDowell.*

\*9. In page 19, between lines 35 and 36, to insert the following:

“ “guardian”, other than in *Chapter 2 of Part 2* and in *section 90(2)*, has the same meaning as it has in the Qualification Regulation;”.

10. In page 20, line 3, after “2004” to insert the following:

“and any immigration officer performing functions conferred on him or her by this Act shall, if requested by a person affected, produce the warrant of appointment or a copy of it to that person”.

—*Senators Alice-Mary Higgins, Lynn Ruane, Frances Black.*

\*11. In page 20, to delete lines 14 and 15.

12. In page 20, between lines 15 and 16, to insert the following:

“ “legal counselling” means oral or written legal advice from a practising solicitor or barrister, or a person employed by the Legal Aid Board who is authorised to provide legal advice or representation;”.

—*Senators Nicole Ryan, Chris Andrews, Pauline Tully, Joanne Collins, Maria McCormack, Conor Murphy.*

13. In page 20, between lines 15 and 16, to insert the following:

“ “legal counselling” means the provision to an applicant of information, guidance and assistance relating to the asylum procedure, having regard to the particular circumstances of the applicant, and that is provided—

(a) on an individual and in-person basis,

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- (b) by a practicing solicitor or barrister,
  - (c) in a language that is understood by the applicant,
- and includes—
- (i) assistance in the lodging of an application for international protection,
  - (ii) support in the preparation for any interview conducted at first instance, and
  - (iii) the provision of information on the means available to challenge a decision refusing such an application;”.

—*Senator Patricia Stephenson, Laura Harmon, Nessa Cosgrove, Malcolm Noonan.*

**\*14.** In page 20, between lines 15 and 16, to insert the following:

“ “legal counselling” means any guidance, information or assistance given to an applicant on matters relating to the application procedure by a person appointed under section 11B(1) of the Act of 1995 to provide legal counselling and shall include:

- (a) guidance on, and explanation of, the procedure in respect of an application, including information on the rights and obligations of the applicant during that procedure;
- (b) assistance with the lodging of an application;
- (c) guidance on:
  - (i) the different procedures under which an application may be examined and the reasons for the use of those procedures;
  - (ii) the rules related to the admissibility of an application;
  - (iii) legal issues arising in the course of the procedure under which the application is examined including information on how to make an appeal (within the meaning of *Part 6* or *section 82*, as the case may be);
  - (iv) guidance on and explanation of the criteria and procedure for determining the Member State responsible in accordance with *Part 4* and the Asylum and Migration Management Regulation, including information on rights and obligations during all stages of that procedure;
  - (v) guidance on and assistance with providing information that could help determine the Member State responsible in accordance with the criteria set out in Chapter II of Part III of the Asylum and Migration Management Regulation;
  - (vi) guidance and assistance on the template referred to in Article 22(1) of the Asylum and Migration Management Regulation;”.

*Amendment to Amendment No. 14*

**I.** In the definition of “legal counselling”, after paragraph (c)(vi) to insert “legal counselling shall be tailored to the individual needs and circumstances of the applicant;”.

—*Senators Laura Harmon, Nessa Cosgrove, Malcolm Noonan, Patricia Stephenson.*

[SECTION 2]

- \*15. In page 20, line 16, to delete “means a practising solicitor or a practising barrister” and substitute “shall be construed in accordance with *section 28*”.

[#This is a reference to a section proposed to be inserted by amendment No. 67]

16. In page 20, between lines 21 and 22, to insert the following:

“ “national reception capacity” means the number of applicants who can be accommodated within State provided reception facilities in a manner consistent with the standards of the Reception Conditions Directive;”.

—*Senator Sharon Keogan.*

- \*17. In page 21, line 25, to delete “*section 44(a)*” and substitute “*section 44(1)*”.

[#This is a reference to a section proposed to be inserted by amendment No. 106]

- \*18. In page 22, line 17, to delete “*section 44(b)*” and substitute “*section 44(2)*”.

[#This is a reference to a section proposed to be inserted by amendment No. 106]

19. In page 23, between lines 26 and 27, to insert the following:

“(2) A reference in this Act to a “measure of last resort” means, in relation to an adult or a child, a measure that is taken only after all non-custodial alternatives to detention have been duly considered, in accordance with Recital 33 and Article 10(2) of the Reception Conditions Directive.”.

—*Senators Laura Harmon, Nessa Cosgrove, Malcolm Noonan, Patricia Stephenson.*

20. In page 23, between lines 26 and 27, to insert the following:

“(2) “Legal counseling” shall include the provision, free of charge, of:

- (a) guidance on and an explanation of the administrative procedure including information on rights and obligations during that procedure;
- (b) assistance on the lodging of the application and guidance on:
  - (i) the different procedures under which the application may be examined and the reasons for the application of those procedures;
  - (ii) the rules related to the admissibility of an application;
  - (iii) legal issues arising in the course of the procedure, including information on how to challenge a decision rejecting an application in accordance with Part 6 of this Act.”.

—*Senators Laura Harmon, Nessa Cosgrove, Malcolm Noonan, Patricia Stephenson.*

21. In page 23, between lines 26 and 27, to insert the following:

- “(2) (a) In the application and interpretation of this Act, the best interests of the child shall be a primary consideration in all matters affecting a person who is a minor or who is presumed to be a minor.
- (b) In determining for the purposes of subsection (a) what is in the best interests of the child, the following factors shall be taken into account—

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- (i) the views of the child, having regard to the child’s age and maturity,
- (ii) the child’s identity, including their age, gender, sexual orientation, nationality and religion,
- (iii) safety, welfare and development needs,
- (iv) preservation of family relationships,
- (v) any particular vulnerabilities of the child, and
- (vi) any other particular circumstances pertaining to the child concerned.”.

—*Senators Laura Harmon, Nessa Cosgrove, Malcolm Noonan, Patricia Stephenson.*

SECTION 3

22. In page 23, between lines 28 and 29, to insert the following:

**“Report on capacity of Child and Family Agency**

3. (1) The Minister shall, as soon as practicable after the commencement of this Act or of any relevant Part thereof, lay before each House of the Oireachtas a report on the capacity of the Child and Family Agency to discharge its statutory functions under this Act.
- (2) A report under *subsection (1)* shall include—
- (a) an assessment of the staffing levels, operational capacity and organisational structures of the Child and Family Agency insofar as they relate to the performance of its functions under this Act,
  - (b) an assessment of the financial and other resources available to the Agency for the purpose of fulfilling those functions, and
  - (c) information on the measures in place to support the Agency in complying with its statutory obligations under this Act.”.

—*Senators Nicole Ryan, Chris Andrews, Pauline Tully, Joanne Collins, Maria McCormack, Conor Murphy.*

\*23. In page 24, line 1, after “18,” to insert “41#,”.

[#This is a reference to a section proposed to be inserted by amendment No. 98]

SECTION 7

24. In page 25, between lines 18 and 19, to insert the following:

**“Report on treatment of refugees and asylum seekers**

7. (1) Within 12 months of the passing of this Act, the Minister shall produce a report on the treatment of refugees and asylum seekers.
- (2) The report shall analyse the effects of this Act and include details as to whether immigrants are receiving appropriate legal counselling and are being treated humanly in detention in line with national law, the European Convention on Human Rights,

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and the UN Charter.

(3) The report shall be laid before both Houses of the Oireachtas.”.

—*Senator Victor Boyhan.*

25. In page 25, between lines 18 and 19, to insert the following:

“CHAPTER 2

*Powers of the Government to adapt, suspend and modify application of international protection provisions in the case of exceptional difficulties or emergencies*

**Orders made by the Government**

7. (1) Notwithstanding any provision of this Act or of any other enactment relating to the provision by the State of international protection or reception of persons by the State as refugees or for subsidiary protection or for application for either such status, the Government by order may adapt, suspend or modify the application of any provision of any such enactment whereby the said order of the Government declares that such measures are urgently required in the public interest or to protect the security of the State or to conserve the resources of the State in the national interest.
- (2) Without prejudice to the provisions of *subsection (1)*, the power of the Government to make an order thereunder shall include the following powers:
- (a) the power to limit the number of persons entitled to apply for international protection in any given year or other period;
  - (b) the power to limit or suspend any obligations on the State to provide accommodation for any persons applying for international protection;
  - (c) the power to limit or suspend any obligations on the State to provide payments or material assistance in kind to any applicants for international protection;
  - (d) the power to limit or suspend any liability on the part of the State or other statutory bodies or authorities or agencies to compensate any persons applying for international protection or their dependents for any failure to afford such persons accommodation or other welfare assistance.
- (3) In the exercise of its powers under this Chapter, the Government may have regard to any relevant consideration including the following considerations:
- (a) the budgetary situation and financial capacity of the Exchequer;
  - (b) the capacity of the State and of national economic resources and enterprises to provide accommodation for persons seeking international protection and for other persons needing accommodation in the State;
  - (c) the capacity of the State and statutory and other bodies to provide temporary or emergency accommodation for persons who could be otherwise homeless or obliged to live in overcrowded and/or unsafe or unsanitary circumstances;

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(d) the exigencies of the common good.”.

—*Senator Michael McDowell.*

26. In page 25, between lines 18 and 19, to insert the following:

**“Laying of orders before Oireachtas**

7. Any order made by the Government under this chapter shall be laid before the Houses of the Oireachtas and shall have effect in accordance with its terms unless each House of the Oireachtas shall revoke or modify such order.”.

—*Senator Michael McDowell.*

27. In page 25, between lines 24 and 25, to insert the following:

“(2) Where an officer of the Minister, pursuant to any enactment or rule of law, performs a function conferred on the Minister by virtue of *subsection (1)*, the officer is independent in the performance of that function.”.

—*Senators Laura Harmon, Nessa Cosgrove, Malcolm Noonan, Patricia Stephenson.*

SECTION 11

28. In page 26, between lines 21 and 22, to insert the following:

“(3) A connection between an applicant and a third country shall, for the purposes of *subsection (2)(b)*, be deemed to exist where the applicant transited, sojourned, or was otherwise present in that country *en route* to the State, unless the applicant demonstrates that admission or effective protection would not be available there.”.

—*Senator Sharon Keogan.*

SECTION 14

29. In page 26, after line 37, to insert the following:

**“Transparency of accommodation contracts**

14. (1) The Minister shall publish all contracts, subcontracts, financial schedules, performance reports, and compliance assessments relating to accommodation or services provided to international protection applicants.

(2) Publication shall occur no later than 30 days after the signing of the relevant document.

(3) Information may be withheld only where strictly necessary to protect commercially sensitive material, as defined by regulation, and such withholding must be justified in writing.

(4) All documents published under this section shall be made available on a publicly accessible website maintained by the Minister.”.

—*Senators Nicole Ryan, Chris Andrews, Pauline Tully, Joanne Collins, Maria McCormack, Conor Murphy.*

[SECTION 14]

30. In page 26, after line 37, to insert the following:

**“Matters concerning minors**

14. The best interests of the child shall be primary consideration in the application of this Act, and the Minister shall have due regard to this principle in respect of all matters concerning minors.”.

—*Senators Nicole Ryan, Chris Andrews, Pauline Tully, Joanne Collins, Maria McCormack, Conor Murphy.*

31. In page 26, after line 37, to insert the following:

**“Due diligence and beneficial ownership requirements for contractors**

14. (1) The Minister shall ensure that any company, partnership, body corporate, or organisation seeking to enter into a contract with the State for the provision of accommodation or services to persons within the international protection system is subject to mandatory due diligence and vetting procedures prior to the award of such contract.

(2) The due diligence procedures under *subsection (1)* shall include, at a minimum:

- (a) verification of the identity of all directors, partners, or persons exercising control;
- (b) a full beneficial ownership declaration, including disclosure of any natural person who ultimately owns or controls, directly or indirectly, more than 25 per cent of the entity;
- (c) confirmation of tax compliance;
- (d) assessment of financial capacity and trading history;
- (e) checks for prior regulatory sanctions, insolvency proceedings, or relevant criminal convictions;
- (f) any additional checks the Minister considers necessary to ensure the integrity and suitability of the contractor.

(3) The Minister shall not award a contract for the provision of accommodation or services unless satisfied that the entity has complied fully with the requirements of this section.

(4) The Minister shall maintain a register of all entities that have undergone due diligence and beneficial ownership checks under this section, and shall update the register annually.

(5) The Minister shall lay before each House of the Oireachtas an annual statement confirming compliance with this section and summarising the number of entities assessed, approved, or rejected during the preceding year.

(6) Nothing in this section shall prevent the Minister from applying more stringent

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requirements where necessary to protect the public interest or ensure the proper administration of the international protection system.”.

—*Senators Nicole Ryan, Chris Andrews, Pauline Tully, Joanne Collins, Maria McCormack, Conor Murphy.*

32. In page 26, after line 37, to insert the following:

**“Cap on daily expenditure for international protection accommodation**

14. (1) The Minister shall, by regulations made under this Act, prescribe a maximum amount that may be paid per person per day by the State in respect of accommodation provided to applicants for international protection.
- (2) Regulations made under *subsection (1)* shall specify—
- (a) the monetary cap applicable to all forms of accommodation procured or funded by the Minister for the purposes of this Act,
  - (b) the methodology used in determining the cap, including consideration of value for money, regional cost variations, and the avoidance of excessive reliance on emergency or ad hoc accommodation arrangements, and
  - (c) the date on which the cap shall come into operation.
- (3) The Minister shall review the cap prescribed under *subsection (1)* at least once in every 12 month period and may amend the cap by regulation following such review.
- (4) Regulations under this section shall be laid before each House of the Oireachtas as soon as may be after they are made.”.

—*Senators Nicole Ryan, Chris Andrews, Pauline Tully, Joanne Collins, Maria McCormack, Conor Murphy.*

33. In page 26, after line 37, to insert the following:

**“Community impact assessments prior to location of international protection accommodation**

14. (1) Prior to the establishment of any new accommodation centre under this Act, the Minister shall ensure that a Community Impact Assessment is prepared and published.
- (2) A Community Impact Assessment shall be carried out by—
- (a) the relevant local authority, or
  - (b) such other competent body as the Minister may appoint for that purpose.
- (3) A Community Impact Assessment shall include—
- (a) the projected capacity of the proposed centre,
  - (b) an assessment of local service impacts,
  - (c) community engagement plans,

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- (d) proposed mitigation measures, and
  - (e) an analysis of the Pobal Deprivation Index for the area concerned, including consideration of whether the proposal would contribute to a disproportionate concentration of accommodation centres in disadvantaged communities.
- (4) The body carrying out the Assessment under *subsection (2)* shall conduct a statutory consultation with—
- (a) the relevant local authority (where it is not itself the assessing body), and
  - (b) community stakeholders.
- (5) A centre shall not commence operation until—
- (a) the consultation period has concluded, and
  - (b) the Community Impact Assessment has been published.”.

—*Senators Nicole Ryan, Chris Andrews, Pauline Tully, Joanne Collins, Maria McCormack, Conor Murphy.*

SECTION 15

- 34.** In page 28, between lines 32 and 33, to insert the following:

“(14) The best interests of the child shall be a primary consideration in the carrying out of procedures in respect of a minor under this Part, in accordance with Article 14(1) of the Eurodac Regulation.”.

—*Senators Nicole Ryan, Chris Andrews, Pauline Tully, Joanne Collins, Maria McCormack, Conor Murphy.*

SECTION 22

- 35.** In page 32, to delete lines 14 to 18.

—*Senator Patricia Stephenson, Laura Harmon, Nessa Cosgrove, Malcolm Noonan, Alice-Mary Higgins, Lynn Ruane, Frances Black.*

- 36.** In page 32, between lines 34 and 35, to insert the following:

“(f) an applicant who is a presumed or identified victim of trafficking.”.

—*Senators Laura Harmon, Nessa Cosgrove, Malcolm Noonan, Patricia Stephenson.*

SECTION 24

- \*37.** In page 33, between lines 16 and 17, to insert the following:

**“Obligation to inform applicant**

- 24.** (1) Where an applicant (other than an applicant referred to in *section 22(6)(e)*) refuses or fails to comply with a direction under *section 22(2)* or a requirement made for the purposes of alternative arrangements under *section 23*, a member of An Garda Síochána or an immigration officer shall inform the applicant of—
- (a) the obligations to cooperate referred to in *sections 25* and *63*,
  - (b) the grounds for implicit withdrawal of an application under *section 67*, and

[SECTION 24]

(c) the powers under *Part 5#*.”.

[*Acceptance of this amendment involves the deletion of section 24 of the Bill.*]

[*#This is a reference to a Part proposed to be inserted by amendment No. 173*]

**38.** In page 33, between lines 16 and 17, to insert the following:

“(1) A member of An Garda Síochána or an immigration officer shall not arrest an applicant under this section for the sole reason that he or she is an applicant, or on the basis of his or her nationality.”.

—*Senators Laura Harmon, Nessa Cosgrove, Malcolm Noonan, Patricia Stephenson.*

**39.** In page 33, between lines 23 and 24, to insert the following:

“(d) the appeal mechanism,

(e) the right to access legal representation.”.

—*Senators Nicole Ryan, Chris Andrews, Pauline Tully, Joanne Collins, Maria McCormack, Conor Murphy.*

**40.** In page 33, line 29, to delete “without warrant” and substitute “subject to a warrant”.

—*Senators Alice-Mary Higgins, Lynn Ruane, Frances Black.*

**41.** In page 33, between lines 30 and 31, to insert the following:

“(3) A member of An Garda Síochána or an immigration officer may, as a measure of last resort, arrest without warrant and detain an applicant where the member or officer is satisfied, on reasonable grounds, that the applicant has a documented history of violent criminal offending and that such history gives rise to a present danger to public security or public order.”.

—*Senators Nicole Ryan, Chris Andrews, Pauline Tully, Joanne Collins, Maria McCormack, Conor Murphy.*

**42.** In page 33, between lines 30 and 31, to insert the following:

“(3) Facial image data shall not be used for the purposes of determining or verifying the applicant’s identity under this Part.”.

—*Senators Alice-Mary Higgins, Lynn Ruane, Frances Black.*

**43.** In page 33, lines 32 and 33, to delete “unless *section 22(5)* applies to the applicant”.

—*Senator Patricia Stephenson, Laura Harmon, Nessa Cosgrove, Malcolm Noonan, Alice-Mary Higgins, Lynn Ruane, Frances Black.*

**44.** In page 33, between lines 34 and 35, to insert the following:

“(c) a presumed or identified victim of trafficking.”.

—*Senators Laura Harmon, Nessa Cosgrove, Malcolm Noonan, Patricia Stephenson, Alice-Mary Higgins, Lynn Ruane, Frances Black.*

[SECTION 24]

45. In page 34, line 2, to delete “exceeding 12 hours” and substitute “longer than the direct journey to that centre or place”.

—*Senators Alice-Mary Higgins, Lynn Ruane, Frances Black.*

46. In page 34, between lines 20 and 21, to insert the following:

“(10) *Subsection (9)* shall not apply to applicants with special reception needs.”.

—*Senator Patricia Stephenson, Laura Harmon, Nessa Cosgrove, Malcolm Noonan, Alice-Mary Higgins, Lynn Ruane, Frances Black.*

47. In page 34, to delete lines 21 to 25 and substitute the following:

“(10) (a) Where a person under the age of 18 years is in the custody of an applicant (whether the applicant is a parent or a person acting in *loco parentis* or any other person) and the applicant is detained under this section, the best interests of the children shall be a primary consideration.

(b) Such families are to be placed in accommodation suitable to protect and promote the best interests of the child in accordance with A.26(2) RCD, including respect for the principle of family unity.

(c) Where necessary, in the best interests of the child, a member of An Garda Síochána or an immigration officer shall notify the Child and Family Agency of the detention and its circumstances without delay.”.

—*Senator Patricia Stephenson, Laura Harmon, Nessa Cosgrove, Malcolm Noonan.*

48. In page 34, to delete lines 21 to 42, and in page 35, to delete lines 1 to 12 and substitute the following:

“(10) Minors, in the care of an applicant (whether the applicant is a parent or a person acting in *loco parentis* or any other person) where the applicant is detained under this section or unaccompanied, shall not be detained or separated from their families during the screening procedure.”.

—*Senators Alice-Mary Higgins, Lynn Ruane, Frances Black.*

49. In page 34, line 23, to delete “is detained” and substitute “would be detained but for his or her accompaniment by a child”.

—*Senators Laura Harmon, Nessa Cosgrove, Malcolm Noonan, Patricia Stephenson.*

50. In page 34, line 24, after “shall” to insert “identify other less coercive alternative measures to detention which are appropriate to families with minor children, and”.

—*Senators Laura Harmon, Nessa Cosgrove, Malcolm Noonan, Patricia Stephenson.*

51. In page 34, line 24, to delete “detention” and substitute “alternative measures”.

—*Senators Laura Harmon, Nessa Cosgrove, Malcolm Noonan, Patricia Stephenson.*

52. In page 34, to delete lines 26 to 42, and in page 35, to delete lines 1 to 12.

—*Senators Laura Harmon, Nessa Cosgrove, Malcolm Noonan, Patricia Stephenson.*

[SECTION 24]

53. In page 35, between lines 12 and 13, to insert the following:

“(c) where a minor referred to in *subsection (11)* or *(12)* is detained, they shall be accommodated in facilities suitable for the housing of unaccompanied minors, such facilities shall be provided with staff qualified to safeguard the rights of unaccompanied minors and attend to their needs, and

(d) such a minor shall be accommodated separately from adults.”.

—*Senator Patricia Stephenson, Laura Harmon, Nessa Cosgrove, Malcolm Noonan.*

54. In page 35, between lines 12 and 13, to insert the following:

“(14) For the purposes of this section, less coercive alternative measures to detention shall include regular reporting to the authorities, the deposit of a financial guarantee, or an obligation to stay at an assigned place.”.

—*Senator Patricia Stephenson, Laura Harmon, Nessa Cosgrove, Malcolm Noonan, Alice-Mary Higgins, Lynn Ruane, Frances Black.*

55. In page 35, between lines 12 and 13, to insert the following:

“(14) (a) Applicants with special reception needs shall not be detained where such detention would put their physical and mental health at serious risk.

(b) Where applicants with special reception needs are detained, their particular situation, including their physical and mental health, shall be regularly monitored and they shall be provided with timely and adequate support taking into account their particular situation, including their physical and mental health.”.

—*Senator Patricia Stephenson, Laura Harmon, Nessa Cosgrove, Malcolm Noonan, Alice-Mary Higgins, Lynn Ruane, Frances Black.*

56. In page 35, between lines 12 and 13, to insert the following:

“(14) The detention of applicants under the section shall be ordered in writing by the courts or the Determining Authority. The detention order shall state the reasons in fact and in law on which it is based as well as why less coercive alternative arrangements cannot be applied effectively.”.

—*Senators Alice-Mary Higgins, Lynn Ruane, Frances Black.*

57. In page 35, between lines 12 and 13, to insert the following:

“(14) Where detention under this section is ordered by the Determining Authority, applicants shall have the right to apply to the High Court for judicial review of the lawfulness of such detention. Such review shall be concluded as speedily as possible, taking into account the circumstances of each case, and no later, in exceptional circumstances, than 21 days from the launch of the relevant proceedings.”.

—*Senators Alice-Mary Higgins, Lynn Ruane, Frances Black.*

*Section opposed.*

—*Senator Victor Boyhan.*

[SECTION 26]

SECTION 26

**\*58.** In page 35, line 30, to delete “shall inform an applicant” and substitute the following:

“shall inform the applicant concerned, as soon as practicable after the making of an application, and at the latest when the application is registered.”.

**59.** In page 35, line 30, after “applicant” to insert “, within 5 working days of making an application.”.

—*Senators Nicole Ryan, Chris Andrews, Pauline Tully, Joanne Collins, Maria McCormack, Conor Murphy.*

**60.** In page 35, to delete lines 33 to 36 and substitute the following:

“(b) the rights of an applicant, in particular—

(i) the right to request and receive legal counselling,

(ii) the right to request and receive legal assistance,

(iii) the right to request and receive legal representation,

(iv) the right to lodge an application in accordance with *section 38*, and

(v) the rights of the applicant under the Asylum and Migration Management Regulation.”.

—*Senator Patricia Stephenson, Laura Harmon, Nessa Cosgrove, Malcolm Noonan.*

**\*61.** In page 35, line 34, to delete “*section 38*, and” and substitute “*section 38*.”.

**62.** In page 35, between lines 34 and 35, to insert the following:

“(ii) the entitlement of the applicant—

(I) for the purposes of his or her application, and

(II) for the purposes of any decision under this Act affecting the applicant and in relation to the making of which he or she is entitled to make submissions,

to consult a legal adviser and to seek legal assistance and legal representation, and.”.

—*Senators Laura Harmon, Nessa Cosgrove, Malcolm Noonan, Patricia Stephenson.*

**\*63.** In page 35, after line 36, to insert the following:

“(iii) the right, for the purposes of his or her application, to legal counselling in accordance with *section 27*#,

(iv) the right, for the purposes of his or her application, to consult a legal representative in accordance with *section 28(1)*##, and

(v) the right to apply for legal advice and legal aid in accordance with the Act of

[SECTION 26]

1995.”.

[#This is a reference to a section proposed to be inserted by amendment No. 66]

[##This is a reference to a section proposed to be inserted by amendment No. 67]

64. In page 36, to delete lines 15 and 16 and substitute the following:

“(j) the right of the applicant to medical care, including to a medical examination in accordance with Article 24(3) of the Asylum Procedures Regulation, and to mental health counselling and other mental health support services.”.

—*Senators Laura Harmon, Nessa Cosgrove, Malcolm Noonan, Patricia Stephenson.*

SECTION 27

65. In page 36, between lines 26 and 27, to insert the following:

**“Legal counselling**

27. (1) An applicant shall be entitled to request legal counselling upon their arrival at the border.

(2) For the avoidance of doubt, the provision of legal counselling is a service that must be provided to an applicant and it is in addition to, and not in place of, the rights to request and receive legal assistance or legal representation on an individualised basis at both administrative procedure stage and on appeal.”.

—*Senator Patricia Stephenson, Laura Harmon, Nessa Cosgrove, Malcolm Noonan.*

\*66. In page 36, between lines 26 and 27, to insert the following:

**“Legal counselling**

27. (1) An applicant may request legal counselling at any stage—

(a) during the procedure in respect of an application and, without prejudice to *subsection (2)*, until the Determining Authority has made a decision on his or her application, and

(b) during the procedure to determine the Member State responsible in accordance with *Part 4* and the Asylum and Migration Management Regulation.

(2) Where an applicant makes a request under *subsection (1)(a)*, legal counselling shall, subject to *subsection (4)*, be provided to him or her as soon as practicable and in accordance with Article 16 of the Asylum Procedures Regulation.

(3) Where an applicant makes a request under *subsection (1)(b)*, legal counselling shall, subject to *subsection (4)*, be provided to him or her as soon as practicable and in accordance with Article 21 of the Asylum and Migration Management Regulation.

(4) The provision of legal counselling may be excluded where the applicant is already assisted by a legal representative.

(5) Where an applicant has been provided with legal counselling in accordance with this section, or where legal counselling has been excluded in accordance with *subsection*

[SECTION 27]

(4), the Minister shall record such provision or exclusion in the applicant’s file.”.

\*67. In page 36, between lines 26 and 27, to insert the following:

**“Consultation with legal representative**

- 28.** (1) An applicant may consult a legal representative for the purpose of obtaining legal advice—
- (a) in respect of his or her application, at any stage during the procedure in respect of an application,
  - (b) during the procedure to determine the Member State responsible in accordance with *Part 4#* and the Asylum and Migration Management Regulation in respect of the application of that procedure, and
  - (c) in respect of an appeal within the meaning of *Part 6* or an appeal under *section 82##, 95###, or 157(1)*.
- (2) The functions of a legal representative under this Act shall be performed by a practising solicitor or a practising barrister.
- (3) In this section, “legal advice” shall be construed in accordance with the Legal Services Regulation Act 2015.”.

[#This is a reference to a Part proposed to be inserted by amendment No. 156]

[##This is a reference to a section proposed to be inserted by amendment No. 169]

[###This is a reference to a section proposed to be inserted by amendment No. 182]

68. In page 38, between lines 6 and 7, to insert the following:

- “(12) The qualified medical professional referred to in *subsection (1)* shall be selected from a panel of registered medical practitioners who, in the opinion of the Minister, possess the qualifications and experience necessary for the performance of the functions outlined under *section 27*.”.

—*Senators Nicole Ryan, Chris Andrews, Pauline Tully, Joanne Collins, Maria McCormack, Conor Murphy.*

69. In page 38, between lines 6 and 7, to insert the following:

- “(12) In this section, “acute medical care” includes—
- (a) emergency medical care,
  - (b) mental health care, including crisis intervention and ongoing psychiatric treatment,
  - (c) trauma-related care, and
  - (d) treatment necessary to prevent the deterioration of a chronic condition.
- (13) For the purposes of this Act, “essential medical care” means medical care, the absence of which would result in—

[SECTION 27]

- (a) a significant deterioration in the person’s health,
- (b) a risk to the health of others, or
- (c) a risk to public health,

and includes the continued provision of prescribed medication, maternity care, and treatment for communicable diseases.”.

—*Senator Aubrey McCarthy.*

70. In page 38, between lines 6 and 7, to insert the following:

“(12) In this section, “acute medical care” includes—

- (a) emergency medical care,
- (b) essential medical care,
- (c) mental health care, including crisis intervention and ongoing psychiatric treatment,
- (d) trauma-related care, and
- (e) treatment necessary to prevent the deterioration of a chronic condition.

(13) For the purposes of this Act, “essential medical care” means medical care, the absence of which would result in—

- (a) a significant deterioration in the person’s health,
- (b) a risk to the health of others, or
- (c) a risk to public health,

and includes the continued provision of prescribed medication, maternity care, and treatment for communicable diseases.”.

—*Senators Alice-Mary Higgins, Lynn Ruane, Frances Black.*

SECTION 28

71. In page 38, between lines 17 and 18, to insert the following:

“(e) may be a victim of trafficking and to facilitate their referral into the National Referral Mechanism pursuant to Part 3 of the Criminal Law (Sexual Offences and Human Trafficking) Act 2024.”.

—*Senators Laura Harmon, Nessa Cosgrove, Malcolm Noonan, Patricia Stephenson.*

72. In page 38, line 18, after “out” to insert the following:

“in private, in conditions calculated to ensure that the applicant and personal information relating to the applicant such as his or her gender, gender identity and sexual orientation are treated with dignity and respect,”.

—*Senators Laura Harmon, Nessa Cosgrove, Malcolm Noonan, Patricia Stephenson.*

[SECTION 28]

73. In page 38, line 19, after “assessments” to insert “, including in relation to detection, protection and support of victims of trafficking,”.

—*Senators Nicole Ryan, Chris Andrews, Pauline Tully, Joanne Collins, Maria McCormack, Alice-Mary Higgins, Lynn Ruane, Frances Black.*

74. In page 38, between lines 23 and 24, to insert the following:

“(3) A preliminary vulnerability assessment shall be completed within 30 days of the making of an application for international protection, unless exceptional circumstances, as prescribed by the Minister through regulation, justify a longer period.

(4) The Minister shall ensure that clear and timely referral pathways are established for applicants identified during a preliminary vulnerability assessment as requiring medical, psychological, or social supports.”.

—*Senators Nicole Ryan, Chris Andrews, Pauline Tully, Joanne Collins, Maria McCormack, Conor Murphy.*

- \*75. In page 38, line 24, to delete “The results” and substitute “Subject to *subsection (4)* and *section 31(1)(e)*, the results”.

- \*76. In page 38, to delete lines 31 to 35 and substitute the following:

“(5) Where the Minister considers that the applicant requires special procedural guarantees referred to in *subsection (1)(d)*, the Minister shall make arrangements to provide such guarantees in such form and manner as the Minister considers appropriate.”.

77. In page 38, to delete lines 36 to 39.

—*Senator Patricia Stephenson, Laura Harmon, Nessa Cosgrove, Malcolm Noonan.*

78. In page 38, line 37, to delete “, or the entirety of,”.

—*Senators Laura Harmon, Nessa Cosgrove, Malcolm Noonan, Patricia Stephenson, Alice-Mary Higgins, Lynn Ruane, Frances Black.*

- \*79. In page 38, line 38, to delete “under Article 25 of the Reception Conditions Directive” and substitute “under *section 77#*”.

[#This is a reference to a section proposed to be inserted by amendment No. 164]

80. In page 39, between lines 3 and 4, to insert the following:

“(8) Where special reception needs become apparent at a later stage in the procedure for international protection, an officer or agent of the Minister shall assess and address those needs.”.

—*Senator Patricia Stephenson, Laura Harmon, Nessa Cosgrove, Malcolm Noonan.*

SECTION 28

81. In page 39, between lines 3 and 4, to insert the following:

“(8) Appropriate monitoring and support shall be provided to applicants assessed to have

[SECTION 28]

special reception needs taking into account their special reception needs throughout the duration of the procedure for international protection.”.

—*Senator Patricia Stephenson, Laura Harmon, Nessa Cosgrove, Malcolm Noonan, Alice-Mary Higgins, Lynn Ruane, Frances Black.*

82. In page 39, between lines 3 and 4, to insert the following:

- “(8) A preliminary vulnerability assessment under this section is not in substitution for—
- (a) a comprehensive assessment of special reception needs as required under Article 25 of the Reception Conditions Directive,
  - (b) a comprehensive assessment of the need for special procedural guarantees as required under Article 20 of the Asylum Procedures Regulation, or
  - (c) a comprehensive reassessment under either paragraph (a) or (b) where special reception or procedural needs emerge at a later stage.”.

—*Senators Laura Harmon, Nessa Cosgrove, Malcolm Noonan, Patricia Stephenson.*

83. In page 39, between lines 3 and 4, to insert the following:

- “(8) Where special reception needs become apparent at a later stage in the procedure for international protection, an officer or agent of the Minister referred to in *subsection (2)* shall assess and address those needs.”.

—*Senators Alice-Mary Higgins, Lynn Ruane, Frances Black.*

SECTION 29

84. In page 39, between lines 3 and 4, to insert the following:

**“Standards and due diligence in conduct of vulnerability assessments**

29. (1) The Minister shall ensure that any vulnerability assessment carried out under this Act is conducted only by persons who possess the necessary qualifications, training, and professional competence to identify and assess the specific needs of applicants for international protection.
- (2) The Minister shall prescribe, by regulation, minimum standards for persons authorised to conduct vulnerability assessments, including—
- (a) relevant professional qualifications,
  - (b) training in trauma informed practice,
  - (c) training in child protection and safeguarding where applicable,
  - (d) cultural competency and awareness of the particular vulnerabilities of international protection applicants.
- (3) The Minister shall ensure that all persons conducting vulnerability assessments are subject to appropriate due diligence, including—
- (a) vetting in accordance with applicable legislation,
  - (b) verification of qualifications and professional standing,

[SECTION 29]

- (c) ongoing oversight to ensure compliance with the standards prescribed under *subsection (2)*.
- (4) The Minister shall establish a system of monitoring, audit, and quality assurance to ensure that vulnerability assessments are carried out—
  - (a) consistently,
  - (b) to a high professional standard, and
  - (c) with full regard to the rights, dignity, and welfare of applicants.
- (5) The Minister shall, within 12 months of the commencement of this section, lay before each House of the Oireachtas a report outlining—
  - (a) the standards prescribed under *subsection (2)*,
  - (b) the due diligence procedures established under *subsection (3)*,
  - (c) the monitoring and quality assurance mechanisms established under *subsection (4)*.
- (6) Nothing in this section shall be construed as limiting the rights of an applicant to challenge the outcome of a vulnerability assessment or to seek a review or reassessment where appropriate.”.

—*Senators Nicole Ryan, Chris Andrews, Pauline Tully, Joanne Collins, Maria McCormack, Conor Murphy.*

SECTION 30

- 85.** In page 39, line 34, to delete “an immigration officer or an officer of the Minister” and substitute “or an immigration officer”.

—*Senators Alice-Mary Higgins, Lynn Ruane, Frances Black.*
- 86.** In page 39, to delete lines 38 to 40, and in page 40, to delete lines 1 to 3.

—*Senator Patricia Stephenson, Laura Harmon, Nessa Cosgrove, Malcolm Noonan, Alice-Mary Higgins, Lynn Ruane, Frances Black.*
- 87.** In page 40, lines 14 and 15, to delete “it to be necessary for reasons of national security or reasonably believes”.

—*Senator Patricia Stephenson, Laura Harmon, Nessa Cosgrove, Malcolm Noonan.*
- 88.** In page 40, line 17, to delete “or an officer of the Minister”.

—*Senators Alice-Mary Higgins, Lynn Ruane, Frances Black.*
- 89.** In page 40, lines 19 and 20, to delete “reasonably believes the document to relate to matters of national security or”.

—*Senators Alice-Mary Higgins, Lynn Ruane, Frances Black.*
- 90.** In page 40, to delete lines 28 and 29.

—*Senators Alice-Mary Higgins, Lynn Ruane, Frances Black.*

[SECTION 30]

91. In page 40, between lines 30 and 31, to insert the following:

“(6) Any items belonging to an applicant that are examined or retained under *subsection (3), (4) and (5)* shall be clearly inventoried, and an itemised receipt shall be provided to the applicant.”.

—*Senators Alice-Mary Higgins, Lynn Ruane, Frances Black.*

SECTION 31

92. In page 41, after line 39, to insert the following:

“(k) information provided by the applicant regarding any prior immigration permission held in the State, including, where applicable, whether the applicant previously entered or resided in the State on—

- (i) a student permission,
- (ii) an employment permit or other work related permission,
- (iii) a short stay or long stay visit (tourist) permission,
- (iv) a family reunification or dependent permission, or
- (v) any other immigration permission category recorded by the Minister.”.

—*Senators Nicole Ryan, Chris Andrews, Pauline Tully, Joanne Collins, Maria McCormack, Conor Murphy.*

SECTION 32

93. In page 42, after line 40, to insert the following:

**“Annual reporting on entry routes and prior immigration permissions of applicants for international protection**

32. (1) The Minister shall, not later than 31 March each year, publish a report containing statistical information relating to the entry into the State of persons who made an application for international protection during the preceding calendar year.
- (2) The report shall include, insofar as the information is available through the screening process or other statutory procedures—
- (a) the number of applicants who presented at a port or airport,
  - (b) the number of applicants who presented inland,
  - (c) the number of applicants who reported entry via the Common Travel Area,
  - (d) the number of applicants whose means or route of entry could not be established,
  - (e) any other categories of entry route data collected pursuant to the EU Screening Regulation, and
  - (f) a breakdown, in aggregate form, of the prior immigration permissions held by applicants, including—
    - (i) student permissions,

[SECTION 32]

- (ii) employment permits or other work related permissions,
  - (iii) short stay or long stay visit (tourist) permissions,
  - (iv) family reunification or dependent permissions, and
  - (v) any other immigration permission categories recorded by the Minister.
- (3) The Minister shall ensure that all data published under this section is anonymised and presented in aggregate form.
- (4) The Minister shall lay the report before each House of the Oireachtas and make it publicly available.
- (5) Nothing in this section shall be taken to require the publication of information that would compromise the security or integrity of the State's border management operations.”.

—*Senators Nicole Ryan, Chris Andrews, Pauline Tully, Joanne Collins, Maria McCormack, Conor Murphy.*

94. In page 42, after line 40, to insert the following:

**“Cultural mediator**

32. (1) The Minister may make arrangements to allow cultural mediators to assist an applicant during the carrying out of the procedures under this Part, including by the provision of information to the applicant and support in the applicant's communication with officers of the Minister.
- (2) A person shall not be engaged or permitted to act as a cultural mediator unless—
- (a) the person has demonstrable competence in—
    - (i) the language or languages of the applicant or applicants to whom they are assigned, and
    - (ii) an official language of the State,
  - (b) the person has completed training appropriate to the role, including training in intercultural communication and trauma informed practice, and
  - (c) the person has been vetted by An Garda Síochána in accordance with the National Vetting Bureau (Children and Vulnerable Persons) Acts 2012 to 2016.
- (3) Cultural mediators may assist with communication but shall not provide legal advice, credibility assessments, or opinions on the merits of a claim.
- (4) The Minister shall ensure that any arrangements made under *subsection (1)* include procedures for verifying compliance with *subsection (2)* and for the removal of any person who no longer meets those requirements.”.

—*Senators Nicole Ryan, Chris Andrews, Pauline Tully, Joanne Collins, Maria McCormack, Conor Murphy.*

[*Acceptance of this amendment involves the deletion of section 32 of the Bill.*]

[SECTION 34]

SECTION 34

95. In page 44, between lines 4 and 5, to insert the following:

**“Onus of applicants seeking international protection**

34. Any applicant for international protection shall bear the onus of showing the following matters in support of such an application:

- (a) that the application is not primarily motivated by economic factors;
- (b) that the State was the first practicable jurisdiction in which to make the application;
- (c) that the applicant has not used the Common Travel Area to access the State without seeking international protection status in the United Kingdom;
- (d) that there are good and substantial reasons for not providing travel and/or identity documents establishing the identity and means by which the applicant reached the State.”.

—*Senator Michael McDowell.*

SECTION 35

96. In page 44, line 25, after “responsible”)” to insert “, or independently by the minor”.

—*Senators Nicole Ryan, Chris Andrews, Pauline Tully, Joanne Collins, Maria McCormack, Conor Murphy.*

SECTION 40

97. In page 49, between lines 28 and 29, to insert the following:

**“Digital portal**

40. (1) The Minister shall establish and maintain a secure digital portal through which an applicant may submit any elements or documents referred to in *section 39*.
- (2) The digital portal shall also provide applicants with access to notifications, requests for information and other communications issued by the Determining Authority in connection with the examination of their application.
- (3) The Minister shall ensure that appropriate measures are in place to safeguard the security, confidentiality and integrity of information submitted or made available through the digital portal.
- (4) Nothing in this section shall preclude an applicant from submitting elements or documents, or receiving communications, by other means where necessary or appropriate.
- (5) The Minister shall ensure that adequate redundancy is in place should such a portal be inaccessible in any regard.
- (6) The Minister shall ensure that such a portal is adequately accessible, and that adequate provision is made for the use of such portal by individuals necessitated by matters of literacy or computer literacy.”.

[SECTION 40]

—*Senators Nicole Ryan, Chris Andrews, Pauline Tully, Joanne Collins, Maria McCormack, Conor Murphy.*

SECTION 41

\*98. In page 49, between lines 33 and 34, to insert the following:

**“Competent authority (*Part 3*) (*Chapter 2*)**

41. The Minister shall by order designate a person to perform the functions of the competent authority under this Chapter.”.

SECTION 42

\*99. In page 50, line 19, to delete “an applicant” and substitute the following:

“an applicant, in relation to whom neither a provisional representative person nor a representative person has been appointed or designated, as the case may be”.

SECTION 43

100. In page 50, between lines 24 and 25, to insert the following:

**“Appointment of representative within specified period**

43. (1) Where a notification is made under *section 42* in respect of an unaccompanied minor, the competent authority shall ensure that a representative is appointed for that minor not later than 3 working days after the date of such notification.

(2) Pending the appointment of a representative under *subsection (1)*, the competent authority shall take all necessary measures to safeguard the welfare and best interests of the minor.

(3) A failure to comply with *subsection (1)* shall not prejudice the rights of the minor under this Act.”.

—*Senators Nicole Ryan, Chris Andrews, Pauline Tully, Joanne Collins, Maria McCormack, Conor Murphy.*

\*101. In page 50, lines 28 and 29, to delete “with the necessary skills and expertise”.

\*102. In page 50, lines 36 and 37, to delete “with the necessary skills and expertise”.

\*103. In page 51, to delete lines 1 to 6 and substitute the following:

“(2) The function of a representative organisation shall be to appoint individuals under *section 44* to perform the functions set out in *section 47*.”.

[#This is a reference to a section proposed to be inserted by amendment No. 106]

[##This is a reference to a section proposed to be inserted by amendment No. 116]

104. In page 51, to delete lines 21 to 23 and substitute the following:

“(e) is able to ensure that, subject to *section 49*, a provisional representative person or a representative person is not appointed in respect of so many unaccompanied minors as would prevent the effective performance of his or her functions, and in any event is not appointed in respect of more than 30 unaccompanied minors at

[SECTION 43]

any one time, and”.

—*Senators Nicole Ryan, Chris Andrews, Pauline Tully, Joanne Collins, Maria McCormack, Conor Murphy.*

- 105.** In page 51, line 28, after “be” to insert “, including in child trafficking and protection of children at risk”.

—*Senators Alice-Mary Higgins, Lynn Ruane, Frances Black.*

SECTION 44

- \*106.** In page 51, between lines 28 and 29, to insert the following:

**“Appointment of provisional representative persons and representative persons**

- 44.** (1) Where a representative organisation has been designated under *section 43(1)(a)* in respect of an unaccompanied minor, the representative organisation shall, as soon as possible, appoint an individual to provisionally act as a representative (within the meaning of the EU acts) for the unaccompanied minor (in this Act referred to as a “provisional representative person”) until a representative person has been appointed.
- (2) Where a representative organisation has been appointed under *section 43(1)(b)*, the representative organisation shall, as soon as possible, and within the period referred to in *section 43(1)(b)*, appoint an individual to act as a representative (within the meaning of the EU acts) for the unaccompanied minor (in this Act referred to as a “representative person”).”.

[*Acceptance of this amendment involves the deletion of section 44 of the Bill.*]

- 107.** In page 51, after line 40, to insert the following:

- “(c) without prejudice to *paragraph (b)*, the representative organisation shall ensure that an individual appointed as a representative (within the meaning of the EU Acts) for the unaccompanied minor receives regular training for the performance of their tasks,
- (d) not appoint an individual to act as a provisional representative or as a representative person (within the meaning of the EU Acts) where that individual has a record of criminal offences concerning children.”.

—*Senators Nicole Ryan, Chris Andrews, Pauline Tully, Joanne Collins, Maria McCormack, Conor Murphy.*

SECTION 45

- \*108.** In page 52, line 6, to delete “*section 44(a)*” and substitute “*section 44(1)#*”.

[*#This is a reference to a section proposed to be inserted by amendment No. 106*]

- \*109.** In page 52, line 9, to delete “*section 44(a)*” and substitute “*section 44(1)#*”.

[*#This is a reference to a section proposed to be inserted by amendment No. 106*]

- \*110.** In page 52, line 11, to delete “*section 44(b)*” and substitute “*section 44(2)#*”.

[*#This is a reference to a section proposed to be inserted by amendment No. 106*]

[SECTION 45]

\*111. In page 52, line 13, to delete “*section 44(b)*” and substitute “*section 44(2)#*”.

[#*This is a reference to a section proposed to be inserted by amendment No. 106*]

SECTION 46

112. In page 52, between lines 13 and 14, to insert the following:

**“Minimum standards for representatives**

46. (1) The Minister shall ensure that any person appointed as a representative under this Chapter—

- (a) has been vetted in accordance with the National Vetting Bureau (Children and Vulnerable Persons) Acts 2012 to 2016,
- (b) has received training in child protection and safeguarding,
- (c) has received training in trauma-informed practice and cultural competency, and
- (d) possesses such qualifications or experience as are necessary to effectively represent the interests of an unaccompanied minor.

(2) The standards referred to in *subsection (1)* shall apply notwithstanding any regulations made under *section 50*.”.

—*Senators Nicole Ryan, Chris Andrews, Pauline Tully, Joanne Collins, Maria McCormack, Conor Murphy.*

\*113. In page 52, between lines 29 and 30, to insert the following:

“(b) ensure that the unaccompanied minor’s file is accessible to the provisional representative person or representative person, as the case may be,”.

114. In page 52, after line 41, to insert the following:

“(4) The Minister shall ensure that representatives are assigned caseloads that allow for the effective discharge of their functions under this Act, and shall not permit a representative to be assigned such number of unaccompanied minors as would undermine the welfare or best interests of any such minor.”.

—*Senators Nicole Ryan, Chris Andrews, Pauline Tully, Joanne Collins, Maria McCormack, Conor Murphy.*

\*115. In page 52, after line 41, to insert the following:

“(4) Any decision, determination, direction, information, notification, report, warning or document (howsoever described) required under this Act or the EU acts to be sent, provided, given or otherwise made available to an unaccompanied minor by any person shall also be sent, provided, given or otherwise made available to the provisional representative person or representative person designated or appointed, as the case may be, in respect of the unaccompanied minor.”.

SECTION 47

\*116. In page 52, after line 41, to insert the following:

**“Functions of provisional representative person and representative person**

47. (1) The functions of a provisional representative person or a representative person in respect of an unaccompanied minor in relation to whom he or she is designated or appointed shall be to represent, assist and act on behalf of the unaccompanied minor, as applicable, in order to safeguard the best interests and general well-being of the unaccompanied minor in a manner that enables the unaccompanied minor to benefit from his or her rights and to comply with his or her obligations under this Act or the EU acts.
- (2) Without prejudice to the generality of *subsection (1)*, for the purposes of performing their functions under this Act or the EU acts, a provisional representative person or a representative person shall, in respect of an unaccompanied minor in relation to whom he or she is designated or appointed, exercise, as required, and where appropriate together with the unaccompanied minor’s legal representative (if any), the following powers:
- (a) to meet with the unaccompanied minor and take into account the minor’s views regarding his or her needs where those views are relevant to the performance by the provisional representative person or the representative person of his or her functions in relation to that unaccompanied minor;
  - (b) to assist the unaccompanied minor in the provision of information that is relevant to the assessment of his or her best interests by the minor to any person for any purpose under this Act or the EU acts;
  - (c) where applicable, to provide the unaccompanied minor with information relevant to the procedures provided for in this Act or the EU acts and to assist the unaccompanied minor in understanding the information relevant to the procedures provided for in and under this Act or the EU acts;
  - (d) where applicable, to assist the unaccompanied minor in relation to the provision of biometric and other data under *section 15* including providing the minor with information relevant to the provision of the data;
  - (e) where applicable, to assist the unaccompanied minor in relation to screening procedures carried out in accordance with *Chapter 2 of Part 2*;
  - (f) where applicable, to assist the unaccompanied minor with an age assessment carried out in accordance with *Chapter 3*;
  - (g) where applicable, to assist the unaccompanied minor with the registration and lodgement of an application, or to register and lodge an application on behalf of the unaccompanied minor in accordance with *sections 37 and 38* and to submit elements and documents in accordance with *section 39*;
  - (h) where applicable, to assist with the preparation of, and be present for, the unaccompanied minor’s personal interview and to inform the unaccompanied minor about the purpose and possible consequences of the personal interview and

[SECTION 47]

about how to prepare for that interview;

- (i) where applicable, to assist the unaccompanied minor in relation to any measure applied in relation to the unaccompanied minor, or any related review or appeal, under *Part 5*;
  - (j) where applicable, to assist the unaccompanied minor in relation to procedures under the Asylum and Migration Management Regulation including preparing, and being present for, an Article 22 interview (within the meaning of *Chapter 2 of Part 4*) and appealing a transfer decision;
  - (k) where applicable, to assist the unaccompanied minor in relation to an appeal (within the meaning of *Part 6*) to the Tribunal, including preparing, and being present, for an oral hearing;
  - (l) where applicable, to support the unaccompanied minor in any engagement with family tracing procedures carried out in accordance with the Asylum Migration Management Regulation or the Reception Conditions Directive.
- (3) A provisional representative person or a representative person appointed in relation to an unaccompanied minor shall—
- (a) be independent in the performance of his or her functions,
  - (b) not have any interests that conflict, or potentially conflict, with the interests of the unaccompanied minor,
  - (c) subject to *section 49*, be appointed in respect of no more than 30 unaccompanied minors at any one time,
  - (d) have the necessary qualifications, training and expertise to perform the functions of a provisional representative person or representative person, as appropriate, and
  - (e) treat any information received in his or her capacity as a representative person or a provisional representative person as confidential and not disclose such information to any person except—
    - (i) for the purpose of the performance of his or her functions under this Act or the EU acts,
    - (ii) when required, by an order of a court of competent jurisdiction, to disclose the information in civil or criminal proceedings, or
    - (iii) where otherwise required to do so in accordance with any enactment.”.

[*Acceptance of this amendment involves the deletion of section 47 of the Bill.*]

[*#This is a reference to a Part proposed to be inserted by amendment No. 173*]

**117.** In page 53, between lines 28 and 29, to insert the following:

- “(i) where applicable, to support the detection of any child victim of trafficking and facilitate their referral to age-appropriate identification process and specialist

[SECTION 47]

support and accommodation.”.

—*Senators Alice-Mary Higgins, Lynn Ruane, Frances Black.*

SECTION 48

**\*118.** In page 54, to delete lines 10 to 16 and substitute the following:

“(a) in relation to a provisional representative person designated or appointed in respect of a relevant person and where the relevant person is an unaccompanied minor, a representative person is appointed for the relevant person.”.

**\*119.** In page 54, lines 17 to 19, to delete all words from and including “is” in line 17 down to and including “appointed” in line 19 and substitute “notifies the competent authority that it is satisfied that the relevant person”.

**\*120.** In page 54, to delete lines 24 to 31 and substitute the following:

“(c) the Determining Authority notifies the competent authority that the relevant person is a beneficiary of international protection, granted by the State or by a Member State other than the State, and a guardian has been appointed for the relevant person,

(d) the Determining Authority notifies the competent authority that the relevant person has ceased to be an applicant,

(e) the Determining Authority notifies the competent authority that the relevant person has left the State without the consent of the Minister,

(f) the relevant person is a minor and the Determining Authority notifies the competent authority that an accompanying family member has become responsible for him or her such that the Determining Authority is satisfied that the relevant person is no longer unaccompanied.”.

**\*121.** In page 54, line 34, to delete “person,” and substitute “person, or”.

**\*122.** In page 54, to delete lines 35 to 39 and substitute the following:

“(h) the designation or appointment of the provisional representative person or the appointment of the representative person is terminated by the competent authority in accordance with regulations made under *section 50*—

(i) because the provisional representative person or representative person has not adequately performed his or her functions under this Act or the EU acts,

(ii) on foot of a complaint that is made, and deemed to be well-founded, in accordance with regulations made under *section 50*, or

(iii) because the competent authority is no longer satisfied that the provisional representative person or representative person complies with the requirement set out in *paragraph (a) or (b) of section 47(3)*.”.

**\*123.** In page 55, to delete lines 1 to 3.

**\*124.** In page 55, between lines 3 and 4, to insert the following:

“(2) The designation or appointment of a representative organisation under *section 43(1)*

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(a) or 43(1)(b) in respect of a person (in this section referred to as a “relevant person”) shall cease on the earliest of the following occurring—

- (a) the individual appointed by the representative organisation under *section 44(1)#* or *44(2)#* has ceased being a provisional representative person or a representative person, as the case may be, for the relevant person concerned arising from one or more of the matters referred to in *paragraph (b), (c)##, (d)##, (e)##* or *(f)##* of *subsection (1)*,
  - (b) the competent authority notifies the representative organisation that the competent authority is no longer satisfied as to one or more of the matters specified in *paragraph (a), (b), (c), (d), (e)* or *(f)* of *section 43(3)*,
  - (c) the designation or appointment of a representative organisation is terminated on foot of a complaint that is made, and deemed to be well-founded, in accordance with regulations made under *section 50*, or
  - (d) the competent authority appoints a different representative organisation in accordance with *section 43(1)(b)* in respect of the relevant person concerned.
- (3) Where the designation or appointment of a representative organisation ceases under *paragraph (b), (c)* or *(d)* of *subsection (2)*, any appointment by the representative organisation of—
- (a) a provisional representative person under *section 44(1)#*, or
  - (b) a representative person under *section 44(2)#*,
- shall also cease.”.

[#This is a reference to a section proposed to be inserted by amendment No. 106]

[##This is a reference to paragraphs proposed to be inserted by amendment No. 120]

\*125. In page 55, line 5, to delete “*paragraph (g), (h) or (i)*” and substitute “*paragraph (g) or (h)#*”.

[#This is a reference to a paragraph proposed to be inserted by amendment No. 122]

\*126. In page 55, line 7, to delete “under” and substitute “in accordance with”.

\*127. In page 55, between lines 7 and 8, to insert the following:

“(3) Where the designation or appointment of a representative organisation ceases under *paragraph (b)* or *(c)* of *subsection (2)#*, the competent authority shall appoint a representative person under *section 43(1)(b)* in respect of a relevant person in relation to whom the representative organisation was designated or appointed, and *section 43(1)* shall apply as if the relevant person was the subject of a notification referred to in that section.”.

[#This is a reference to a subsection proposed to be inserted by amendment No. 124]

\*128. In page 55, line 8, after “*subsection (1)*” to insert “or *(3)#*”.

[#This is a reference to a section proposed to be inserted by amendment No. 124]

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SECTION 49

- \*129. In page 55, line 39, to delete “*section 43(3)(e)*” and substitute “*sections 43(3)(e) and 47(3)(c)*”.

[#This is a reference to a section proposed to be inserted by amendment No. 116]

SECTION 50

130. In page 56, line 15, after “standards,” to insert “including in relation to child trafficking.”

—*Senators Alice-Mary Higgins, Lynn Ruane, Frances Black.*

SECTION 51

131. In page 56, between lines 35 and 36, to insert the following:

**“Reporting to Oireachtas**

51. The Minister shall, not later than 12 months after the commencement of this Chapter and annually thereafter, lay before each House of the Oireachtas a report on—

- (a) the number of unaccompanied minors appointed a representative,
- (b) the time taken to make such appointments,
- (c) representative caseloads, and
- (d) any complaints made in respect of representatives and their outcomes.”

—*Senators Nicole Ryan, Chris Andrews, Pauline Tully, Joanne Collins, Maria McCormack, Conor Murphy.*

SECTION 52

132. In page 57, line 3, after “are” to insert “serious and substantiated”.

—*Senators Alice-Mary Higgins, Lynn Ruane, Frances Black.*

133. In page 57, to delete line 9.

—*Senators Alice-Mary Higgins, Lynn Ruane, Frances Black.*

134. In page 57, to delete line 12.

—*Senators Alice-Mary Higgins, Lynn Ruane, Frances Black.*

135. In page 57, to delete lines 22 to 24.

—*Senators Alice-Mary Higgins, Lynn Ruane, Frances Black.*

136. In page 57, line 25, to delete “persons” and substitute “medically qualified persons with experience and expertise in age estimation”.

—*Senators Alice-Mary Higgins, Lynn Ruane, Frances Black.*

137. In page 58, to delete line 12 and substitute the following:

“(6) An applicant shall be presumed to be a minor until an age assessment determines otherwise.

(7) The Determining Authority shall ensure that an applicant is informed, prior to the

[SECTION 52]

commencement of an age assessment, in an age-appropriate manner and in a language which the applicant may reasonably be supposed to understand, of:

- (a) the reasons for doubting their age;
- (b) the structure and timeframe of the age assessment process, including their opportunity to respond.”.

—*Senators Laura Harmon, Nessa Cosgrove, Malcolm Noonan, Patricia Stephenson.*

SECTION 53

- 138.** In page 58, line 13, after “shall” to insert “be carried out by qualified professionals from relevant disciplines and shall”.

—*Senators Nicole Ryan, Chris Andrews, Pauline Tully, Joanne Collins, Maria McCormack, Conor Murphy.*

- 139.** In page 58, line 33, to delete “sections 56, 57 and 59” and substitute “section 56,”.

—*Senators Alice-Mary Higgins, Lynn Ruane, Frances Black.*

- 140.** In page 58, to delete lines 38 to 40, and in page 59, to delete lines 1 and 2 and substitute the following:

“(c) where the result of the multi-disciplinary assessment undertaken in respect of the applicant is not conclusive, determine that the applicant is presumed to be a minor for the purposes of this Act.”.

—*Senators Alice-Mary Higgins, Lynn Ruane, Frances Black.*

- \*141.** In page 58, line 40, to delete “section 53” and substitute “section 54”.

SECTION 54

- 142.** In page 60, line 3, to delete “consistent with the need to achieve a reliable result,”.

—*Senators Laura Harmon, Nessa Cosgrove, Malcolm Noonan, Patricia Stephenson.*

- 143.** In page 60, to delete line 5.

—*Senators Laura Harmon, Nessa Cosgrove, Malcolm Noonan, Patricia Stephenson.*

- 144.** In page 60, lines 6 and 7, to delete all words from and including “a” in line 6, down to and including line 7 and substitute “qualified medical professionals with experience and expertise in age estimation.”.

—*Senators Laura Harmon, Nessa Cosgrove, Malcolm Noonan, Patricia Stephenson.*

*Section opposed.*

—*Senators Alice-Mary Higgins, Lynn Ruane, Frances Black.*

SECTION 55

- 145.** In page 61, line 25, after “applicant” to insert “and the applicant’s legal representative”.

—*Senators Nicole Ryan, Chris Andrews, Pauline Tully, Joanne Collins, Maria McCormack, Conor Murphy.*

[SECTION 56]

SECTION 56

146. In page 62, line 22, to delete “*sections 57 and*” and substitute “*section*”.

—*Senators Alice-Mary Higgins, Lynn Ruane, Frances Black.*

147. In page 62, to delete lines 35 to 38.

—*Senators Alice-Mary Higgins, Lynn Ruane, Frances Black.*

*Section opposed.*

—*Senators Alice-Mary Higgins, Lynn Ruane, Frances Black.*

SECTION 57

*Section opposed.*

—*Senators Alice-Mary Higgins, Lynn Ruane, Frances Black.*

SECTION 60

148. In page 63, between lines 30 and 31, to insert the following:

**“Separate accommodation for age disputed applicants**

60. (1) Where there is doubt as to whether an applicant is under the age of 18 years and an age assessment has been initiated under this Chapter, the Minister shall ensure that, pending the completion of that assessment, the applicant—

- (a) is not accommodated in residential care or other accommodation designated exclusively for confirmed minors, and
- (b) is provided with accommodation that is appropriate, safe and suitable having regard to the applicant’s welfare, dignity and any identified vulnerabilities.

(2) Accommodation provided under *subsection (1)(b)* shall—

- (a) not be of a penal or detention like nature,
- (b) include access to appropriate supports, including medical, psychological and welfare supports, and
- (c) ensure that the applicant is not exposed to a heightened risk of harm, exploitation or neglect.

(3) Nothing in this section shall be construed as—

- (a) treating the applicant as an adult for the purposes of this Act, or
- (b) limiting the application of the presumption of minority pending the completion of an age assessment.

(4) Upon a determination that the applicant is under the age of 18 years, the applicant shall be transferred without delay to accommodation appropriate for a child.”

—*Senators Nicole Ryan, Chris Andrews, Pauline Tully, Joanne Collins, Maria McCormack, Conor Murphy.*

[SECTION 60]

149. In page 63, between lines 30 and 31, to insert the following:

**“Prohibition on use of for profit providers in care of separated children seeking international protection**

60. (1) The Child and Family Agency (Tusla) shall not enter into, renew or extend any contract, arrangement, or agreement with a private for profit provider for the provision of accommodation, care, supervision, or support services to separated children seeking international protection.

(2) For the purposes of this section—

“care or support services” includes accommodation, residential care, social care, aftercare, and any ancillary services provided to separated children;

“for profit provider” means any natural or legal person whose primary purpose is the generation of profit for owners, shareholders, or investors;

“separated child” means a person under the age of 18 who is seeking international protection and who is not accompanied by a parent or guardian.

(3) Tusla shall ensure that all services provided to separated children seeking international protection are delivered by—

(a) Tusla directly,

(b) non-profit organisations, or

(c) public bodies or publicly funded entities.

(4) Any existing arrangement with a for profit provider relating to the care of separated children shall not be renewed or extended after the commencement of this section.

(5) A contract or arrangement entered into in contravention of this section shall be void and unenforceable.”.

—*Senators Nicole Ryan, Chris Andrews, Pauline Tully, Joanne Collins, Maria McCormack, Conor Murphy.*

150. In page 63, between lines 30 and 31, to insert the following:

**“False claims of minority**

60. (1) A person who knowingly or recklessly represents themselves to be a child or an unaccompanied minor for the purposes of this Act, where that person is not in fact a child, shall be guilty of an offence.

(2) A person shall not be guilty of an offence under *subsection (1)* where—

(a) the person’s age is uncertain or disputed, and

(b) the person has not yet been assessed in accordance with an age-assessment procedure provided for under this Act or otherwise in law.

(3) A person who knowingly assists, encourages or facilitates another person to falsely

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claim to be a child or an unaccompanied minor for the purposes of this Act shall be guilty of an offence.

- (4) *Subsection (3)* shall not apply to—
- (a) a representative appointed under this Chapter,
  - (b) a legal practitioner,
  - (c) a social worker, medical practitioner or other relevant professional, or
  - (d) an employee or agent of a body providing support services,
- where that person acts in good faith and on the basis of information reasonably available to them at the time.
- (5) A person guilty of an offence under this section shall be liable—
- (a) on summary conviction, to a class A fine or imprisonment for a term not exceeding 6 months, or both, or
  - (b) on conviction on indictment, to a fine or imprisonment for a term not exceeding 2 years, or both.
- (6) Proceedings for an offence under this section shall not be instituted except by or with the consent of the Director of Public Prosecutions.
- (7) In this section, “recklessly” means acting with disregard as to whether the representation made is false.”.

—*Senators Nicole Ryan, Chris Andrews, Pauline Tully, Joanne Collins, Maria McCormack, Conor Murphy.*

- 151.** In page 63, line 36, after “*section 52(3)(c)(i)*,” to insert “including trafficking expertise and training,”.

—*Senators Alice-Mary Higgins, Lynn Ruane, Frances Black.*

- 152.** In page 64, to delete lines 1 to 8.

—*Senators Alice-Mary Higgins, Lynn Ruane, Frances Black.*

SECTION 61

- 153.** In page 64, between lines 27 and 28, to insert the following:

“(d) be notified that failure to comply with any condition in *paragraph (c)* may constitute grounds for implicit withdrawal under *section 67*.”.

—*Senator Sharon Keogan.*

SECTION 67

- 154.** In page 68, between lines 11 and 12, to insert the following:

“(h) the applicant, without justified cause, fails to comply with a direction under *section 22(2)* or a requirement under *section 23*;

(i) the applicant refuses to provide, or to enable access to, documents or electronic data as required under *section 30*;

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- (j) the applicant fails, without justified cause, to comply with any condition imposed under *section 61(2)(c)*, including any failure to comply with a reporting requirement imposed under *section 61(2)(c)*;
- (k) the applicant fails, without justified cause, to submit elements and documents within the timeframe specified in *section 39(3)*;
- (l) the applicant refuses to provide biometric data as required under *sections 15 or 16*;
- (m) the applicant provides an address which is false, fictitious, or at which he or she cannot be contacted for a period of 72 hours, unless due to circumstances beyond his or her control.”.

—*Senator Sharon Keogan.*

**155.** In page 68, between lines 18 and 19, to insert the following:

“(4) A declaration under this section shall be notified forthwith to the Minister for the purposes of *Part 9* and shall be treated as a withdrawal without justification.”.

—*Senator Sharon Keogan.*

SECTION 69

**\*156.** In page 69, between lines 13 and 14, to insert the following:

“PART 4

RECEPTION CONDITIONS

CHAPTER 1

*Definitions and application*

**Definitions (*Part 4*)**

**69.** In this Part—

“accommodation centre” means any place in which applicants are collectively housed in accommodation allocated under *section 72#*;

“clothing allowance” means the clothing provided to an applicant by way of supplementary welfare allowance under section 201 of the Social Welfare Consolidation Act 2005;

“daily expenses allowance” means that part of the material reception conditions that constitutes a weekly payment made, under a scheme administered by the Minister for Social Protection, to an applicant in order for the applicant to meet incidental personal expenses;

“family member”, in relation to an applicant, means the following persons who were members of the applicant’s family before the applicant arrived on the territory of the Member States and who are present in the State during the procedure for international

[SECTION 69]

protection:

- (a) the spouse or civil partner of the applicant or the applicant's unmarried partner in a stable relationship;
- (b) the minor children of the couple referred to in *paragraph (a)* or of the applicant;
- (c) the unmarried adult dependent children of the couple referred to in *paragraph (a)* or of the applicant;
- (d) where the applicant is a minor—
  - (i) the applicant's father or mother or another adult responsible under law for the applicant, including an adult sibling of the minor, and
  - (ii) the minor children of the applicant's father or mother;

“house rules” means the house rules made under *section 79*##;

“material reception conditions” means—

- (a) accommodation, food, personal hygiene products and associated benefits provided in kind,
- (b) a daily expenses allowance, and
- (c) the clothing allowance.”.

[#This is a reference to a section proposed to be inserted by amendment No. 159]

[##This is a reference to a section proposed to be inserted by amendment No. 166]

SECTION 69

\*157. In page 69, between lines 13 and 14, to insert the following:

**“Application of Part 4#**

70. (1) Subject to *subsections (2) and (3) and subsections (1) and (3) of section 74*##, *Chapter 2* shall apply to a person who is present on the territory of the State and is—

- (a) an applicant, provided that the person—
  - (i) is not the subject of a transfer decision under *Part 4* or, where so subject, has made a request to remain under *section 83* that has yet to be determined or has made such a request and been granted the right to remain in the State under that section, or
  - (ii) is not the subject of a return decision that is in effect under *Part 9*,or
- (b) where the person is not an applicant under this Act, a person who has made an application under section 15 of the Act of 2015, provided that the person—
  - (i) has not ceased to be an applicant within the meaning of the Act of 2015,
  - (ii) has not received a determination under section 21(11) of the Act of 2015, or

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- (iii) has not been refused consent under section 22(15) of the Act of 2015.
- (2) *Section 75####* shall not apply to an applicant who has been notified that he or she is the subject of a transfer decision under *section 81*.
- (3) *Subsections (1) to (6) of section 76#####* shall apply to an applicant notwithstanding that the applicant is the subject of a transfer decision under *Part 4*.
- (4) *Chapter 3#####* shall apply to a person referred to in *subsection (1)* who is required to be present in the State in accordance with Article 17(4) of the Asylum and Migration Management Regulation.
- (5) References in this Part to an “applicant” shall be construed in accordance with this section.”.

[#This is a reference to a Part proposed to be inserted by amendment No. 156]

[##This is a reference to a section proposed to be inserted by amendment No. 161]

[###This is a reference to a section proposed to be inserted by amendment No. 162]

[####This is a reference to a section proposed to be inserted by amendment No. 163]

[#####This is a reference to a Chapter proposed to be inserted by amendment No. 168]

\*158. In page 69, between lines 13 and 14, to insert the following:

“CHAPTER 2

Material reception conditions

“**Provision of material reception conditions**

71. (1) Subject to this Part, an applicant shall be entitled to receive material reception conditions under this Chapter where the applicant does not have sufficient means to have an adequate standard of living without receiving such conditions.
- (2) The Minister shall make material reception conditions (other than the daily expenses allowance and the clothing allowance) available to the applicant at the accommodation allocated to the applicant under *section 72#* provided that the applicant resides in the accommodation.
- (3) The Minister for Social Protection shall make the daily expenses allowance and, where necessary, a clothing allowance available to the applicant provided that the applicant resides in the accommodation allocated to the applicant under *section 72#*.
- (4) The Minister, in consultation with the Minister for Social Protection, shall ensure that the material reception conditions provided to the applicant in accordance with their respective functions under *subsections (2) and (3)* provide an adequate standard of living for the applicant in accordance with Article 19(2) of the Reception Conditions Directive.
- (5) The Minister shall ensure that the requirements of *subsections (2), (3) and (4)* are also met in respect of—
- (a) applicants assessed as having special reception needs under *section 77##*, and

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- (b) applicants held in detention under *Part 5###*.
- (6) Following consultation with the Minister for Social Protection, the Minister may by regulations do one or more than one of the following:
  - (a) provide that material reception conditions or specified material reception conditions are to be available to an applicant only where the applicant does not have sufficient financial means to have an adequate standard of living as referred to in *subsection (1)*;
  - (b) require an applicant to cover or contribute to the cost of the material reception conditions which the applicant receives where the applicant has sufficient means to do so;
  - (c) where it transpires that an applicant had sufficient financial means to cover the cost of the material reception conditions received at the time the applicant was provided with such conditions, require the applicant to refund the cost of those conditions to the State;
  - (d) in so far as it is necessary and proportionate for the purposes of this subsection, impose requirements on an applicant to share details of the applicant's financial means with the Minister and the Minister for Social Protection in such form and manner and in such circumstances as may be prescribed;
  - (e) in so far as is necessary and proportionate for the purposes of this subsection, impose requirements on an employer of an applicant, the Minister for Social Protection and the Revenue Commissioners to share with the Minister details of payments received by the applicant in such form and manner and in such circumstances as may be prescribed.
- (7) Regulations under *subsection (6)* shall ensure that—
  - (a) the principle of proportionality is respected,
  - (b) the applicant's individual circumstances are taken into account,
  - (c) the need to respect the applicant's dignity or personal integrity is taken into account, and
  - (d) the applicant's special reception needs (if any) are taken into account.
- (8) The Minister or the Minister for Social Protection may provide the material reception conditions, or particular material reception conditions, as a financial allowance or vouchers or a combination of these.
- (9) The Minister, following consultation with the Minister for Social Protection, may make such regulations as the Minister considers necessary in order to—
  - (a) arrange for the provision of material reception conditions to applicants, and
  - (b) arrange for the giving of financial allowances or vouchers or a combination of these to applicants instead of any or all of the material reception conditions.
- (10) The entitlement of an applicant to material reception conditions under this Chapter shall not apply to an unaccompanied minor being provided with such conditions by or

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on behalf of the Child and Family Agency.”.

[#This is a reference to a section proposed to be inserted by amendment No. 159]

[##This is a reference to a section proposed to be inserted by amendment No. 164]

[###This is a reference to a Part proposed to be inserted by amendment No. 173]

\*159. In page 69, between lines 13 and 14, to insert the following:

**“Allocation of accommodation**

72. (1) The Minister may allocate accommodation within the State to an applicant.
- (2) The Minister may, where the Minister considers it necessary to do so, allocate accommodation to an applicant that is different to the accommodation previously allocated by the Minister to the applicant and shall ensure that the applicant has the opportunity to inform the applicant’s legal representative or legal counselling service (if any) of the address of the new accommodation.
- (3) Other than where an applicant is detained under *Part 5#*, an applicant may choose to reside at the accommodation allocated to the applicant under this section or, subject to *Part 5#*, elsewhere in the State.
- (4) The Minister may by regulations provide for the putting in place of mechanisms for the purpose of verifying whether an applicant is residing at accommodation allocated to the applicant under this section for the purpose of *subsection (2) or (3) of section 71##* and such regulations may provide for all or any of the following:
- (a) mechanisms by which the person in charge of an accommodation centre or an officer of the Minister may verify whether the applicant is residing in the accommodation;
  - (b) mechanisms, including electronic mechanisms, by which the applicant may confirm that he or she is residing in the accommodation, including verification of the applicant’s identity by use of an identity card, password, or such personal data (within the meaning of the Data Protection Regulation) as may be prescribed;
  - (c) the processing (within the meaning of the Data Protection Regulation) of personal data for the purposes of verifying the identity of the applicant;
  - (d) suitable and specific measures to be taken to safeguard the fundamental rights and freedoms of data subjects in processing the data (which may include, in particular, the measures referred to in section 36(1) of the Data Protection Act 2018).
- (5) The Minister shall have regard to the following matters when allocating accommodation to an applicant:
- (a) where family members of the applicant are applicants and are present in the State, the maintenance, with the agreement of the applicant and the family member concerned, of family unity;
  - (b) gender and age-specific concerns;

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- (c) the special reception needs of the applicant (if any);
  - (d) where relevant, the efficient consideration of the applicant's application;
  - (e) the need to ensure, in so far as possible, the prevention of assault and violence including violence committed with a sexual, gender, racist or religious motive.
- (6) In allocating accommodation to a minor, the Minister shall ensure that the minor is accommodated with the minor's parents or with the adult responsible under law for the minor and the minor's unmarried minor siblings, provided it is in the best interests of the minor.
- (7) The Minister may, exceptionally and subject to *subsection (8)*, provide material reception conditions to an applicant that are different to those provided for in this section where—
- (a) an assessment of an applicant's needs is required to be carried out under *section 77####*, or
  - (b) the accommodation otherwise normally available for allocation to an applicant is temporarily exhausted and the contingency plan for the time being in place under *section 222* is activated.
- (8) The provision of material reception conditions in accordance with *subsection (7)* shall—
- (a) be for as short a period as possible,
  - (b) ensure the applicant has access to health care in accordance with *section 76####*, and
  - (c) be in accordance with Article 20(10) of the Reception Conditions Directive.
- (9) Where an applicant is availing of material reception conditions in an accommodation centre—
- (a) the applicant shall be afforded sufficient facilities within the accommodation centre to ensure that the applicant can communicate with the applicant's relatives or legal representatives, persons providing legal counselling, representatives of the High Commissioner and other relevant national, international and non-governmental organisations or bodies, and
  - (b) subject to *subsection (10)*, family members and legal representatives of the applicant, persons providing legal counselling, representatives of the High Commissioner and other relevant non-governmental organisations shall have access to the accommodation centre in order to assist the applicant.
- (10) The right of access referred to in *subsection (9)(b)* may be limited only on grounds relating to the security of the accommodation centre and of applicants.
- (11) Where accommodation is allocated to an applicant, the Minister shall, without delay, inform the applicant in writing, in a language that the applicant understands or may reasonably be supposed to understand, of—
- (a) the applicant's obligations under the house rules of the accommodation, and the

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consequences of non-compliance with the house rules, and

- (b) the contact details of the office of the Legal Aid Board and the Health Service Executive that services the area in which the accommodation is located.”.

[#This is a reference to a Part proposed to be inserted by amendment No. 173]

[##This is a reference to a section proposed to be inserted by amendment No. 158]

[###This is a reference to a section proposed to be inserted by amendment No. 164]

[####This is a reference to a section proposed to be inserted by amendment No. 163]

\*160. In page 69, between lines 13 and 14, to insert the following:

**“Reception needs of minors**

73. (1) This section shall apply to an applicant who is a minor.
- (2) In the application of this Part to minors referred to in *subsection (1)*, the best interests of the child shall be a primary consideration.
  - (3) In assessing the best interests of a child, due account shall be taken of the following:
    - (a) family reunification possibilities;
    - (b) the minor’s well-being and social development, taking into account the minor’s background and the need for stability and continuity in care;
    - (c) safety and security considerations, in particular where there is a risk of the minor being a victim of any form of violence or exploitation, including trafficking in human beings;
    - (d) the views of the minor in accordance with the minor’s age and maturity.
  - (4) The Minister shall ensure that minors referred to in *subsection (1)*, where residing in accommodation in an accommodation centre allocated under this Chapter, have access to—
    - (a) leisure activities, including play and recreational activities appropriate to their age, and
    - (b) open-air activities within the accommodation centre.
  - (5) The Minister, Minister for Children, Disability and Equality, the Minister for Health and the Health Service Executive shall, in accordance with the respective functions of each and having regard to any special reception needs of a minor referred to in *subsection (1)*, ensure access to rehabilitation services for such a minor who has been a victim of any form of abuse, neglect, exploitation, torture or cruel, inhuman and degrading treatment, or who has suffered from armed conflict and shall ensure that appropriate mental health care and counselling is provided to the minor where required.
  - (6) Persons working with minors referred to in *subsection (1)* shall—
    - (a) have, and continue to receive, appropriate training concerning the rights and needs of minors, including those relating to any applicable child safeguarding

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standards, and

- (b) treat any information received in working with such minors as confidential and not disclose it to any person other than—
  - (i) for the purpose of the performance of functions under this Act or the EU acts,
  - (ii) when required, by order of a court of competent jurisdiction, to disclose the information in civil or criminal proceedings, or
  - (iii) where otherwise required to do so in accordance with any enactment.”.

\*161. In page 69, between lines 13 and 14, to insert the following:

**“Schooling and education for minors**

74. (1) Notwithstanding *subparagraphs (i) and (ii) of paragraph (a) and subparagraphs (i) to (iii) of paragraph (b) of section 70(1)#* and subject to *subsection (3)*, this section shall apply to a minor who is present on the territory of the State who is an applicant.
- (2) Subject to *subsection (6)*, a minor referred to in *subsection (1)* shall be given access to primary and post-primary education, support services and school materials in the like manner and to the like extent in all respects as an Irish citizen.
- (3) Access given in accordance with *subsection (2) or (6)* shall not be withdrawn from a minor referred to in *subsection (1)* solely because the minor ceases to be—
- (a) an applicant, or
  - (b) a minor.
- (4) Access referred to in *subsection (2)* shall be given, taking into account school holidays—
- (a) in the case of an applicant within the meaning of the Act of 2015, within two months of the application concerned being received by the Minister under section 15 of the Act of 2015, and
  - (b) in any other case, within two months of the lodging of the application concerned in accordance with *section 38*.
- (5) The Minister for Education and Youth shall ensure that a minor referred to in *subsection (1)* is provided with such support services and language supports as are necessary to facilitate the minor’s access to, and participation in, education referred to in this section.
- (6) Where access to the general education system is not possible due to the specific situation of a minor referred to in *subsection (1)*, the Minister for Education and Youth may make alternative arrangements for the education of that minor provided that such alternative arrangements—
- (a) ensure that the standard and quality of education provided is equivalent to that provided to a person who has not attained the age of 18 years and is an Irish citizen, and

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(b) ensure that the minor accessing education under alternative arrangements is provided with such support services and language supports as are necessary to facilitate access to, and participation in, the education provided under those arrangements.

(7) In this section, “support services” means support services within the meaning of the Education Act 1998.”.

[#This is a reference to a section proposed to be inserted by amendment No. 157]

\*162. In page 69, between lines 13 and 14, to insert the following:

**“Language courses and vocational training**

75. (1) The Minister and the Minister for Further and Higher Education, Research, Innovation and Science, shall make arrangements to ensure that applicants have access to courses that each Minister, in accordance with the respective functions of each, considers appropriate in order to help enhance applicants’ ability to—

- (a) act autonomously,
- (b) interact with competent authorities, or
- (c) find employment.

(2) Without prejudice to the generality of *subsection (1)*, the courses referred to in that subsection may include language courses, civic education courses and vocational training courses.

(3) Where an applicant is considered to have sufficient means, the Minister or the Minister for Further and Higher Education, Research, Innovation and Science, as the case may be, may require the applicant to cover or contribute to the cost of a course to which the applicant has access under arrangements referred to in *subsection (1)*.”.

\*163. In page 69, between lines 13 and 14, to insert the following:

**“Health care**

76. (1) The Minister for Health shall ensure that an applicant has access to such health care as is necessary, including—

- (a) emergency health care,
- (b) such health care as is necessary for the essential treatment of illnesses, including of serious mental disorders,
- (c) sexual and reproductive health care which is essential to address a serious physical condition, and
- (d) such other health care as is necessary to protect the applicant’s physical and mental health.

(2) The Minister for Health shall ensure that an applicant who is a minor has access to health care in the like manner and to the like extent in all respects as a person who has

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not attained the age of 18 years and is an Irish citizen.

- (3) Where an applicant who is a minor starts specific treatment in accordance with this section before attaining the age of 18 years and the treatment is considered to be necessary, such treatment shall be continued without interruption or delay after the applicant reaches the age of 18 years for so long as is necessary and for so long as the applicant remains on the territory of the State.
- (4) Where an applicant has been assessed as having special reception needs under *Part 2* or *section 77#*, the Minister for Health shall ensure, having regard to those needs, that the applicant has access to—
  - (a) such mental health care as is appropriate, and
  - (b) where needed for medical reasons, such medical or other assistance as is appropriate and such rehabilitation or assistive device as is necessary.
- (5) The Minister for Health shall ensure that the health care received in accordance with this section is in accordance with Article 19(2) of the Reception Conditions Directive.
- (6) The Minister and the Minister for Health shall ensure that the requirements of *subsection (5)* are also met in respect of—
  - (a) applicants assessed as having special reception needs under *Part 2* or *section 77#*, and
  - (b) applicants held in detention under this Act.
- (7) Subject to *subsection (8)*, following consultation with the Minister, the Minister for Health may by regulations do one or more than one of the following:
  - (a) require an applicant to cover or contribute to the cost of the health care where the applicant has sufficient means to do so;
  - (b) where it transpires that an applicant had sufficient means to cover the cost of health care received in accordance with this section at the time the applicant was provided with that healthcare, require that the applicant refund the cost of the health care to the State;
  - (c) in so far as is necessary and proportionate for the purposes of this subsection, impose requirements on an applicant to share details of the applicant's financial means with the Minister and the Minister for Health in such form and manner and in such circumstances as may be prescribed;
  - (d) in so far as is necessary and proportionate for the purposes of this subsection, impose requirements on an employer of an applicant, the Minister for Social Protection or the Revenue Commissioners to share details of payments an applicant received while an applicant with the Minister and the Minister for Health in such form and manner and in such circumstances as may be prescribed.
- (8) The Minister may only require an applicant to cover or contribute to the cost of the health care received under this section where the health care provided is not provided free of charge to Irish citizens.

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- (9) Regulations under *subsection (7)* shall ensure that any measures requiring an applicant to fund or refund the cost of health care to the State—
- (a) respect the principle of proportionality,
  - (b) take into account the individual circumstances of the applicant,
  - (c) take into account the need to respect the applicant’s dignity or personal integrity, and
  - (d) take into account the applicant’s special reception needs.
- (10) An applicant who has been notified of a decision to transfer him or her to another Member State in accordance with *Part 4* shall not be entitled to avail of the entitlements under, or be subject to the requirements of, *subsection (7), (8) or (9)*.
- (11) Persons providing necessary medical and psychological treatment and care to applicants who have been subjected to trafficking in human beings, torture, rape or other serious acts of psychological, physical or sexual violence shall—
- (a) have, and continue to receive, appropriate training concerning the needs of such applicants and appropriate treatments for such applicants, and
  - (b) treat any information received in working with such applicants as confidential and not disclose it to any person other than—
    - (i) for the purpose of the performance of functions under this Act or the EU acts,
    - (ii) when required, by order of a court of competent jurisdiction, to disclose the information in civil or criminal proceedings, or
    - (iii) where otherwise required to do so in accordance with any enactment.”.

[#This is a reference to a section proposed to be inserted by amendment No. 164]

\*164. In page 69, between lines 13 and 14, to insert the following:

**“Assessment of special reception needs**

77. (1) The Minister shall, as soon as practicable, and not later than 30 working days, after an application is made or deemed to have been made under *Part 3* or an indication is given under paragraph (a), (b) or (c) of section 13(1) of the Act of 2015, individually assess—
- (a) whether the applicant has special reception needs, and
  - (b) if so, the nature of those special reception needs.
- (2) Where necessary for the purposes of ensuring appropriate communication during the assessment under *subsection (1)*, the applicant shall be provided with the services of an interpreter.
- (3) The assessment under *subsection (1)* may be integrated with the assessment referred to in Article 20 of the Asylum Procedures Regulation.

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- (4) Where *subsection (3)* applies, the assessment under *subsection (1)* must be continued after the application is lodged under *section 38*, taking into account any information in the applicant's file.
- (5) Notwithstanding the period referred to in *subsection (1)*, where the Minister considers it necessary to do so, the Minister may at any stage after the expiry of that period, individually assess—
  - (a) whether an applicant has special reception needs, and
  - (b) if so, the nature of the applicant's special reception needs.
- (6) The Minister for Health and the Health Service Executive shall provide the Minister with such assistance as is necessary for the performance by the Minister of the Minister's functions under this section.
- (7) The Minister shall ensure that a person carrying out an assessment under this section—
  - (a) is trained to detect signs that an applicant has special reception needs,
  - (b) is trained to identify measures to address those special reception needs when identified, and
  - (c) attends training where necessary in order to ensure that the person remains sufficiently qualified to detect and identify measures to address the special reception needs of an applicant.
- (8) An assessment under *subsection (1)* shall be initiated by identifying special reception needs based on one or more than one of the following indicators:
  - (a) visible signs from the applicant that the applicant may have special reception needs;
  - (b) the applicant's statements;
  - (c) the applicant's behaviour;
  - (d) where the applicant is a minor:
    - (i) where applicable, statements from the minor's parents or the adult taking responsibility for the minor;
    - (ii) where designated or appointed, as the case may be, statements from the representative person or the provisional representative person of the minor;
    - (iii) the statements and views of the minor in accordance with the minor's age or maturity.
- (9) When assessing under this section whether an applicant may have special reception needs, the assessment shall take into consideration that the following categories of applicants are more likely to have special reception needs:
  - (a) minors;
  - (b) unaccompanied minors;

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- (c) persons with disabilities;
  - (d) elderly persons;
  - (e) pregnant women;
  - (f) lesbian, gay, bisexual, transgender and intersex persons;
  - (g) single parents with minor children;
  - (h) victims of trafficking in human beings;
  - (i) persons with serious illnesses;
  - (j) persons with mental disorders, including post-traumatic stress disorder;
  - (k) persons who have been subjected to torture, rape or other serious forms of psychological, physical or sexual violence, victims of gender-based violence, of female genital mutilation, of child or forced marriage, or of violence committed with a sexual, gender, racist or religious motive.
- (10) Where the applicant has been assessed as having special reception needs, the following information shall be included in the applicant's file:
- (a) the nature of the applicant's special reception needs;
  - (b) a description of the visible signs or the applicant's statements or behaviour relevant for the assessment of the applicant's special reception needs;
  - (c) measures that have been identified to address those needs;
  - (d) the authorities responsible for addressing those needs.
- (11) Where there are indications that the mental or physical health of the applicant could affect the applicant's reception needs, the person assessing the special reception needs of the applicant under this section shall, subject to the prior consent of the applicant, refer the applicant to an appropriate registered medical practitioner or psychologist (within the meaning of the Health and Social Care Professionals Act 2005) for further assessment.
- (12) The Minister shall take into account the result of the assessment under this section when deciding on the type of special reception support which may be provided to the applicant and shall make arrangements for the provision of such support.
- (13) Where necessary for the purposes of ensuring appropriate communications with the registered medical practitioner or psychologist following a referral in accordance with *subsection (11)*, the applicant shall be provided with the services of an interpreter to ensure that the applicant can communicate with the registered medical practitioner, psychologist or other medical staff.
- (14) Where the lack of an interpreter would risk delaying treatment by a registered medical practitioner or psychologist, an oral translation may, subject to the applicant's consent, be provided by other persons who have attained the age of 18 years.”.

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*Amendment to Amendment No. 164*

I. In section 77, after subsection (5)(b), to insert the following:

“(6) Where special reception needs become apparent at a later stage in the procedure for international protection, the Minister shall assess and address those needs.”.

—*Senators Laura Harmon, Nessa Cosgrove, Malcolm Noonan, Patricia Stephenson.*

\*165. In page 69, between lines 13 and 14, to insert the following:

**“Provision of information to applicants**

78. (1) Without prejudice to *section 26*, the Minister shall, within 3 days from the date on which the application concerned is made or deemed to have been made under *Part 3* or an indication is made under paragraph (a), (b) or (c) of section 13(1) of the Act of 2015, inform the applicant of—

- (a) the material reception conditions to which the applicant is entitled,
- (b) the rights and obligations of the applicant under this Part,
- (c) the contact details of any organisations or groups of persons that, in the opinion of the Minister, may be able to help or inform an applicant in relation to the material reception conditions and health care to which the applicant is entitled, and
- (d) the contact details of any organisations or groups of persons that provide specific legal assistance and representation, including free of charge, or of any organisations or groups of people that, in the opinion of the Minister, may be able to help or inform an applicant in relation to the legal assistance or legal representation to which the applicant is entitled.

(2) Subject to *subsections (4) and (5)*, the information provided under *subsection (1)* shall—

- (a) be in writing and in a concise, transparent, intelligible and easily accessible form, using clear and plain language,
- (b) be in a language that the applicant understands or is reasonably supposed to understand, and
- (c) be based on the template developed for that purpose by the Asylum Agency (if any).

(3) Where the Minister considers it necessary, the information referred to in *subsection (1)* shall be adapted to the applicant’s needs and shall also be provided orally or, where appropriate, in a visual form, including in the form of a video or pictogram.

(4) Where the applicant is an unaccompanied minor, the information provided under *subsection (1)* shall be provided by the Child and Family Agency—

- (a) in an age-appropriate manner,
- (b) in a manner that ensures that the unaccompanied minor understands it,

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- (c) using material specifically adapted to minors where appropriate, and
  - (d) in the presence of the minor's representative person or provisional representative person.
- (5) In exceptional cases, the information required to be provided under this section shall be provided to the applicant by means of an oral translation or, where appropriate in a visual form, including by means of videos or pictograms where—
- (a) the information cannot be provided in writing within the period referred to in *subsection (1)* because the language that an applicant understands or is reasonably supposed to understand is a rare language, and
  - (b) the applicant subsequently confirms that the applicant understands the information provided.
- (6) Where the circumstances in *subsection (5)* apply, the Minister shall provide the applicant with the information in writing in the language concerned as soon as practicable thereafter, other than where it is clear, in the opinion of the Minister, that the provision of such information is no longer necessary.”.

\*166. In page 69, between lines 13 and 14, to insert the following:

**“House rules**

79. (1) The Minister may make rules in relation to accommodation allocated for the housing of applicants under *section 72#* (in this Part referred to as “house rules”) to be complied with by applicants allocated the accommodation and visitors to the accommodation.
- (2) Without prejudice to the generality of *subsection (1)*, house rules may relate to—
- (a) the conduct of residents,
  - (b) arrangements to facilitate the communication referred to in *section 72(9)(a)#* and access referred to in *section 72(9)(b)#*, including any limitations related to security of the accommodation and of applicants,
  - (c) the operation of an accommodation centre,
  - (d) the provision of a safe place in an accommodation centre for female residents and the minor children of female residents, and
  - (e) the provision of separate sanitary facilities for male and female residents of an accommodation centre.
- (3) The Minister shall have regard to the following objectives in making house rules:
- (a) the need to ensure the quiet and peaceful enjoyment by persons of the facilities available in the accommodation;
  - (b) ensuring the security of the accommodation;
  - (c) the prohibition on violence and aggression by a person towards an applicant availing of accommodation in an accommodation centre, a member of staff of an

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accommodation centre or any other person attending an accommodation centre.

- (4) The Minister shall cause house rules to be—
- (a) made available on a website maintained by or on behalf of the Minister or the Government, and
  - (b) provided to a resident as soon as possible and no later than 3 days after the allocation of the accommodation to the resident.”.

[#This is a reference to a section proposed to be inserted by amendment No. 159]

\*167. In page 69, between lines 13 and 14, to insert the following:

**“Travel documents for applicants**

80. (1) The Minister may, following an application by an applicant, issue a travel document to the applicant where there are serious humanitarian reasons or other imperative reasons that require the applicant’s presence in another state.
- (2) A travel document issued under *subsection (1)* shall be limited to the purpose and duration necessary for the reason for which it is issued.”.

\*168. In page 69, between lines 13 and 14, to insert the following:

“CHAPTER 3

*Reduction or withdrawal of material reception conditions*

**Definitions**

81. In this Chapter—

“material reception benefits” means accommodation, food, personal hygiene products and associated benefits in kind, and

“*section 82# decision*” means a decision under *subsection (1)* or *(2)* of *section 82#*.”.

[#This is a reference to a section proposed to be inserted by amendment No. 169.]

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\*169. In page 69, between lines 13 and 14, to insert the following:

**“Reduction or withdrawal of material reception conditions**

82. (1) Where duly justified and proportionate, the Minister may—
- (a) where one or more of the circumstances specified in *subsection (3)* exists, reduce an applicant’s material reception benefits, or
  - (b) where one or more of the circumstances specified in *paragraph (f)* or *(g)* of *subsection (3)* exists, withdraw the applicant’s material reception benefits.
- (2) The Minister for Social Protection may, where one or more of the circumstances specified in *subsection (3)* exists, reduce or withdraw an applicant’s daily expenses

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allowance.

- (3) The circumstances referred to in *subsections (1) and (2)* are the following:
- (a) the applicant abandons the specified place at which he or she was required to reside in accordance with *section 88#* without permission under *section 96##*;
  - (b) the applicant absconds;
  - (c) the applicant does not cooperate with the Minister, the Determining Authority, the Tribunal or An Garda Síochána or does not comply with a procedural requirement established by this Act or EU acts;
  - (d) the applicant has lodged a subsequent application;
  - (e) the applicant has concealed financial resources, and has therefore unduly benefited from material reception conditions;
  - (f) the applicant has seriously or repeatedly breached the house rules made under *section 79###* of the accommodation allocated to the applicant;
  - (g) the applicant has behaved in a violent or threatening manner in the accommodation allocated to the applicant.
- (4) The procedural requirements referred to in *subsection (3)(c)* include the following:
- (a) a requirement to provide biometric data under *section 15*;
  - (b) an obligation to travel to a screening centre under *section 22*;
  - (c) a requirement to reside in a specified place under *section 88#*;
  - (d) a requirement to report to competent authorities under *section 89####*;
  - (e) a requirement under *section 99#####*;
  - (f) a requirement related to the applicant's detention under *section 104#####*.
- (5) The Minister shall ensure that an applicant's material reception conditions are not reduced or withdrawn other than pursuant to this section or otherwise under this Act.
- (6) The Minister for Social Protection shall ensure that an applicant's daily expenses allowance is not reduced or withdrawn other than in accordance with this section or another enactment."

[#This is a reference to a section proposed to be inserted by amendment No. 175]

[##This is a reference to a section proposed to be inserted by amendment No. 183]

[###This is a reference to a section proposed to be inserted by amendment No. 166]

[####This is a reference to a section proposed to be inserted by amendment No. 176]

[#####This is a reference to a section proposed to be inserted by amendment No. 186]

[#####This is a reference to a section proposed to be inserted by amendment No. 191]

[SECTION 69]

\*170. In page 69, between lines 13 and 14, to insert the following:

**“Making a decision under *section 82#*”**

83. (1) Where a Minister makes a *section 82#* decision, he or she shall—
- (a) take the decision objectively and impartially on the merits of the individual case,
  - (b) have regard to the individual circumstances of the applicant, especially with regards to whether the applicant has been assessed as having special reception needs under *section 77##*,
  - (c) have regard to the principle of proportionality,
  - (d) make the decision in writing and include in the decision the reasons on which it is based, and
  - (e) ensure the applicant retains access to—
    - (i) health care in accordance with *section 76###*, and
    - (ii) a standard of living in accordance with Union law, including the Charter, and international obligations for all applicants.
- (2) A Minister who makes a *section 82#* decision in respect of an applicant shall inform the applicant of the decision by notice in writing.
- (3) A notice under *subsection (2)* shall state the reasons for the *section 82#* decision the subject of the notice.”.

[#This is a reference to a section proposed to be inserted by amendment No. 169]

[##This is a reference to a section proposed to be inserted by amendment No. 164]

[###This is a reference to a section proposed to be inserted by amendment No. 163]

\*171. In page 69, between lines 13 and 14, to insert the following:

**“*Section 82#* decision based on applicant’s conduct**

84. (1) Where a Minister makes a *section 82#* decision based on the applicant’s conduct referred to in *paragraph (a), (b) or (c) of section 82(3)#*, and the deciding Minister is subsequently satisfied that the conduct has ceased, the deciding Minister shall consider whether any material reception conditions reduced or withdrawn by the decision should be reinstated.
- (2) Where, following consideration referred to in *subsection (1)*, some but not all material reception conditions are reinstated under this section, the deciding Minister concerned shall take a new *section 82#* decision and notify it to the applicant concerned accordingly.”.

[#This is a reference to a section proposed to be inserted by amendment No. 169]

[SECTION 69]

\*172. In page 69, between lines 13 and 14, to insert the following:

**“Appeal of *section 82#* decision**

- 85.** (1) The Minister shall by regulations provide for the procedure by which a *section 82#* decision that reduces or withdraws an applicant’s material reception benefits may be appealed.
- (2) The Minister for Social Protection shall by regulations provide for the procedure by which a *section 82#* decision that reduces or withdraws an applicant’s daily expenses allowance may be appealed.
- (3) An appeal under regulations under this section shall include a review of the reasons for the *section 82#* decision.
- (4) Where an appeal under regulations under this section is to a judicial authority, the Minister who makes the regulations shall ensure that free legal assistance and representation—
- (a) is made available as necessary to ensure effective access to justice, and
- (b) is provided by legal representatives whose interests do not conflict, or could not potentially conflict, with those of the applicant.
- (5) Legal assistance and representation referred to in *subsection (4)* shall consist of the preparation of the appeal or request for review, including, at least, the preparation of the required procedural documents, and participation in the hearing before the judicial authorities on behalf of the applicant.”.

[#This is a reference to a section proposed to be inserted by amendment No. 169]

\*173. In page 69, between lines 13 and 14, to insert the following:

“PART 5

RESTRICTION OF FREEDOM OF MOVEMENT AND DETENTION

CHAPTER 1

*Preliminary and general*

**Application of *Part 5***

- 86.** (1) This Part applies to a person who is present on the territory of the State and is—
- (a) an applicant, provided that the person—
- (i) is not the subject of a transfer decision under *Part 4* or, where so subject, has made a request to remain under *section 83* that has yet to be determined or has made such a request and been granted the right to remain in the State under that section, or
- (ii) is not the subject of a return decision that is in effect under *Part 9*,

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or

- (b) where the person is not an applicant under this Act, a person who has made an application under section 15 of the Act of 2015, provided that the person—
    - (i) has not ceased to be an applicant within the meaning of the Act of 2015,
    - (ii) has not received a notification under section 21(11) of the Act of 2015, or
    - (iii) has not been refused consent under section 22(15) of the Act of 2015.
- (2) References in this Part to an “applicant” shall be construed in accordance with this section.”.

\*174. In page 69, between lines 13 and 14, to insert the following:

**“Particular reasons to believe that person might abscond**

- 87.** (1) Without prejudice to the consideration of any other matter, where any of the following circumstances exists in the case of an individual applicant, it may be regarded as reason to believe that that person might abscond:
- (a) the person, during the processing of his or her application—
    - (i) provided to an immigration officer, an officer of the Minister or a member of An Garda Síochána, information that he or she knew, or could reasonably be expected to know, was false,
    - (ii) misrepresented information to an immigration officer, an officer of the Minister or a member of An Garda Síochána or presented information to such a person in a way that was misleading, or
    - (iii) when requested to provide information relevant to the examination of his or her application that was in his or her knowledge, withheld or concealed such information,whether or not by the use of false documents;
  - (b) the person while in the State, destroyed or disposed of an identity document or travel document with the intention of preventing his or her identity or nationality being determined;
  - (c) the person failed, without reasonable excuse, to cooperate with competent authorities or, as the case may be, comply with procedural requirements, under this Act or the EU acts;
  - (d) the person explicitly expressed an intention not to cooperate with competent authorities or, as the case may be, comply with procedural requirements, under this Act or the EU acts;
  - (e) the person has previously failed to comply with the law of the State, or of another state, relating to the entry, or presence, of foreign nationals into, or in, the State or, as the case may be, that other state;
  - (f) the applicant is in the State and is required to be present in another Member State

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in accordance with Article 17(4) of the Asylum and Migration Management Regulation;

- (g) the applicant is required to be present in the State in accordance with Article 17(4) of the Asylum and Migration Management Regulation and has been transferred to the State after having absconded to another Member State;
  - (h) the person's application has been rejected as inadmissible or manifestly unfounded.
- (2) Without prejudice to the generality of *paragraph (c) of subsection (1)*, procedural requirements referred to in that paragraph include—
- (a) a requirement under *section 15* to provide biometric data,
  - (b) a requirement under *section 22* to travel to a screening centre,
  - (c) an obligation under *section 25* to provide information,
  - (d) the requirement to lodge the application in accordance with *section 38* and Article 28 of the Asylum Procedures Regulation,
  - (e) a requirement to attend a personal interview,
  - (f) a requirement to reside in a specified place under *section 88#*, and
  - (g) a requirement to report to competent authorities under *section 89##*.”.

[#This is a reference to a section proposed to be inserted by amendment No. 175]

[##This is a reference to a section proposed to be inserted by amendment No. 176]

*Amendments to Amendment No. 174*

1. In section 87(1)(a)(i), after “false,”, to insert “without reasonable cause”.

—*Senators Laura Harmon, Nessa Cosgrove, Malcolm Noonan, Patricia Stephenson.*

2. In section 87(1)(a)(ii), after “was”, to insert “intentionally”.

—*Senators Laura Harmon, Nessa Cosgrove, Malcolm Noonan, Patricia Stephenson.*

3. In section 87(1), in the last line of paragraph (a), after “documents”, to insert “without reasonable cause”.

—*Senators Laura Harmon, Nessa Cosgrove, Malcolm Noonan, Patricia Stephenson.*

- \*175. In page 69, between lines 13 and 14, to insert the following:

“CHAPTER 2

Restrictions of freedom of movement

**Requirement that applicant reside in specific place**

88. (1) An immigration officer, an officer of the Minister or a member of An Garda Síochána may, where necessary, require an applicant to reside in a specified place adapted for housing applicants—

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- (a) for reasons of public order, or
- (b) where there is a risk of absconding, to effectively prevent the applicant from absconding, in particular where an applicant is an applicant who—
  - (i) is required to be present in another Member State in accordance with Article 17(4) of the Asylum and Migration Management Regulation, or
  - (ii) is required to be present in the State in accordance with Article 17(4) of the Asylum and Migration Management Regulation and who has been transferred to the State after having absconded to another Member State.
- (2) Where a requirement is made of an applicant under *subsection (1)*, the provision of material reception conditions shall be subject to the actual residence by the applicant in the specified place.
- (3) The Minister may prescribe ways in which an applicant the subject of a requirement under *subsection (1)* or *section 99(1)(b)#* may record or evidence his or her presence or residence at the specified place.”.

[#This is a reference to a section proposed to be inserted by amendment No. 186]

\*176. In page 69, between lines 13 and 14, to insert the following:

**“Requirement that applicant report to competent authorities**

89. (1) An immigration officer, an officer of the Minister or a member of An Garda Síochána may, where necessary and without disproportionately affecting his or her rights, require an applicant to report to an immigration officer or a member of An Garda Síochána at a specified time or at reasonable, specified intervals.
- (2) An immigration officer or an officer of the Minister may make a requirement referred to in *subsection (1)*—
- (a) to ensure that a requirement under *section 88#* is respected, or
  - (b) to effectively prevent an applicant from absconding.
- (3) The Minister may by regulations provide for procedures by which an applicant may report in accordance with a requirement under *subsection (1)* or *section 99(1)(c)##*.
- (4) Without prejudice to the generality of *subsection (3)*, regulations under that subsection may, in particular, provide for—
- (a) reporting by use of electronic means from a specified location other than in the presence of the relevant immigration officer or member of An Garda Síochána,
  - (b) verification by a person the subject of a requirement under *subsection (1)* of his or her identity by use of an identity card, a password or prescribed personal data, and
  - (c) the sharing, storage, processing and use of personal data for the purposes of verifying the identity of a person who reports from a specified location other than in the presence of the relevant immigration officer or member of An Garda Síochána.”.

[SECTION 69]

[#This is a reference to a section proposed to be inserted by amendment No. 175]

[##This is a reference to a section proposed to be inserted by amendment No. 186]

\*177. In page 69, between lines 13 and 14, to insert the following:

**“Matters to be taken into account**

90. A decision to make a requirement under *section 88#* or *89##* shall be proportionate and take into account relevant aspects of the individual situation of the applicant, including any special reception needs of that applicant that have been identified.”.

[#This is a reference to a section proposed to be inserted by amendment No. 175]

[##This is a reference to a section proposed to be inserted by amendment No. 176]

\*178. In page 69, between lines 13 and 14, to insert the following:

**“Form and content of requirement restricting freedom of movement**

91. A requirement under *section 88#* or *89##* shall—

- (a) be in writing,
- (b) state the reasons in fact and, where relevant, in law for the requirement,
- (c) be communicated to the applicant to whom it is made in writing together with information regarding the procedures for challenging the requirement and of the consequences of non-compliance with the obligations imposed by the requirement, and
- (d) be in a language that the applicant understands or may reasonably be supposed to understand and in a concise, transparent, intelligible and easily accessible form, using clear and plain language.”.

[#This is a reference to a section proposed to be inserted by amendment No. 175]

[##This is a reference to a section proposed to be inserted by amendment No. 176]

\*179. In page 69, between lines 13 and 14, to insert the following:

**“Assistance for unaccompanied minor**

92. Where an unaccompanied minor is the subject of a requirement under *section 88#* or *89##*, his or her representative person or provisional representative person shall assist the minor with any matters relating to the requirement, a request under *section 93###*, a request under *section 96####*, a review under *section 94#####* or an appeal under *section 95#####*.”.

[#This is a reference to a section proposed to be inserted by amendment No. 175]

[##This is a reference to a section proposed to be inserted by amendment No. 176]

[###This is a reference to a section proposed to be inserted by amendment No. 180]

[####This is a reference to a section proposed to be inserted by amendment No. 183]

[SECTION 69]

[#####This is a reference to a section proposed to be inserted by amendment No. 181]

[#####This is a reference to a section proposed to be inserted by amendment No. 182]

\*180. In page 69, between lines 13 and 14, to insert the following:

**“Power to vary restriction of freedom of movement**

93. (1) An immigration officer, an officer of the Minister or a member of An Garda Síochána may vary a requirement under *section 88#* or *89##* where the circumstances relating to the making of the requirement change and in such other particular circumstances as the Minister may prescribe.
- (2) A person who is the subject of a requirement under *section 88#* or *89##* may apply to the Minister, in such form and manner as the Minister may prescribe, to have the requirement varied.
- (3) Without prejudice to *subsection (2)*, the Minister may, in particular, prescribe the changes of circumstances which may be the basis of an application under *subsection (2)*.”.

[#This is a reference to a section proposed to be inserted by amendment No. 175]

[##This is a reference to a section proposed to be inserted by amendment No. 176]

\*181. In page 69, between lines 13 and 14, to insert the following:

**“Review of restriction of freedom of movement**

94. (1) A person who is the subject of a requirement under *section 88#* or *89##* may, within 5 working days of the date of the making of that requirement, apply in writing to the Minister for a review of the requirement or of part of it.
- (2) The Minister, on receipt of an application under *subsection (1)*, shall appoint an officer of the Minister (referred to in this Chapter as a “review officer”) to perform the functions of a review officer under this section.
- (3) Where the requirement under review was made by a member of An Garda Síochána, the officer of the Minister appointed shall be of Executive Officer grade or higher.
- (4) Where the decision under review was made by an officer of the Minister or an immigration officer, the Minister shall appoint an officer of the Minister concerned of a rank that is the same or higher than the officer who made the decision that gave rise to the application for a review.
- (5) The review officer, having reviewed the requirement that gave rise to the application for a review, may vary, affirm or set aside the requirement.
- (6) A review officer shall within 10 working days notify the person the subject of the requirement of his or her decision under *subsection (5)* and where the requirement is varied or affirmed of the reasons for it.
- (7) Where a person applies under *subsection (1)* for a review of a requirement, the requirement shall remain in force until, as the case may be—

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- (a) the review officer notifies the person of his or her decision to vary the requirement,
- (b) the review officer notifies the person of his or her decision to set aside the requirement,
- (c) where the decision of the review officer referred to in *subsection (5)* is appealed to the Tribunal, the Tribunal notifies the person of its decision to vary or set aside the decision, or
- (d) the requirement is otherwise varied by an immigration officer, an officer of the Minister or a member of An Garda Síochána.”.

[#This is a reference to a section proposed to be inserted by amendment No. 175]

[##This is a reference to a section proposed to be inserted by amendment No. 176]

*Amendment to Amendment No. 181*

**1.** In section 94(1), after “of it.”, to insert the following:

“a person subject to a requirement may submit a late request for review of the requirement which shall be considered by the Minister where there are sufficient reasons for the late request and/or when it is in the interests of justice.”.

—*Senators Laura Harmon, Nessa Cosgrove, Malcolm Noonan, Patricia Stephenson.*

**\*182.** In page 69, between lines 13 and 14, to insert the following:

**“Appeal from decision of review officer**

- 95.** (1) An applicant who is dissatisfied with a decision of a review officer under *section 94* may, within 10 working days of the date of the notice of the decision, appeal, in fact and law, against that decision to the Tribunal.
- (2) The Tribunal may extend the 10 day period referred to in *subsection (1)* in exceptional circumstances or in the interests of justice.
  - (3) An appeal under *subsection (1)* shall be made in writing in the form required by the Tribunal and shall include copies of any documents referred to in the appeal.
  - (4) The Director of the Tribunal shall assign an Appeals Officer (within the meaning of *Part II*) to consider and determine appeals under this section and a reference in this section to the assigned Appeals Officer shall be construed as a reference to the Appeals Officer so assigned.
  - (5) The assigned Appeals Officer of the Tribunal shall—
    - (a) determine an appeal under this section within a reasonable time, and
    - (b) unless he or she considers it is not in the interests of justice to do so, and having had regard to the guidelines issued under *section 186(2)*, make his or her determination in relation to the appeal without holding an oral hearing.
  - (6) The determination of the assigned Appeals Officer under *subsection (5)* shall be to

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affirm, vary or set aside the decision of the review officer.”.

[#This is a reference to a section proposed to be inserted by amendment No. 181]

\*183. In page 69, between lines 13 and 14, to insert the following:

**“Request to reside temporarily outside specified place**

96. (1) An applicant who is subject to a requirement under *section 88#* or *99(1)(b)##* may make a request to the Minister, in writing, for permission to reside temporarily outside the place specified in the requirement.
- (2) Where a request is made under *subsection (1)*, the decision regarding such permission shall be taken objectively and impartially on the merits of the individual case and reasons shall be given if such permission is not granted.
- (3) An applicant may attend appointments with authorities and courts if his or her attendance is necessary and shall notify an immigration officer or a member of An Garda Síochána of such appointments.
- (4) The Minister may make regulations providing for procedures for making an application under this section, which may include making such an application electronically by uploading a request to a website or portal.”.

[#This is a reference to a section proposed to be inserted by amendment No. 175]

[##This is a reference to a section proposed to be inserted by amendment No. 186]

\*184. In page 69, between lines 13 and 14, to insert the following:

“CHAPTER 3

Detention and alternatives to detention

**Prohibition of detention on certain grounds**

97. (1) A person shall not be arrested, or detained, in the State—
- (a) for the sole reason that he or she is an applicant, or
- (b) on the basis that he or she is an applicant of a particular nationality.
- (2) Detention under this Chapter shall not be punitive in nature.”.

\*185. In page 69, between lines 13 and 14, to insert the following:

**“Grounds of detention and application of alternatives to detention**

98. The following grounds are the grounds referred to in *sections 99#* and *104##*:
- (a) to determine or verify the identity or nationality of the applicant;
- (b) to determine the elements on which the application for international protection is based which could not be obtained in the absence of detention, in particular where there is a risk of absconding;

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- (c) to ensure compliance with a requirement under *section 88###* to which the applicant is subject where—
  - (i) the applicant has not complied with such requirement, and
  - (ii) there continues to be a risk of absconding;
- (d) to decide, in the context of the asylum border procedure, under *Chapter 6 of Part 5*, whether the applicant should be permitted to enter the State;
- (e) in circumstances where—
  - (i) the applicant—
    - (I) is detained under—
      - (A) *section 165* or *172*,
      - (B) subsection (1) or (2) of section 5 of the Act of 1999,
      - (C) paragraph (a) of subsection (2) of section 5 of the Act of 2003,
      - (D) subsection (3) of section 3 of the Immigration Act 2004, or
      - (E) Regulation 22(1) of the European Communities (Free Movement of Persons) Regulations 2015 (S.I. No. 548 of 2015),
    - or
    - (II) is serving a prison sentence following a conviction and is subject to a deportation order,
  - in order to prepare the return, or carry out the removal process, and
  - (ii) the Minister concerned can substantiate on the basis of objective criteria, including that the applicant already had the opportunity to access the procedure for international protection, that there are reasonable grounds to believe that the applicant is making the application for international protection merely in order to delay or frustrate the enforcement of a return decision or deportation order;
- (f) in order to ensure transfer procedures are carried out in accordance with the Asylum and Migration Management Regulation in circumstances where—
  - (i) the Minister takes a decision under *section 80* to transfer an applicant to the Member State responsible or the Member State of relocation (within the meaning of the Asylum and Migration Management Regulation), and
  - (ii) there is a risk of the applicant absconding, or
  - (iii) the protection of national security or public order so requires;
- (g) when protection of national security or public order so requires.”.

[#This is a reference to a section proposed to be inserted by amendment No. 186]

[##This is a reference to a section proposed to be inserted by amendment No. 191]

[###This is a reference to a section proposed to be inserted by amendment No. 175]

\*186. In page 69, between lines 13 and 14, to insert the following:

**“Alternatives to detention**

99. (1) An immigration officer or a member of An Garda Síochána may, following an individual assessment in relation to an applicant, make any one or more than one of the following requirements of the applicant on the grounds set out in *section 98#*:

(a) a requirement to—

(i) attend at a specified place, that is not a place of detention, at, or by, a specified time,

(ii) remain at a specified place that is not a place of detention, during a particular time period or for a specified period of time, and

(iii) allow himself or herself to be conveyed by a specified vehicle to a specified place,

in order to comply with a procedural requirement relating to his or her application for international protection, subject to *section 100(2)##*, for a maximum aggregate period of 12 hours to enable the applicant to comply with such a procedural requirement;

(b) a requirement to reside at a specified place that is not a place of detention;

(c) a requirement to report to an immigration officer or a member of An Garda Síochána at a specified time or at reasonable, specified intervals.

(2) An immigration officer or a member of An Garda Síochána shall not detain an applicant under *section 104###* unless he or she has considered whether or not any of the alternatives to detention provided for in this section can be effectively applied for the purposes of the relevant ground for detention set out in *section 98#*.”

[#This is a reference to a section proposed to be inserted by amendment No. 185]

[##This is a reference to a section proposed to be inserted by amendment No. 187]

[###This is a reference to a section proposed to be inserted by amendment No. 191]

\*187. In page 69, between lines 13 and 14, to insert the following:

**“Measures relating to minors**

100. (1) In exceptional circumstances, an immigration officer or a member of An Garda Síochána may make a requirement referred to *section 99#* of an applicant who is a minor—

(a) in the case of an accompanied minor, where the minor’s parent or primary caregiver is the subject of a requirement under *section 99#*,

(b) in the case of an unaccompanied minor, where such requirement safeguards the minor, and

(c) after it has been established that making the requirement of the minor is assessed

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to be in the best interests of the minor.

- (2) A minor shall not be required to attend or remain at a specified place under *section 99(1)(a)#* for any longer than 12 hours.
- (3) Where a requirement under *section 99#* is made of an applicant who is a minor, the requirement and any information to be given to the applicant shall also be given to the minor's parent or another adult responsible for the minor, or where appointed or designated, the minor's provisional representative person or representative person.”.

[#This is a reference to a section proposed to be inserted by amendment No. 186]

\*188. In page 69, between lines 13 and 14, to insert the following:

**“Application of alternative to detention**

**101.** (1) A requirement under *section 99#* shall be—

- (a) based on an individual assessment of the applicant's circumstances,
- (b) proportionate to the ground specified in *section 98##* on which it is made, and
- (c) in the case of a requirement under *section 99(1)(a)#*, of such duration only as is required to comply with the relevant procedural requirement.

(2) A requirement under *section 99#* shall—

- (a) be in writing,
- (b) state the reasons in fact and, where relevant, in law for the requirement,
- (c) be communicated to the applicant to whom it is made in writing together with information regarding the procedures for challenging the requirement and the consequences of non-compliance with the obligations imposed by the requirement, and
- (d) be in a language that the applicant understands or is reasonably supposed to understand and in a concise, transparent, intelligible and easily accessible form, using clear and plain language.

(3) A person who makes a requirement under this section shall, without delay, inform the person who is the subject of the requirement, or cause him or her to be informed, in writing, in a language that he or she understands or may reasonably be supposed to understand, of—

- (a) the requirement,
- (b) the reason for the requirement and the relevant ground specified in *section 98##*,
- (c) the possible consequences of not complying with the procedural requirement identified in the requirement,
- (d) his or her right to appeal or challenge the requirement,
- (e) the procedures for making such an appeal or challenge, and
- (f) his or her right to seek legal assistance and legal representation in respect of an

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appeal or challenge to the requirement.

- (4) A person the subject of a requirement under this section is entitled to the assistance of an interpreter for the purpose of consultation with a legal representative and for the purpose of any appearance before a court in order to challenge the requirement.”.

[#This is a reference to a section proposed to be inserted by amendment No. 186]

[##This is a reference to a section proposed to be inserted by amendment No. 185]

\*189. In page 69, between lines 13 and 14, to insert the following:

**“Power to vary requirement under *section 99#***

102. (1) An immigration officer or a member of An Garda Síochána may vary a requirement under *section 99#* where the circumstances relating to the making of the requirement change and in such other particular circumstances as the Minister may prescribe.
- (2) A person who is the subject of a requirement under *section 99#* may apply to the Minister, in such form and manner as the Minister may prescribe, to have the requirement varied.
- (3) In the case of a minor who is subject to a requirement under *section 99#*, an application under *subsection (2)* may be made by the minor’s parent or another adult responsible for the minor, or where appointed or designated, the minor’s provisional representative person or representative person.
- (4) Without prejudice to *subsection (2)*, the Minister may, in particular, prescribe the changes of circumstances which may be the basis of an application under that subsection.”.

[#This is a reference to a section proposed to be inserted by amendment No. 186]

\*190. In page 69, between lines 13 and 14, to insert the following:

**“Appeal of requirement under *section 99#***

103. (1) A person of whom a requirement is made under *section 99#* may while such requirement is in force, appeal to the District Court against the requirement.
- (2) In the case of a minor, an appeal under *subsection (1)* may be brought by the minor’s parent or another adult responsible for the minor, or where appointed or designated, the minor’s provisional representative person or representative person.
- (3) The District Court, on the hearing of an appeal under *subsection (1)*, may, as it thinks proper, affirm, revoke or vary the requirement.”.

[#This is a reference to a section proposed to be inserted by amendment No. 186]

\*191. In page 69, between lines 13 and 14, to insert the following:

**“Arrest and detention of applicants**

104. (1) A person shall be detained under this section only for as short a period as possible having regard to the reason for the detention and in the case of detention under

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*section 98(f)#* for no longer than the time reasonably necessary to complete the required administrative procedures with due diligence until the transfer is carried out.

- (2) An immigration officer or a member of An Garda Síochána may, subject to *section 100##*, arrest without warrant and detain an applicant, other than an applicant who is a minor, on one or more of the of the grounds specified in *section 98#*, where—
  - (a) he or she, or another immigration officer or member of An Garda Síochána, has carried out an individual assessment in relation to the applicant, and
  - (b) he or she is of the opinion—
    - (i) that the other less coercive alternative measures provided for in *section 99###* cannot be applied effectively, and
    - (ii) that such detention is necessary.
- (3) A person detained under *subsection (1)* shall, as soon as practicable, be brought before a judge of the District Court assigned to the District Court district in which the person is being detained.
- (4) An immigration officer or, as the case may be, a member of An Garda Síochána who detains a person under this section shall immediately inform the person, or cause him or her to be informed, in writing, in a language that he or she understands or may reasonably be supposed to understand—
  - (a) that he or she is being detained under this section,
  - (b) of the reasons for his or her detention,
  - (c) that he or she shall, as soon as practicable, be brought before a court which shall determine whether or not he or she should be committed to a place of detention or released,
  - (d) that he or she is entitled to—
    - (i) seek free legal assistance and legal representation,
    - (ii) consult a legal representative, and
    - (iii) challenge his or her detention by making a complaint under Article 40.4.2° of the Constitution,and
  - (e) of the procedures for making a complaint under Article 40.4.2° of the Constitution.
- (5) Where a person is brought before a judge of the District Court under *subsection (3)*, the judge may—
  - (a) subject to *subsection (6)*, and if satisfied that one or more of the paragraphs of *section 98#* apply in relation to the person, commit the person concerned to—
    - (i) a specialised detention facility, or
    - (ii) where accommodation cannot be provided at such a facility, to such other

appropriate place,

prescribed by the Minister for the purposes of this Part (referred to in this Part as a “place of detention”) for a period not exceeding 21 days from the time of his or her detention, or

- (b) without prejudice to *subsection (6)*, order the release of the person and make such release subject to such conditions as the judge may direct, including a requirement under *section 99###*, to be supervised by an immigration officer or a member of An Garda Síochána, or a requirement to surrender any passport or other travel document that he or she holds.
- (6) If, at any time during the detention of a person under this section, an immigration officer or a member of An Garda Síochána is of the opinion that none of the paragraphs of *section 98#* applies in relation to the person, the person shall, as soon as practicable, be brought before a judge of the District Court assigned to the District Court district in which the person is being detained and, if the judge is satisfied that none of the paragraphs of *section 98#* applies in relation to the person, the judge shall order the release of the person.
  - (7) Where a person is released from a place of detention subject to one or more of the conditions referred to in *subsection (5)(b)*, a judge of the District Court assigned to the District Court district in which the person’s dwelling is situated may, on the application of the person, an immigration officer or a member of An Garda Síochána, if the judge considers it appropriate to do so, vary, revoke or add a condition to the release, and a reference in this section to a condition referred to in *subsection (5)(b)* shall be construed as including a reference to such a condition as varied or added to under this subsection.
  - (8) A member of An Garda Síochána may arrest without warrant and detain, in a place of detention, a person who, in the member’s opinion, has failed to comply with a condition imposed by the District Court under *subsection (5)(b)*.
  - (9) A person detained under *subsection (8)* shall be brought as soon as practicable before a judge of the District Court assigned to the District Court district in which the person is being detained, and *subsections (5), (6) and (7)* shall apply to such person detained under *subsection (8)* as they apply to a person referred to in *subsection (1)*, subject to the modifications that references in those subsections to the judge being satisfied that one or more of the paragraphs of *section 98* apply shall be construed as a reference to his or her being satisfied that the person has failed to comply with a condition referred to in *subsection (5)(b)* and any other necessary modifications.
  - (10) If a judge of the District Court is satisfied in relation to a person brought before him or her under *subsection (8)* that the person has complied with the condition referred to in that subsection, the judge shall order the release of the person.
  - (11) Where a person is detained under *subsection (1) or (8)*, a judge of the District Court assigned to the District Court district in which the person is being detained may, if satisfied that one or more of the paragraphs of *section 98#* applies in relation to the person, commit the person for further periods (each period being a period not exceeding 21 days) pending the determination of the person’s application for

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international protection.”.

[#This is a reference to a section proposed to be inserted by amendment No. 185]

[##This is a reference to a section proposed to be inserted by amendment No. 187]

[###This is a reference to a section proposed to be inserted by amendment No. 186]

\*192. In page 69, between lines 13 and 14, to insert the following:

**“Detention as last resort**

**105.** (1) Minors shall, as a rule, not be detained but shall be placed in suitable accommodation in accordance with *Chapter 2# of Part 4##*.

(2) An immigration officer or a member of An Garda Síochána may, in exceptional circumstances and as a measure of last resort, arrest without warrant and detain, in accordance with *subsection (4)*, a minor who is in the custody of an applicant (whether the applicant is a parent or a person acting in *loco parentis* or any other person) where the applicant is detained under this section and where—

- (a) it is necessary for the purposes of determining or verifying the identity or nationality of the minor,
- (b) the member or officer is satisfied that a requirement under *section 99###* cannot be applied in relation to the minor effectively, and
- (c) it is assessed by the member or officer that the detention is in the minor’s best interests.

(3) An immigration officer or a member of An Garda Síochána may, in exceptional circumstances and as a measure of last resort, arrest without warrant an applicant who is an unaccompanied minor and detain the unaccompanied minor in accordance with *subsection (4)*, where—

- (a) it is necessary for the purposes of determining or verifying the identity or nationality of the unaccompanied minor,
- (b) the member or officer is satisfied that a requirement under *section 99###* cannot be applied effectively, and
- (c) it is assessed by the member or officer that the detention is in the unaccompanied minor’s best interests and safeguards the unaccompanied minor.

(4) A minor referred to in *subsection (2)* or *(3)* shall be detained—

- (a) for the shortest possible period of time, and in any event for a maximum period of 12 hours, and
- (b) in facilities (or in a vehicle for the purposes of bringing the minor to facilities)—
  - (i) adapted to the housing of unaccompanied minors, prescribed by the Minister for that purpose (which shall not be a prison, children detention school or Garda Síochána station), and
  - (ii) provided with staff qualified to safeguard the rights of unaccompanied

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minors and attend to their needs,

and

- (c) separately from adults (other than the minor's parent or a person acting in *loco parentis*).
- (5) A person detained under this section shall be detained under warrant of the arresting officer or member and in the custody of the officer of the Minister or member of An Garda Síochána for the time being in charge of the place at which he or she is detained.
- (6) A warrant referred to in *subsection (5)* shall state—
- (a) the reasons in fact and in law, including the ground under *section 98####*, on which the detention is based,
  - (b) the alternative measures to detention under *section 99####* considered by the officer or member detaining the applicant, and
  - (c) the reasons why those alternative measures cannot be applied effectively.
- (7) An immigration officer or, as the case may be, a member of An Garda Síochána who detains a person under this section shall immediately inform the minor and his or her representative person or provisional representative person (where appointed) in writing, in a language that he or she understands or may reasonably be supposed to understand—
- (a) that he or she is being detained under this section,
  - (b) of the reasons for his or her detention,
  - (c) that he or she is entitled to—
    - (i) seek free legal assistance and legal representation,
    - (ii) consult a legal representative, and
    - (iii) challenge his or her detention by making a complaint under Article 40.4.2° of the Constitution,
- and
- (d) of the procedures for making a complaint under Article 40.4.2° of the Constitution.
- (8) The Minister may make regulations providing for the form of a warrant referred to in *subsection (5)* and prescribing standards of treatment of minors detained under this section.”.

[#This is a reference to a section proposed to be inserted by amendment No. 158]

[##This is a reference to a section proposed to be inserted by amendment No. 156]

[###This is a reference to a section proposed to be inserted by amendment No. 186]

[####This is a reference to a section proposed to be inserted by amendment No. 185]

[SECTION 69]

*Amendment to Amendment No. 192*

I. In section 105, to delete subsections (2) to (8).

—*Senators Laura Harmon, Nessa Cosgrove, Malcolm Noonan, Patricia Stephenson.*

\*193. In page 69, between lines 13 and 14, to insert the following:

**“Offences - Part 5#**

106. (1) An applicant shall not behave in a manner likely to endanger the applicant’s safety or the safety of others in the course of the performance of a function by an immigration officer or a member of An Garda Síochána under this Part.

(2) A person shall not obstruct or hinder an immigration officer or a member of An Garda Síochána engaged in the performance of a function under this Part.

(3) A person who contravenes *subsection (1) or (2)* shall be guilty of an offence and shall be liable on summary conviction to a class A fine or to imprisonment for a term not exceeding 12 months, or both.”.

[#*This is a reference to a Part proposed to be inserted by amendment No. 173*]

\*194. In page 69, between lines 13 and 14, to insert the following:

**“Rights of detained person**

107. A person detained under *section 105#* is entitled to—

- (a) be given a copy of the warrant under which he or she is being detained,
- (b) be informed of his or her right to make a complaint under Article 40.4.2° of the Constitution and of the procedures for doing so,
- (c) seek legal assistance and legal representation,
- (d) consult a legal representative,
- (e) have notification of his or her detention, the place of his or her detention and every change in that place sent to the High Commissioner and to another person reasonably nominated by the detained person for that purpose, and
- (f) the assistance of an interpreter for the purpose of consultation with a legal representative under *paragraph (a)* and for the purpose of any appearance before a court relating to his or her detention.”.

[#*This is a reference to a section proposed to be inserted by amendment No. 192*]

\*195. In page 69, between lines 13 and 14, to insert the following:

**“Detention of persons with special reception needs**

108. (1) An immigration officer or a member of An Garda Síochána shall not detain an applicant with special reception needs under *section 104#* where to do so would put his or her physical and mental health at serious risk.

[SECTION 69]

- (2) When detaining an applicant under this Part, the immigration officer or member of An Garda Síochána shall take into account any visible signs, statements or behaviour indicating that the applicant has special reception needs.
- (3) Where a person is detained under this Part and the assessment provided for in *section 77##* has not yet been completed, it shall be completed without undue delay and the results of the assessment shall be taken into account when deciding whether to continue detention or whether the detention conditions need to be adjusted.
- (4) Where an applicant with special reception needs is detained under this Part, the Minister shall ensure that the health, including the mental health, of the applicant shall be of primary concern while he or she is in detention.
- (5) Where applicants with special reception needs are detained, the Minister shall ensure regular monitoring of, and the provision of timely and adequate support to those applicants, taking into account their particular situation, including their physical and mental health.”.

[#This is a reference to a section proposed to be inserted by amendment No. 191]

[##This is a reference to a section proposed to be inserted by amendment No. 164]

\*196. In page 69, between lines 13 and 14, to insert the following:

**“Notification to Child and Family Agency where minor in custody of detained person**

**109.** Where an applicant is detained under *section 104#* and a minor is in the custody of the detained applicant (whether the applicant is a parent or a person acting in *loco parentis* or any other person), an immigration officer or a member of An Garda Síochána shall notify the Child and Family Agency of the detention and its circumstances without delay.”.

[#This is a reference to a section proposed to be inserted by amendment No. 191]

\*197. In page 69, between lines 13 and 14, to insert the following:

**“Administrative delay while applicant is in detention**

**110.** (1) The Minister shall ensure that administrative procedures relevant to the grounds of detention set out in *section 104#* are executed with due diligence.

(2) Delays in administrative procedures that cannot be attributed to the applicant shall not justify a continuation of detention.”.

[#This is a reference to a section proposed to be inserted by amendment No. 191]

\*198. In page 69, between lines 13 and 14, to insert the following:

**Conditions of detention**

**111.** (1) Where an applicant detained under *section 104#* is kept in prison accommodation, the detained applicant shall be kept separately from ordinary prisoners and the detention conditions provided for in this Part shall apply.

[SECTION 69]

- (2) Detained applicants shall, as far as possible, be kept separately from other third-country nationals who have not lodged an application for international protection.
- (3) Where applicants cannot be detained separately from other third-country nationals, the Minister shall ensure that the detention conditions provided for by or under this Part are applied.
- (4) Detained applicants shall have access to open-air spaces.
- (5) Persons representing the High Commissioner and organisations which are working on the territory of the State on behalf of the High Commissioner pursuant to an agreement with the State shall have the possibility to communicate with and visit applicants in conditions that respect privacy.
- (6) Family members, legal representatives and persons representing relevant non-governmental organisations recognised by the State shall have the possibility to communicate with and visit applicants in conditions that respect privacy.
- (7) For the purposes of this section, limits to access to the place of detention may be imposed only where they are objectively necessary for security, public order or the administrative management of the place of detention, and provided that access is not thereby severely restricted or rendered impossible.
- (8) The person in charge of the place of detention in which an applicant is, or is to be, detained under *section 104#* or *105##* shall, without delay, provide the applicant with information—
  - (a) that explains the rules applied in the place of detention in which the detained applicant is, or is to be, detained, and
  - (b) setting out, in a language that he or she understands or may reasonably be supposed to understand, the detained applicant’s rights and obligations while he or she is detained in the place of detention.”.

[#This is a reference to a section proposed to be inserted by amendment No. 191]

[#This is a reference to a section proposed to be inserted by amendment No. 192]

**199.** In page 70, between lines 5 and 6, to insert the following:

“(4) The best interests of the child shall be a primary consideration in the carrying out of procedures in respect of a minor under this Part, in accordance with Article 23 of the Asylum and Migration Management Regulation.”.

—*Senators Nicole Ryan, Chris Andrews, Pauline Tully, Joanne Collins, Maria McCormack, Conor Murphy.*

SECTION 70

**\*200.** In page 70, between lines 5 and 6, to insert the following:

**“Best interests of child – (Part 4)**

**70.** (1) The best interests of the child shall be a primary consideration in the carrying out of procedures in respect of a minor under this Part.

[SECTION 70]

- (2) The Minister shall give priority to procedures in their application to minors.”.

SECTION 73

**201.** In page 71, between lines 3 and 4, to insert the following:

**“Authorisation for solidarity relocation**

- 73.** (1) The Minister shall not accept the transfer or relocation of applicants pursuant to the solidarity mechanism under the Asylum and Migration Management Regulation unless authorised to do so by resolution of both Houses of the Oireachtas.
- (2) Nothing in this section affects the Minister’s functions under this Act in respect of transfers required pursuant to Articles 36, 39 or 46 of the Asylum and Migration Management Regulation.”.

—*Senator Sharon Keogan.*

SECTION 78

**202.** In page 73, between lines 15 and 16, to insert the following:

**“Healthcare continuity during transfer of accommodation**

- 78.** (1) Where the Minister proposes to transfer a person from one accommodation centre to another, the Minister shall, before effecting the transfer, take reasonable steps to ensure the continuity of any ongoing medical treatment of the person.
- (2) Without prejudice to the generality of *subsection (1)*, the Minister shall—
- (a) have regard to any medical treatment that the person is receiving or is scheduled to receive,
  - (b) ensure that relevant medical records are transferred to the person’s new treating medical practitioner,
  - (c) ensure that the person has a supply of prescribed medication sufficient to cover the period of transition, and
  - (d) where the person is receiving specialist treatment, ensure that arrangements are made for the continuation of that treatment.
- (3) A transfer shall not be affected where, in the opinion of a registered medical practitioner, the transfer would pose a significant risk to the health of the person.”.

—*Senator Aubrey McCarthy.*

SECTION 81

**\*203.** In page 74, line 6, to delete “legal adviser or other counsellor” and substitute “legal representative”.

**\*204.** In page 74, between lines 7 and 8, to insert the following:

- “(2) The transfer decision shall state that the relevant reception conditions have been withdrawn in accordance with this Article 21 of the Reception Conditions Directive.”.

[SECTION 82]

SECTION 82

**205.** In page 75, line 3, after “hearings” to insert the following:

“in every case unless—

- (a) there are good reasons, not connected with administrative convenience, for not holding an oral hearing in a particular case, and
- (b) dispensing with an oral hearing would not be contrary to fair procedures.”.

—*Senators Laura Harmon, Nessa Cosgrove, Malcolm Noonan, Patricia Stephenson.*

SECTION 86

**\*206.** In page 76, line 27, to delete “the subject of a transfer decision” and substitute “to whom *section 85* applies”.

**\*207.** In page 77, between lines 4 and 5, to insert the following:

“(3) The Minister may by regulations provide for procedures by which an applicant may demonstrate compliance with a requirement under *subsection (1)(d)*, including, without prejudice to the generality of this subsection—

- (a) reporting by use of electronic means from a specified location other than in the presence of the relevant immigration officer or member of An Garda Síochána,
- (b) verification by a person the subject of a requirement under *subsection (1)* of his or her identity by use of an identity card, a password or prescribed personal data,
- (c) the sharing, storage, processing and use of personal data for the purposes of verifying the identity of a person who reports from a specified location other than in the presence of the relevant immigration officer or member of An Garda Síochána.”.

SECTION 87

**\*208.** In page 77, line 6, after “applicant” to insert “to whom *section 85* applies”.

**209.** In page 77, to delete lines 30 to 33 and substitute the following:

“(4) For the purposes of arresting a person under *subsection (1)*, an immigration officer or member of An Garda Síochána may only enter and search a premises if the immigration officer or member has a warrant to do so.”.

—*Senators Alice-Mary Higgins, Lynn Ruane, Frances Black.*

**210.** In page 77, line 31, to delete “(if necessary by use of reasonable force)”.

—*Senators Alice-Mary Higgins, Lynn Ruane, Frances Black.*

**211.** In page 77, to delete lines 34 to 41 and substitute the following:

“(5) Where the premises where the person is, or where the person is, or where the immigration officer or member suspects the person to be, is a dwelling the immigration officer or member shall not enter the dwelling unless the immigration officer or member has a warrant to do so.”.

—*Senators Alice-Mary Higgins, Lynn Ruane, Frances Black.*

[SECTION 87]

\*212. In page 78, line 7, to delete “*section 164*” and substitute “*section 86*”.

\*213. In page 78, between lines 14 and 15, to insert the following:

“(f) whether the person is being, or has been, detained under *Part 5#*.”.

[#*This is a reference to a section proposed to be inserted by amendment No. 173*]

214. In page 78, to delete lines 17 to 20 and substitute the following:

“(8) Where, for the purposes of *subsection (7)*, there is any doubt as to whether the person subject to the transfer procedure is under the age of 18, the immigration officer or member of An Garda Síochána shall—

(a) as soon as possible and in any event before the operation of *subsections (1) and (3)*, refer the person for age assessment under section 52, and

(b) pending the results of an age assessment, the provisions of *subsection (1) and (3)* shall not apply.”.

—*Senators Alice-Mary Higgins, Lynn Ruane, Frances Black.*

SECTION 89

215. In page 79, after line 32, to insert the following:

“(4) The best interests of the child shall be a primary consideration in the carrying out of procedures in respect of a minor under this Part, in accordance with Article 22 of the Asylum Procedures Regulation.”.

—*Senators Nicole Ryan, Chris Andrews, Pauline Tully, Joanne Collins, Maria McCormack, Conor Murphy.*

SECTION 91

216. In page 81, between lines 2 and 3, to insert the following:

**“State-funded medico-legal assessments**

91. (1) Where, in the course of an examination of an application under this Part, it appears that the applicant may have been subjected to torture or other serious harm, the Minister shall arrange for the applicant to undergo a medico-legal assessment at the expense of the State.

(2) An assessment under *subsection (1)* shall be conducted by a registered medical practitioner with expertise in the documentation of torture and ill-treatment, having regard to the Manual on the Effective Investigation and Documentation of Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment (Istanbul Protocol).

(3) The report of an assessment under this section shall be admitted as evidence in any proceedings under this Act.”.

—*Senator Aubrey McCarthy.*

217. In page 82, line 22, after “law,” to insert “and in relation to the detection, protection and support of victims of child trafficking.”.

—*Senators Alice-Mary Higgins, Lynn Ruane, Frances Black.*

[SECTION 92]

SECTION 92

- \*218.** In page 83, lines 8 to 10, to delete all words from and including “a” in line 8 down to and including “conditions” in line 10 and substitute “a *section 82#* decision”.

[#This is a reference to a section proposed to be inserted by amendment No. 169]

SECTION 93

- 219.** In page 84, to delete lines 36 to 39, and in page 85, to delete lines 1 to 3 and substitute the following:

“(6) When in doubt as to the fitness of ability of the applicant to be interviewed, the Determining Authority shall consult a registered medical practitioner with expertise in trauma and mental health to establish whether the applicant is temporarily unfit or unable to be interviewed or whether his or her situation is of an enduring nature and where, following the consultation with that medical practitioner, it is clear that the condition making the applicant unfit or unable to be interviewed is of a temporary nature, the Determining Authority shall postpone the personal interview until such time as the applicant is fit or able to be interviewed.

(7) In making a determination under *subsection (6)*, the medical practitioner shall, *inter alia*, have regard to—

- (a) the applicant’s mental health, including any symptoms of post-traumatic stress, dissociation, or trauma-related memory fragmentation,
- (b) the applicant’s physical health, and
- (c) any reasonable adjustments that could be made to the interview process to enable the applicant’s participation.”.

—*Senators Aubrey McCarthy, Alice-Mary Higgins, Lynn Ruane, Frances Black*

SECTION 94

- \*220.** In page 85, line 22, to delete “legal assistance” and substitute “assistance by a legal representative”.

- 221.** In page 85, line 38, after “Regulation” to insert “and training in relation to the detection, protection and support of victims of trafficking”.

—*Senators Alice-Mary Higgins, Lynn Ruane, Frances Black.*

- 222.** In page 85, line 43, after “needs” to insert “, including their circumstances as a potential presumed or identified victim of trafficking”.

—*Senators Alice-Mary Higgins, Lynn Ruane, Frances Black.*

SECTION 95

- 223.** In page 86, between lines 8 and 9, to insert the following:

“(e) an interpreter.”.

—*Senators Nicole Ryan, Chris Andrews, Pauline Tully, Joanne Collins, Maria McCormack, Conor Murphy.*

[SECTION 96]

SECTION 96

- \*224. In page 86, line 15, to delete “legal adviser” and substitute “legal representative”.
- \*225. In page 86, line 17, to delete “legal adviser participates in the personal interview, the legal adviser” and substitute “legal representative participates in the personal interview, the legal representative”.
- \*226. In page 86, line 19, to delete “legal adviser” and substitute “legal representative”.

SECTION 97

- \*227. In page 87, line 4, after “interview” to insert the following:

“, or within the period of 3 working days beginning on the day on which the applicant is given access to the personal interview report under *subsection (11)*,”.
- \*228. In page 87, lines 17 and 18, to delete “applicant’s representative and his or her legal advisers” and substitute “legal representative representing him or her”.

SECTION 98

- \*229. In page 88, to delete lines 1 and 2 and substitute the following:

“(b) where applicable, the legal representative representing him or her,”.
- \*230. In page 88, line 27, to delete “legal adviser” and substitute “legal representative”.
- \*231. In page 88, lines 30 and 31, to delete “legal adviser who legally represents the applicant” and substitute “legal representative”.
- \*232. In page 88, line 33, to delete “legal adviser” and substitute “legal representative”.
- \*233. In page 88, line 38, to delete “challenge” and substitute “appeal”.

SECTION 99

- 234. In page 89, line 22, after “protection” to insert “, and in such cases the Determining Authority shall reject the application as inadmissible unless the applicant demonstrates substantial grounds for believing that the protection previously granted no longer affords effective protection against refolement or serious harm”.

—*Senators Nicole Ryan, Chris Andrews, Pauline Tully, Joanne Collins, Maria McCormack,  
Conor Murphy.*

- 235. In page 90, between lines 2 and 3, to insert the following:
  - “(4) Where an applicant has travelled through, resided in, or been present in any safe third country or in any Member State prior to arriving in the State, it shall be presumed that the application is inadmissible on the ground that the applicant could have sought international protection in that country.
  - (5) The presumption in *subsection (4)#* may be rebutted only where the applicant furnishes clear and compelling evidence, within 5 working days of the admissibility interview, that effective protection was not available to him or her in that country.
  - (6) For the purposes of *subsection (4)#*, “presence” includes transit, short stay, or layover,

[SECTION 99]

whether or not formal entry occurred.”.

—*Senator Sharon Keogan.*

[#This is a reference to a subsection proposed to be inserted by this amendment.]

SECTION 100

236. In page 90, between lines 10 and 11, to insert the following:

**“Effect of repeated inadmissible applications**

100. Where a person has made two or more applications for international protection that have been declared inadmissible under this Chapter, the determining authority may take such previous findings into account when assessing the credibility of any subsequent application, provided that the applicant is afforded an opportunity to make representations.”.

—*Senators Nicole Ryan, Chris Andrews, Pauline Tully, Joanne Collins, Maria McCormack, Conor Murphy.*

237. In page 90, between lines 10 and 11, to insert the following:

**“Admissibility to be determined prior to examination on merits**

100. (1) Before any examination on the merits under this Part is commenced, the Determining Authority shall first complete the admissibility assessment under *section 99*.

(2) A merits examination shall only proceed where the Determining Authority is satisfied that no ground of inadmissibility applies.”.

—*Senator Sharon Keogan.*

238. In page 90, between lines 27 and 28, to insert the following:

“(5) Representations made under this section shall be confined to matters directly relevant to the grounds of inadmissibility relied upon, and shall not operate to delay a decision where they are manifestly repetitive, vexatious or irrelevant.”.

—*Senators Nicole Ryan, Chris Andrews, Pauline Tully, Joanne Collins, Maria McCormack, Conor Murphy.*

SECTION 101

239. In page 90, line 34, after “question,” to insert the following:

“which notice shall indicate the grounds of inadmissibility and confirm, where applicable, the basis upon which readmission may be effected,”.

—*Senator Sharon Keogan.*

240. In page 91, line 2, after “question,” to insert the following:

“which notice shall indicate the grounds of inadmissibility and confirm, where applicable, the basis upon which readmission may be effected,”.

—*Senator Sharon Keogan.*

[SECTION 104]

SECTION 104

**241.** In page 91, between lines 15 and 16, to insert the following:

“(b) the procedure under *Part 4* identifies another Member State as responsible or likely responsible, the Determining Authority shall refrain from any examination on the merits other than for the limited purposes of *sections 105 and 122*.”.

—*Senator Sharon Keogan.*

SECTION 106

**\*242.** In page 92, lines 13 and 14, to delete “legal adviser, to consult with his or her legal adviser” and substitute “legal representative, to consult with his or her legal representative”.

**\*243.** In page 92, lines 15 and 16, to delete “to consult with a person entrusted with providing legal counselling” and substitute “to be provided with legal counselling”.

**244.** In page 92, line 15, after “consult” to insert “free of charge”.

—*Senators Laura Harmon, Nessa Cosgrove, Malcolm Noonan, Patricia Stephenson.*

**245.** In page 93, between lines 1 and 2, to insert the following:

“(10) For the purposes of this section, “legal counselling” means the provision to an applicant of information, guidance and assistance, relating to the asylum procedure, having regard to the particular circumstances of the applicant, and that is provided—

- (a) on an individual, personalised, and in-person basis,
- (b) by a practicing solicitor or barrister,
- (c) without charge to the applicant,
- (d) in a language that is understood by the applicant.”.

—*Senators Alice-Mary Higgins, Lynn Ruane, Frances Black.*

SECTION 110

**246.** In page 94, between lines 17 and 18, to insert the following:

“(7) The Minister shall ensure that the Determining Authority is provided with such staffing and resources as are necessary to enable compliance with the time limit specified in *subsection (1)*, and shall, not later than 31 March in each year, lay before each House of the Oireachtas a report outlining—

- (a) the staffing levels of the Determining Authority during the preceding year,
- (b) the extent to which the time limit in *subsection (1)* was met during that year, and
- (c) where the time limit was not met, the reasons for non compliance and the measures proposed to secure future compliance.”.

—*Senators Nicole Ryan, Chris Andrews, Pauline Tully, Joanne Collins, Maria McCormack, Conor Murphy.*

[SECTION 115]

SECTION 115

247. In page 94, after line 35, to insert the following:

**“Resourcing of Legal Aid Board**

115. (1) The Minister shall ensure that the Legal Aid Board is provided with sufficient and sustainable resources to meet the additional demand for legal services arising from the enactment and operation of this Act.
- (2) In fulfilling the obligation under *subsection (1)*, the Minister shall have regard to—
- (a) the projected number of applications for international protection,
  - (b) the statutory obligations of the Legal Aid Board in respect of applicants,
  - (c) the need to avoid delays in the provision of legal advice and representation,
  - (d) the importance of ensuring fair procedures and access to justice for all applicants.
- (3) The Minister shall, within 6 months of the commencement of this section, lay before each House of the Oireachtas a report outlining—
- (a) the anticipated additional workload for the Legal Aid Board arising from this Act,
  - (b) the measures taken to ensure adequate staffing and funding,
  - (c) any further steps required to maintain timely access to legal services.
- (4) The Minister shall provide an annual update to each House of the Oireachtas on the resourcing of the Legal Aid Board insofar as it relates to the operation of this Act.
- (5) Nothing in this section shall be construed as limiting the independence of the Legal Aid Board in the performance of its statutory functions.”.

—*Senators Nicole Ryan, Chris Andrews, Pauline Tully, Joanne Collins, Maria McCormack, Conor Murphy.*

248. In page 94, after line 35, to insert the following:

**“Resourcing of Tusla (Child and Family Agency)**

115. (1) The Minister shall ensure that Tusla (Child and Family Agency) is provided with sufficient and sustainable resources to meet the additional responsibilities arising from the enactment and operation of this Act, including responsibilities in respect of unaccompanied minors, age assessment processes, child protection, and family support services.
- (2) In fulfilling the obligation under *subsection (1)*, the Minister shall have regard to—
- (a) the projected number of applications for international protection involving children or families,
  - (b) Tusla’s statutory obligations under the Child and Family Agency Act 2013 and any obligations arising under this Act,
  - (c) the need to avoid delays in the provision of assessments, placements, and

[SECTION 115]

supports for children,

- (d) the importance of ensuring that all children in the international protection process receive timely, appropriate, and child centred care.
- (3) The Minister shall, within 6 months of the commencement of this section, lay before each House of the Oireachtas a report outlining—
  - (a) the anticipated additional workload for Tusla arising from this Act,
  - (b) the measures taken to ensure adequate staffing, training, and funding,
  - (c) any further steps required to maintain timely and effective child protection and family support services.
- (4) The Minister shall provide an annual update to each House of the Oireachtas on the resourcing of Tusla insofar as it relates to the operation of this Act.
- (5) Nothing in this section shall be construed as limiting the independence of Tusla in the performance of its statutory functions.”.

—*Senators Nicole Ryan, Chris Andrews, Pauline Tully, Joanne Collins, Maria McCormack, Conor Murphy.*

**249.** In page 94, after line 35, to insert the following:

**“Effect of conferral of international protection status**

- 115.** (1) Conferral of international protection status whether by way of refugee status or subsidiary protection status, shall not of itself be permanent or give rise to any right or expectation of permanent residence in the State.
- (2) Conferral of international protection status shall be considered to be temporary and not to exceed in duration circumstances or changes in circumstance in the country or territory of origin of any person granted refugee status or subsidiary protection under this or by any other enactment.”.

—*Senator Michael McDowell.*

**250.** In page 95, between lines 27 and 28, to insert the following:

- “(f) the applicant is from a safe country of origin and has transited a safe third country, in which case the Determining Authority shall conclude the accelerated examination within 10 working days unless exceptional circumstances are recorded in writing,”.

—*Senator Sharon Keogan.*

**251.** In page 96, line 5, after “needs,” to insert “or on the basis that the applicant is a presumed or identified victim of trafficking,”.

—*Senators Alice-Mary Higgins, Lynn Ruane, Frances Black.*

[SECTION 115]

- 252.** In page 96, line 15, after “procedure,” to insert “or that the application is by a presumed or identified victim of trafficking,”.

—*Senators Laura Harmon, Nessa Cosgrove, Malcolm Noonan, Patricia Stephenson, Alice-Mary Higgins, Lynn Ruane, Frances Black.*

SECTION 117

- \*253.** In page 97, lines 30 and 31, to delete “and *section 125(3)*”.

SECTION 118

- \*254.** In page 98, line 14, to delete “a Member State” and substitute “the State”.

- \*255.** In page 98, line 16, to delete “a Member State” and substitute “the State”.

- \*256.** In page 98, line 19, to delete “a Member State” and substitute “the State”.

SECTION 122

- 257.** In page 99, line 36, after “rape” to insert “, victims of trafficking”.

—*Senators Laura Harmon, Nessa Cosgrove, Malcolm Noonan, Patricia Stephenson, Alice-Mary Higgins, Lynn Ruane, Frances Black.*

SECTION 126

- 258.** In page 101, to delete lines 16 to 19 and substitute the following:

“(2) During the examination of an application subject to the asylum border procedure, the applicant may be required, in accordance with the Reception Conditions Directive and following a consideration of the individual circumstances of the applicant including any special reception needs that he or she may have, to reside in a ABP centre, fully taking into account the State’s specific geographical circumstances.”.

—*Senators Laura Harmon, Nessa Cosgrove, Malcolm Noonan, Patricia Stephenson.*

- \*259.** In page 101, line 17, to delete “the Reception Conditions Directive” and substitute “*Part 5#*”.

[#*This is a reference to a section proposed to be inserted by amendment No. 173*]

- 260.** In page 101, between lines 25 and 26, to insert the following:

“(4) Nothing in *subsection (2)* shall prevent children in the asylum border procedure from retaining general freedom of movement and the Minister shall ensure that—

(a) children are not *de facto* detained under this section, and

(b) children retain their right to have special reception needs recognised.”.

—*Senators Alice-Mary Higgins, Lynn Ruane, Frances Black.*

- 261.** In page 101, line 30, to delete “constitute an entry” and substitute “constitute an authorised entry”.

—*Senators Laura Harmon, Nessa Cosgrove, Malcolm Noonan, Patricia Stephenson.*

SECTION 129

- 262.** In page 102, between lines 8 and 9, to insert the following:

“**129.** The best interests of the child shall be a primary consideration in the carrying out of procedures in respect of a minor under this Part, in accordance with Article 22 of the

[SECTION 129]

Asylum Procedures Regulation.”.

—*Senators Nicole Ryan, Chris Andrews, Pauline Tully, Joanne Collins, Maria McCormack, Conor Murphy.*

**263.** In page 103, between lines 19 and 20, to insert the following:

“(10) Where an appeal under *subsection (1)* is brought by an applicant, the Minister shall ensure that the applicant has access to free legal assistance and representation in the appeal procedure, as guaranteed by Article 8(2) and Articles 15 to 18 of the Asylum Procedures Directive.”.

—*Senators Alice-Mary Higgins, Lynn Ruane, Frances Black.*

SECTION 130

**\*264.** In page 104, between lines 3 and 4, to insert the following:

“(ii) a country which is not a Member State is considered to be a safe third country for the person, unless it is clear that the person will not be admitted or readmitted to that country;

(iii) a Member State other than the State has granted the person international protection;”.

SECTION 131

**\*265.** In page 105, line 37, to delete “*Part 9*” and substitute “*section 158 or 160*”.

SECTION 133

**266.** In page 107, line 28, to delete “other than the Minister or an officer of the Minister,”.

—*Senators Alice-Mary Higgins, Lynn Ruane, Frances Black.*

SECTION 134

**\*267.** In page 108, to delete lines 16 and 17 and substitute the following:

“(3) Where the Tribunal produces a transcript of an oral hearing or a transcript of a recording under *subsection (1)*, the Tribunal shall include the transcript in an applicant’s file.”.

SECTION 142

**268.** In page 113, between lines 29 and 30, to insert the following:

“(3) The best interests of the child shall be a primary consideration in the carrying out of procedures in respect of a minor under this Part, in accordance with Article 20 of the Qualification Regulation.”.

—*Senators Nicole Ryan, Chris Andrews, Pauline Tully, Joanne Collins, Maria McCormack, Conor Murphy.*

[SECTION 144]

SECTION 144

\*269. In page 114, line 11, to delete “and the same social welfare” and substitute “, social welfare”.

\*270. In page 114, line 11, after “benefits” to insert “and housing benefits”.

\*271. In page 114, between lines 12 and 13, to insert the following:

“(e) for so long as the beneficiary of international protection is an unaccompanied minor, to have a guardian appointed in respect of him or her to perform the functions of a guardian set out in Article 33(2) of the Qualification Regulation.”.

272. In page 114, lines 16 and 17, to delete “and where required, obliged to participate in such measures”.

—*Senators Laura Harmon, Nessa Cosgrove, Malcolm Noonan, Patricia Stephenson.*

\*273. In page 114, line 18, to delete “section,” and substitute the following:

“section—

“housing benefits” means—

- (a) a social housing support provided, facilitated or managed under section 19 of the Housing (Miscellaneous Provisions) Act 2009, and
- (b) accommodation or lodgings made available, or assistance provided, under section 10 of the Housing Act 1988;”.

SECTION 145

274. In page 114, between lines 19 and 20, to insert the following:

**“Healthcare continuity during transfer of accommodation**

145. (1) Where the Minister proposes to transfer a person from one accommodation centre to another, the Minister shall, before effecting the transfer, take reasonable steps to ensure the continuity of any ongoing medical treatment of the person.

(2) Without prejudice to the generality of *subsection (1)*, the Minister shall—

- (a) have regard to any medical treatment that the person is receiving or is scheduled to receive,
- (b) ensure that relevant medical records are transferred to the person’s new treating medical practitioner, or provide a copy of those records to the person,
- (c) ensure that the person has a supply of prescribed medication sufficient to cover the period of transition, and
- (d) ensure, where the person is receiving specialist treatment, that arrangements are made for the continuation of that treatment.

(3) A transfer shall not be effected where, in the opinion of a registered medical practitioner, the transfer would pose a significant risk to the health of the person.”.

—*Senators Alice-Mary Higgins, Lynn Ruane, Frances Black.*

SECTION 146

275. In page 114, after line 38, to insert the following:

**“Permission to enter and reside for member of family of beneficiary of international protection**

146. (1) A beneficiary of international protection (in this section referred to as the “sponsor”) may, subject to *subsection (11)*, make an application to the Minister for permission to be given to a member of the family of the sponsor, where that family member does not qualify for international protection—
- (a) to enter and reside in the State, or
  - (b) where the member, on the date of the application, is in the State (whether lawfully or unlawfully), to reside in the State.
- (2) The Minister shall investigate, or cause to be investigated, an application under *subsection (1)* to determine—
- (a) the identity of the person who is the subject of the application,
  - (b) the relationship between the sponsor and the person who is the subject of the application, and
  - (c) the domestic circumstances of the person who is the subject of the application.
- (3) It shall be the duty of the sponsor and the person who is the subject of the application to cooperate fully in the investigation under *subsection (2)*, including by providing all information in his or her possession, control or procurement relevant to the application.
- (4) Subject to *subsections (6) and (7)*, if the Minister is satisfied that the person who is the subject of an application under this section is a member of the family of the sponsor, he or she shall give permission in writing to the person to enter and reside in the State and the person shall, while the permission is in force and the sponsor is entitled to remain in the State, be entitled to the rights and privileges specified in *section 144* in relation to a beneficiary of international protection.
- (5) (a) A permission to reside issued pursuant to *subsection (4)* shall have the same date of expiry as the permission to reside issued to the beneficiary of international protection and shall, subject to *subsections (6) and (7)*, be renewable for as long as the permission to reside issued to the beneficiary of international protection is renewed.
- (b) The period of validity of the permission to reside issued to the family member shall not extend beyond the date of expiry of the permission to reside held by the beneficiary of international protection.
- (6) The Minister shall refuse to give permission to enter and reside in the State to a person referred to in *subsection (4)* or revoke any permission given to such a person—
- (a) in the interest of national security or public policy (“*ordre public*”), where the Minister considers it necessary,

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- (b) where the person has committed a crime against peace, a war crime or a crime against humanity,
  - (c) where the person guilty of acts contrary to the purposes and principles of the United Nations,
  - (d) where the entitlement of the sponsor to remain in the State ceases, or
  - (e) where misrepresentation or omission of facts, whether or not including the use of false documents, by the person was decisive in the decision to give the person the permission.
- (7) The Minister shall refuse to give permission to enter and reside in the State to a spouse or civil partner where there are strong indications that the marriage or partnership was contracted for the sole purpose of enabling the person concerned to enter or reside in the State.
- (8) Family members who have been issued a permission to reside pursuant to *subsection (4)* shall be entitled to the rights laid down in Articles 25 to 32, 34 and 35 of the Qualification Regulation.
- (9) A permission given under *subsection (4)* shall cease to be in force if the person to whom it is given does not enter and reside in the State by a date specified by the Minister when giving the permission.
- (10) A permission given under *subsection (4)* to the spouse or civil partner of a sponsor shall cease to be in force where the marriage or the civil partnership concerned ceases to subsist.
- (11) An application under *subsection (1)* shall be made within 12 months of the giving under Head 78 of the refugee declaration or, as the case may be, subsidiary protection declaration to the sponsor concerned.
- (12) A beneficiary of international protection (in this section referred to as the “sponsor”) may, subject to head 91(2), (3), and (5) to (8), make an application to the Minister for permission to reside in the State to be given to a member of the family of the sponsor who, on the date of the application, is in the State (whether lawfully or unlawfully) and who does not himself or herself qualify for international protection.
- (13) Subject to head 91(6), if the Minister is satisfied that the person who is the subject of an application under this head is a member of the family of the sponsor, the Minister shall give permission in writing to the person to reside in the State and the person shall, while the permission is in force and the sponsor is entitled to remain in the State, be entitled to the rights and privileges specified in head 88 in relation to a beneficiary of international protection.
- (14) (a) In this section, “family member” means, insofar as the family already existed before the sponsor arrived in the State, the following members of the family of the sponsor:
- (i) the spouse of the sponsor or his or her civil partner;
  - (ii) the minor children of the sponsor or of his or her spouse or civil partner and

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the unmarried adult dependent children of the sponsor or of his or her spouse or civil partner;

(iii) where the sponsor is, on the date of the application under *subsection (1)*, a minor, the father, mother, and their children who, on the date of the application under *subsection (1)*, are under the age of 18 years, or another adult responsible for that beneficiary, including an adult sibling.

(b) For the purpose of *paragraph (a)(ii)*, an adult child should be considered dependent, on the basis of an individual assessment, where that child is unable to support himself or herself due to a physical or mental condition linked to a serious non-temporary illness or severe disability.”.

—*Senators Laura Harmon, Nessa Cosgrove, Malcolm Noonan, Patricia Stephenson.*

**276.** In page 115, to delete lines 24 and 25.

—*Senators Laura Harmon, Nessa Cosgrove, Malcolm Noonan, Patricia Stephenson.*

**277.** In page 116, to delete lines 7 to 9.

—*Senators Laura Harmon, Nessa Cosgrove, Malcolm Noonan, Patricia Stephenson.*

**278.** In page 116, line 21, to delete “in accordance with this section” and substitute “in accordance with *section 34*”.

—*Senators Laura Harmon, Nessa Cosgrove, Malcolm Noonan, Patricia Stephenson.*

**279.** In page 116, to delete line 25 and substitute the following:

“(a) the spouse, civil partner, or *de facto* partner of the sponsor;”.

—*Senators Alice-Mary Higgins, Lynn Ruane, Frances Black.*

**280.** In page 116, lines 29 to 31, to delete all words from and including “a” in line 29 down to and including line 31 and substitute the following:

“the father, mother, and their children who, on the date of the application, are under the age of 18 years, or another adult responsible for that beneficiary, including an adult sibling.”.

—*Senators Laura Harmon, Nessa Cosgrove, Malcolm Noonan, Patricia Stephenson.*

**281.** In page 116, line 31, after “sponsor” to insert the following:

“and their children who, on the date of the application for international protection, are under the age of 18 years”.

—*Senators Alice-Mary Higgins, Lynn Ruane, Frances Black.*

**282.** In page 116, between lines 31 and 32, to insert the following:

“(d) the unmarried or unregistered partner of the sponsor, provided that, in their country of origin or in either one of their countries of origin before the sponsor arrived in the State, their relationship with the sponsor was punishable as a criminal offence or was not afforded the lawful protection of equivalent opposite sex couples, whether or not that was the subject matter of the sponsor’s

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application for international protection.”.

—*Senators Laura Harmon, Nessa Cosgrove, Malcolm Noonan, Patricia Stephenson.*

*Section opposed.*

—*Senators Laura Harmon, Nessa Cosgrove, Malcolm Noonan, Patricia Stephenson.*

SECTION 147

**283.** In page 116, to delete lines 37 to 39 and substitute the following:

“(2) An application shall be made within 12 months from the date on which the sponsor was granted international protection.”.

—*Senators Laura Harmon, Nessa Cosgrove, Malcolm Noonan, Patricia Stephenson.*

**284.** In page 116, to delete lines 37 to 39 and substitute the following:

“(2) An application made under *subsection (1)* shall be made within 12 months from the date on which the sponsor was granted international protection.”.

—*Senators Alice-Mary Higgins, Lynn Ruane, Frances Black.*

**285.** In page 117, to delete lines 4 to 10 and substitute the following:

“(b) the relationship between the sponsor and the person who is the subject of the application, and

(c) the domestic circumstances of the person who is the subject of the application.”.

—*Senators Alice-Mary Higgins, Lynn Ruane, Frances Black.*

**286.** In page 117, to delete lines 8 to 10.

—*Senators Laura Harmon, Nessa Cosgrove, Malcolm Noonan, Patricia Stephenson.*

**287.** In page 117, to delete lines 18 to 21 and substitute the following:

“(a) that the person who is subject to the application is a family member of the sponsor,”.

—*Senators Alice-Mary Higgins, Lynn Ruane, Frances Black.*

**288.** In page 117, to delete lines 20 and 21.

—*Senators Laura Harmon, Nessa Cosgrove, Malcolm Noonan, Patricia Stephenson.*

**289.** In page 117, to delete lines 24 to 34.

—*Senators Alice-Mary Higgins, Lynn Ruane, Frances Black.*

**290.** In page 117, to delete lines 24 to 40, and in page 118, to delete lines 1 to 6.

—*Senators Laura Harmon, Nessa Cosgrove, Malcolm Noonan, Patricia Stephenson, Alice-Mary Higgins, Lynn Ruane, Frances Black.*

**291.** In page 118, to delete lines 8 and 9.

—*Senators Laura Harmon, Nessa Cosgrove, Malcolm Noonan, Patricia Stephenson.*

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**292.** In page 118, between lines 23 and 24, to insert the following:

“(a) may be extended by the Minister, where the Minister considers it appropriate to do so having regard to the circumstances of the sponsor or their family members.”.

—*Senators Alice-Mary Higgins, Lynn Ruane, Frances Black.*

**293.** In page 118, to delete lines 29 to 31.

—*Senators Laura Harmon, Nessa Cosgrove, Malcolm Noonan, Patricia Stephenson.*

**294.** In page 119, line 4, to delete “in accordance with this section;” and substitute “in accordance with *section 34.*”.

—*Senators Laura Harmon, Nessa Cosgrove, Malcolm Noonan, Patricia Stephenson.*

**\*295.** In page 119, between lines 4 and 5, to insert the following:

“*de facto partner*”, in relation to a sponsor, means a person—

- (a) who is unmarried,
- (b) with whom the sponsor lived in an intimate and committed relationship,
- (c) who is in a stable and continuing relationship with the sponsor,
- (d) with whom the sponsor intends to resume the relationship referred to in *paragraph (b)*, and
- (e) who is not related to the sponsor within a prohibited degree of relationship such that the person and the sponsor would be prohibited from marrying each other in the State by reason of that relationship;”.

**296.** In page 119, line 5, after “sponsor” to insert “and their children who, on the date of application under *subsection (5)* are under the age of 18 years,”.

—*Senators Alice-Mary Higgins, Lynn Ruane, Frances Black.*

**297.** In page 119, lines 20 to 22, to delete all words from and including “, the” down to and including line 22 and substitute the following:

“the father, mother, and their children who, on the date of the application, are under the age of 18 years, or another adult responsible for that beneficiary, including an adult sibling;”.

—*Senators Laura Harmon, Nessa Cosgrove, Malcolm Noonan, Patricia Stephenson.*

**298.** In page 119, between lines 22 and 23, to insert the following:

“(f) the unmarried or unregistered partner of the sponsor, provided that, in their country of origin or in either one of their countries of origin before the sponsor arrived in the State, their relationship with the sponsor was punishable as a criminal offence or was not afforded the lawful protection of equivalent opposite

[SECTION 147]

sex couples, whether or not that was the subject matter of the sponsor's application for international protection;”.

—*Senators Laura Harmon, Nessa Cosgrove, Malcolm Noonan, Patricia Stephenson.*

**299.** In page 119, between lines 22 and 23, to insert the following:

“(f) where the sponsor is a minor on the date of application for international protection, an adult child of the sponsors’ parent’s who is—

- (i) dependent on a long term basis on their parent or parents, or
- (ii) suffering from a mental or physical disability,

to such an extent that it is not reasonable for the adult child to maintain himself or herself fully;”.

—*Senators Alice-Mary Higgins, Lynn Ruane, Frances Black.*

**\*300.** In page 119, line 28, to delete “of” and substitute the following:

“of—

- (a) material reception conditions made available to him or her under *Chapter 2# of Part 4##*, and
- (b) ”.

[#This is a reference to a Chapter proposed to be inserted by amendment No. 158]

[##This is a reference to a Part proposed to be inserted by amendment No. 156]

*Section opposed.*

—*Senators Laura Harmon, Nessa Cosgrove, Malcolm Noonan, Patricia Stephenson.*

SECTION 148

**301.** In page 119, between lines 29 and 30, to insert the following:

**“Due regard to vulnerable persons under section 146 and section 147**

**148.** (1) In the application of *sections 146 and 147*, due regard shall be had to the specific situation of vulnerable persons, such as persons under the age of 18 years (whether or not accompanied), disabled persons, elderly persons, pregnant women, single parents with children under the age of 18 years, victims of human trafficking, persons with mental illness and persons who been subjected to torture, rape, or other serious forms of psychological, physical, or sexual violence.

(2) In the applications of *sections 146 and 147*, in relation to a person who has not attained the age of 18 years, the best interests of the child shall be a primary consideration.”.

—*Senators Alice-Mary Higgins, Lynn Ruane, Frances Black.*

*Section opposed.*

—*Senators Alice-Mary Higgins, Lynn Ruane, Frances Black.*

[SECTION 154]

SECTION 154

302. In page 123, between lines 27 and 28, to insert the following:

**“Application for naturalisation by persons with temporary international protection status**

154. Where under any enactment any person applies for naturalisation in the State the qualifying period for habitual residence in the State shall be extended by any period not exceeding three years during which that person’s residence in the State was temporary having regard to the provisions of *section 7#*.”.

—*Senator Michael McDowell.*

[#*This is a reference to a section proposed to be inserted by amendment No. 25*]

SECTION 155

303. In page 125, between lines 8 and 9, to insert the following:

**“Enhanced oversight of deportation orders**

155. (1) The Minister shall maintain a public register of all deportation orders made under this Act, which shall include—

- (a) the number of deportation orders issued in each calendar month,
- (b) the number of deportation orders executed,
- (c) the number of deportation orders revoked, suspended, or otherwise not proceeded with, and
- (d) anonymised statistical information on the nationality, age profile, and gender of persons subject to such orders.

(2) The Minister shall, not later than three months after the end of each year, lay before each House of the Oireachtas an Annual Report on Deportation Orders, which shall include—

- (a) the data specified in *subsection (1)*,
- (b) the average time between the making and execution of deportation orders,
- (c) the number of judicial reviews initiated in respect of deportation orders and the outcomes of such proceedings,
- (d) the number of deportation orders not executed due to humanitarian, medical, or practical considerations, and
- (e) an assessment of compliance with international protection and human rights obligations in the operation of deportation procedures.

(3) Where systemic issues, operational failures, or rights based concerns are identified in the preparation of the Annual Report, the Minister shall outline the steps proposed to address such issues.

(4) The Joint Oireachtas Committee on Justice, Home Affairs and Migration shall be empowered to review the Annual Report and may call the Minister or relevant

[SECTION 155]

officials to appear before it to provide further information or clarification.

- (5) Nothing in this section shall be construed as requiring the publication of personal data that would identify any individual subject to a deportation order.”.

—*Senators Nicole Ryan, Chris Andrews, Pauline Tully, Joanne Collins, Maria McCormack, Conor Murphy.*

- 304.** In page 130, between lines 18 and 19, to insert the following:

**“Revocation of international protection status**

- 158.** (1) Where any person granted international protection voluntarily returns to his or her country of origin after such grant, it shall be lawful for the Minister to revoke such status where it appears that the person can return or has returned to such country or territory of origin without significant prejudice to his or her personal safety.
- (2) Provision by the State of any travel document to any person having international protection under this or any other enactment shall be subject to the exercise by the Minister of his or her powers under *subsection (1)*.”.

—*Senator Michael McDowell.*

SECTION 159

- 305.** In page 131, between lines 21 and 22, to insert the following:

**“Mandatory return decision following inadmissible/rejected/withdrawn applications**

- 159.** (1) Where an application is rejected as inadmissible under *section 101* or declared explicitly or implicitly withdrawn under *sections 66* or *67*, the Minister shall issue a return decision within 7 days.
- (2) Such return decision shall specify, where practicable, return to the last safe third country of transit, or otherwise to the country of origin.
- (3) Return decisions issued under this section shall be prioritised for enforcement.”.

—*Senator Sharon Keogan.*

- \*306.** In page 131, lines 23 and 24, to delete “(including a return decision referred to in *section 161*)” and substitute “or *161*”.

SECTION 160

- 307.** In page 132, between lines 6 and 7, to insert the following:

**“Entry ban following return**

- 160.** (1) Where a return decision is issued pursuant to *section 159*#, the Minister may issue an entry ban for a period of up to 3 years.
- (2) In determining the period of the entry ban, the Minister may have regard to any

[SECTION 160]

non-cooperation by the person in the procedures under this Act.”.

—*Senator Sharon Keogan.*

[#This is a reference to a section proposed to be inserted by amendment No. 305]

- \*308. In page 133, line 28, to delete “before the person the subject of the decision is removed from the State”.
- \*309. In page 133, line 31, to delete “at the frontier of the State or in the State” and substitute “to the Minister”.

SECTION 161

310. In page 133, after line 41, to insert the following:

**“Healthcare access for persons subject to return decisions**

161. (1) A person who is the subject of a return decision under *section 154, 156 or 157* shall, for so long as the person remains in the State, continue to be entitled to:
- (a) access to essential medications, including life-sustaining medications, psychiatric medications, and medications for the management of chronic conditions;
  - (b) emergency medical care;
  - (c) maternity care;
  - (d) treatment for communicable diseases;
  - (e) mental health treatment.
- (2) Where a return decision is made in respect of a person, the Minister shall ensure that a care coordination plan is prepared in respect of that person, setting out arrangements for the continuity of any ongoing medical treatment.
- (3) A care coordination plan under *subsection (2)* shall be prepared in consultation with the person and, where the person consents, with the person’s treating medical practitioner.”.

—*Senator Aubrey McCarthy.*

311. In page 133, after line 41, to insert the following:

**“Healthcare access for persons subject to return decisions**

161. (1) A person who is the subject of a return decision under *section 154, 156 or 157*, or is subject to a deportation order under section 51 of the International Protection Act 2015, shall, for so long as the person remains in the State, continue to be entitled to:
- (a) access to essential medications, including life-sustaining medications, psychiatric medications, and medications for the management of chronic conditions;
  - (b) emergency medical care;
  - (c) maternity care;

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- (d) treatment for communicable diseases;
- (e) mental health treatment.
- (2) Where a return decision is made in respect of a person, the Minister shall ensure that a care coordination plan is prepared in respect of that person, setting out arrangements for the continuity of any ongoing medical treatment.
- (3) A care coordination plan under *subsection (2)* shall be prepared in consultation with the person and, where the person consents, with the person's treating medical practitioner."

—*Senator Alice-Mary Higgins, Lynn Ruane, Frances Black.*

**\*312.** In page 134, lines 4 to 14, to delete all words from and including "in" in line 4 down to and including line 14 and substitute the following:

"before a declaration is made or adopted under *section 66* or *67* or a decision is given under *section 98* in respect of the person's application."

**\*313.** In page 134, between lines 15 and 16, to insert the following:

- "(3) A person the subject of a return decision under *subsection (1)* that is in effect shall be required to leave the State and may be removed from the State or returned to the country specified in the return decision.
- (4) *Paragraphs (a) and (b) of subsection (3), and subsection (4), of section 158* shall apply to the making of a return decision under *subsection (1)* as they apply to a return decision made under that section."

SECTION 162

**\*314.** In page 134, to delete lines 20 to 26 and substitute the following:

- "(2) Without prejudice, in the case of a subsequent application, to *section 61*, a return decision made under *section 158* or *160* shall come into effect when the person the subject of the return decision no longer has the right to remain in, and may be removed from, the State in accordance with *Part 6*.
- (3) A return decision made under *section 161* shall come into effect on the date on which the return decision is made."

SECTION 163

**315.** In page 134, between lines 26 and 27, to insert the following:

**"Healthcare standards for detention**

- 163.** (1) Any place in which a person is detained under *section 161* or *168* shall meet the following minimum healthcare standards:
- (a) access to registered medical practitioners, including mental health professionals, within 24 hours of admission and at regular intervals thereafter;
  - (b) independent medical assessments, which shall not be provided by the operator of the detention facility;

[SECTION 163]

- (c) continuity of medication, including the uninterrupted supply of any medication prescribed to the person prior to detention;
  - (d) protection of medical confidentiality from immigration officers and detention facility staff;
  - (e) trauma-informed care protocols, having regard to the fact that detained persons may have experienced torture, persecution, or trafficking;
  - (f) clear procedures for medical exemption from detention where, in the opinion of a registered medical practitioner, detention would pose a significant risk to the person's health.
- (2) The medical exemptions referred to in *subsection (1)(f)* shall include, at a minimum, pregnancy, severe mental illness, and serious physical conditions.
- (3) Children shall not be detained under *section 161 or 168*.”.

—*Senator Aubrey McCarthy, Alice-Mary Higgins, Lynn Ruane, Frances Black.*

**\*316.** In page 134, lines 31 and 32, to delete “*section 158 or 160*” and substitute “this Chapter”.

SECTION 164

**\*317.** In page 135, line 19, to delete “An” where it firstly occurs and substitute “Subject to *Chapter 2*, an”.

**\*318.** In page 135, line 21, to delete “has come into effect under *section 162*” and substitute “is in effect”.

SECTION 165

**\*319.** In page 136, line 2, to delete “An” where it firstly occurs and substitute “Subject to *Chapters 2 and 3*, an”.

**\*320.** In page 136, line 3, after “may” to insert “, for the purpose of enforcing the return decision,”.

**\*321.** In page 136, line 4, to delete “has come into” and substitute “is in”.

**\*322.** In page 136, line 4, to delete “under *section 162*”.

**\*323.** In page 136, to delete lines 17 and 18 and substitute the following:

“(c) where the person has failed to leave the State after the coming into effect of the return decision.”.

**324.** In page 137, to delete lines 12 to 16 and substitute the following:

“(6) *Subsections (1) and (2)* shall not apply to a person who is under the age of 18 years.”.

—*Senators Alice-Mary Higgins, Lynn Ruane, Frances Black.*

SECTION 166

**\*325.** In page 138, lines 5 to 27, to delete all words from and including “(1) *Subsection*” in line 5 down to and including line 27 and substitute the following:

“(1) Where a person who is the subject of a return decision that is in effect under this Chapter is being detained under *section 165*, and the period of detention, or aggregate of the periods of detention if the person was previously detained under *section 165* or

[SECTION 166]

under *section 172* and subsequently under *section 165*, as the case may be, is at, or is approaching, 12 weeks, and it is necessary for the purpose of enforcing the return decision—

- (a) the person shall, on or before the expiry of that period of 12 weeks, be brought before a judge of the District Court, and
  - (b) the person shall continue to be detained under *section 165* only with the leave of a judge of the District Court.
- (2) Where a person who is the subject of a return decision that is in effect under this Chapter has previously been detained under *section 165* or *172*, and the period, or the aggregate of the periods, of the previous detention is 12 weeks or, where leave was previously granted under *subsection (1)*, more than 12 weeks, and the person is arrested and detained under *section 165*—
- (a) the person shall, as soon as practicable, be brought before a judge of the District Court, and
  - (b) the person shall continue to be detained under *section 165* only with the leave of a judge of the District Court.”.

SECTION 168

**326.** In page 139, between lines 14 and 15, to insert the following:

**“Requirement to pursue bilateral returns agreement with Britain**

- 168.** (1) The Government shall, as soon as practicable after the commencement of this section, engage with the British Government with a view to negotiating and concluding a bilateral agreement providing for the return of certain applicants for international protection between the State and Britain.
- (2) An agreement pursued under *subsection (1)* shall address—
- (a) arrangements for the return of applicants who have made an application for international protection in Britain prior to entering the State,
  - (b) arrangements for the return of applicants who have made an application for international protection in the State prior to entering Britain,
  - (c) procedures for information sharing and cooperation between the respective authorities, and
  - (d) safeguards to ensure compliance with international protection obligations and human rights standards.
- (3) The Government shall lay before each House of the Oireachtas a report on progress made under this section—
- (a) within six months of the commencement of this section, and
  - (b) at intervals not exceeding six months thereafter until such time as an agreement has been concluded or negotiations have ceased.
- (4) Nothing in this section shall be construed as limiting the State’s obligations under

[SECTION 168]

international law or under the Common Travel Area arrangements.”.

—*Senators Nicole Ryan, Chris Andrews, Pauline Tully, Joanne Collins, Maria McCormack, Conor Murphy.*

\*327. In page 139, line 19, to delete “considered” and substitute “rejected”.

\*328. In page 139, line 20, to delete “Chapter 6 of”.

\*329. In page 139, line 22, to delete “has come into” and substitute “is in”.

\*330. In page 139, line 22, to delete “section 162” and substitute “Chapter 1”.

SECTION 172

\*331. In page 140, line 21, to delete “An” where it firstly occurs and substitute “Subject to Chapter 3, an”.

\*332. In page 140, line 22, after “resort” to insert “and for the purpose of enforcing the return decision concerned”.

333. In page 141, to delete lines 16 to 20 and substitute the following:

“(5) *Subsections (1) and (2)* shall not apply to a person who is under the age of 18 years.

—*Senators Alice-Mary Higgins, Lynn Ruane, Frances Black.*

\*334. In page 141, between lines 34 and 35, to insert the following:

“(8) Without prejudice to *section 168*, where a person detained under this section institutes court proceedings challenging the validity of the return decision concerned, the court hearing those proceedings or any appeal therefrom may, on application to it, determine whether the person shall continue to be detained or shall be released, and may make any such release subject to such conditions as it considers appropriate, including, but without prejudice to the generality of the foregoing, any one or more than one of the following conditions:

(a) that the person reside or remain in a particular district or place in the State;

(b) that the person report to a specified Garda Síochána station or immigration officer at specified intervals;

(c) that the person surrender any passport or travel document in the person’s possession.”.

SECTION 177

\*335. In page 143, between lines 11 and 12, to insert the following:

**“Definitions (*Part 10*)**

177. (1) For the purposes of this Part—

“Council Decision” means a Council Decision under Article 5 of the Temporary Protection Directive;

“designated premises” means a premises designated or deemed to be designated under *section 178(15)*;

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“displaced persons” has the meaning it has in the Temporary Protection Directive;

“Irish transit visa” and “Irish visa” have the same meanings as they have in the Immigration Act 2003;

“notice of intention to revoke” has the meaning given to it in *section 179(2)##*;

“permission holder” means a person who has been given a permission to reside in the State under *section 178(8)#* which permission is valid;

“personal data” means personal data as defined in Article 4 of Regulation (EU) 2016/679 of the of the European Parliament and of the Council of 27 April 2016 (General Data Protection Regulation);

“temporary protection” means a procedure of exceptional character to provide, in the event of a mass influx or imminent mass influx of displaced persons from third countries who are unable to return to their country of origin, immediate and temporary protection to such persons, in particular if there is also a risk that the asylum system will be unable to process this influx without adverse effects for its efficient operation, in the interests of the persons concerned and other persons requesting protection, in accordance with Article 2(a) of the Temporary Protection Directive;

“Temporary Protection Directive” means Council Directive 2001/55/EC of 20 July 2001 on minimum standards for giving temporary protection in the event of a mass influx of displaced persons and on measures promoting a balance of efforts between Member States in receiving such persons and bearing the consequences thereof and any other Directive amending or replacing it;

(2) A reference in any enactment to—

(a) a permission given under section 60(6) of the Act of 2015 shall be construed as including a reference to a permission given under *section 178(8)#*, and

(b) a person to whom section 60 of the Act of 2015 applies shall be construed as including a reference to a person to whom *section 178#* applies.”.

[#This is a reference to a section proposed to be inserted by amendment No. 336]

[##This is a reference to a section proposed to be inserted by amendment No. 337]

SECTION 178

\*336. In page 144, after line 43, to insert the following:

**“Temporary Protection**

**178.** (1) This section applies to a displaced person to whom, following a Council Decision under Article 5 of the Temporary Protection Directive, permission to enter and remain in the State for temporary protection as part of a specific group of such displaced persons has been given by the Government or the Minister and whose personal data is entered in the register referred to in *subsection (2)*.

(2) The Minister shall, as soon as practicable after the coming into operation of this section, cause to be established and maintained, in such form as he or she considers appropriate, a register of displaced persons referred to in *subsection (1)*, to be known

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as the Register of Beneficiaries of Temporary Protection.

- (3) The Minister shall exclude a displaced person from temporary protection and shall not give the person a permission in accordance with *subsection (8)* if—
  - (a) there are serious reasons for considering that—
    - (i) he or she has committed a crime against peace, a war crime or a crime against humanity, as defined in the international instruments drawn up to make provision in respect of such crimes, or
    - (ii) he or she has been guilty of acts contrary to the purposes and principles of the United Nations as set out in the Preamble to, and Articles 1 and 2, of the Charter of the United Nations and embodied in its resolutions relating to measures countering terrorism,
  - (b) there are reasonable grounds for regarding him or her as a danger to the security of the State,
  - (c) subject to *subsection (4)*, the Minister is of the opinion that he or she constitutes a danger to the community of the State because he or she was convicted by a final judgment of a particularly serious crime, whether in the State or elsewhere, or
  - (d) subject to *subsection (4)*, there are serious reasons for considering that he or she has committed a serious non-political crime outside the State prior to his or her entry into the State.
- (4) In considering whether to exclude a displaced person from temporary protection under *paragraph (c)* or *(d)* of *subsection (3)*, the Minister shall consider the reasons underlying the Council Decision concerned as they relate to the displaced person and the nature of the crime concerned.
- (5) *Subsections (3)(d)* and *(4)* apply both to the participants in, and the persons who have instigated, a crime referred to in those subsections.
- (6) The Minister shall not give to a displaced person a permission in accordance with *subsection (8)* where he or she—
  - (a) is a Union citizen as defined in Regulation 2 of the European Communities (Free Movement of Persons) Regulations 2015 (S.I. No. 548 of 2015),
  - (b) holds a valid residence permit from another Member State issued in accordance with Article 8 of the Temporary Protection Directive,
  - (c) has an application for international protection under consideration within the meaning of the Act of 2015, or
  - (d) is an applicant within the meaning of this Act.
- (7) A person who is given a permission under *subsection (8)* may not hold another permission that requires registration under the Act of 2004.
- (8) The Minister shall, subject to *subsections (3)* and *(6)*, give to a displaced person to whom this section applies a permission to reside in the State and—

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- (a) if required, issue him or her with an Irish visa or an Irish transit visa, and
  - (b) provide him or her with information, in a language that he or she understands or is reasonably supposed to understand, setting out the provisions of this section relating to temporary protection in the State.
- (9) Subject to *section 179(1)(a)#*, a permission to reside in the State given under *subsection (8)* shall be valid for at least one year and may be extended in accordance with Article 4 of the Temporary Protection Directive.
- (10) Where, during the period of validity of a permission to reside in the State referred to in *subsection (9)*, the permission holder concerned seeks to enter another Member State or has entered it without authorisation, the Minister may, in cooperation with the competent authority of that Member State, make arrangements for the return of the person to the State.
- (11) Without prejudice to *section 179#*, a permission holder, whose permission is valid, shall be entitled—
- (a) to seek and enter employment, to engage in any business, trade or profession and to have access to education and training in the State in the like manner and to the like extent in all respects as an Irish citizen,
  - (b) to receive, upon and subject to the same conditions applicable to Irish citizens, the same medical care and, other than while he or she is resident in a designated premises, the same social welfare benefits as those to which Irish citizens are entitled, and
  - (c) to the same rights of travel in the State as those to which Irish citizens are entitled.
- (12) For the purposes of Article 15 of the Temporary Protection Directive, the Minister shall cooperate with the competent authorities of another Member State in relation to—
- (a) the transfer to another Member State,
  - (b) the transfer from another Member State to the State,
  - (c) the reunification in the State of family members, and
  - (d) the reunification in another Member State of family members,
- of a permission holder.
- (13) The Minister may prescribe documentation to be used for the purpose of enabling and facilitating transfers and reunifications referred to in *subsection (12)*.
- (14) The Minister may, to the extent necessary and proportionate for the purposes of *subsection (12)*, provide to the competent authority of another Member State, relating to the permission holder concerned, insofar as they are available—
- (a) personal data,
  - (b) travel documents,

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- (c) documents concerning evidence of family ties (such as marriage certificates, birth certificates and certificates of adoption),
  - (d) other information required to establish the identity of the person or his or her family relationships,
  - (e) residence permits and decisions concerning the giving or refusal of visas or residence permissions to the person by the Minister, and documents forming the basis of those decisions,
  - (f) applications for visas or entry permissions or residence permissions submitted by the person and pending in the State, and information relating to the stage reached in the processing of these, and
  - (g) any amended information within *paragraphs (a) to (f)* which becomes available.
- (15) For the purposes of this section, the Minister may, where he or she is satisfied that the premises concerned are suitable for the purpose, designate in writing such and so many premises as he or she considers appropriate for the accommodation of persons who have been given a permission to reside in the State under *subsection (8)*, which permission is valid.
- (16) A premises designated under section 60(14A) of the Act of 2015 shall be deemed to be designated under *subsection (15)*.
- (17) A person who—
- (a) for the purposes of seeking an entitlement conferred by this section, gives or makes any statement, declaration or information which is to his or her knowledge false or misleading in a material particular,
  - (b) for the purposes of seeking an entitlement conferred by this section, destroys or conceals documents with intent to deceive, or
  - (c) forges, fraudulently alters, assists in forging or fraudulently altering or procures the forging or fraudulent alteration of any document for reward where such documents are used or intended to be used in connection with seeking an entitlement conferred by this section,
- shall be guilty of an offence.
- (18) A person who commits an offence under *subsection (17)* shall be liable—
- (a) on summary conviction, to a class A fine or to imprisonment for a term not exceeding 12 months, or both, or
  - (b) on conviction on indictment, to a fine not exceeding €100,000 or to imprisonment for a term not exceeding 5 years, or both.”.

[#This is a reference to a section proposed to be inserted by amendment No. 337]

\*337. In page 144, after line 43, to insert the following:

**“Revocation of temporary protection**

- 179.** (1) A permission to reside in the State given to a displaced person under *section 178(8)#* may be revoked—
- (a) when the temporary protection concerned comes to an end in accordance with the Temporary Protection Directive,
  - (b) upon the transfer of residence of the permission holder to another Member State,
  - (c) where *section 178(6)#* applies in respect of the permission holder,
  - (d) where the Minister decides that the permission should not have been given to the person due to a reason referred to in *section 178(3)#*,
  - (e) where the Minister has reasonable grounds to believe that the permission holder did not meet the conditions of *section 178(1)#* at the time of the permission being issued, or
  - (f) where, in a 12 month period, the permission holder spends in excess of 90 days in aggregate of the period of validity referred to in *section 178(9)#* outside the State,
- (2) The Minister, where he or she is satisfied that one or more of the revocation grounds specified in *paragraph (c), (d), (e) or (f) of subsection (1)* exists, shall, prior to revoking the permission under this section, give the permission holder such notice, as may be prescribed, of his or her intention to revoke the permission (in this section referred to as a “notice of intention to revoke”).
- (3) A notice of intention to revoke shall—
- (a) inform the permission holder of the Minister’s intention to revoke the permission,
  - (b) subject to *subsection (13)*, inform the permission holder of the reasons for the Minister’s opinion that one or more than one of the grounds specified in *paragraph (c), (d), (e) or (f) of subsection (1)* exists,
  - (c) inform the permission holder of the right to make representations under *subsection (4)*,
  - (d) inform the permission holder of the effect of *subsections (6) and (7)*, and
  - (e) be in a language that the permission holder understands or is reasonably supposed to understand.
- (4) A permission holder to whom a notice of intention to revoke is given may, within the period of 28 days beginning on the date the notice is given to him or her, make representations in writing to the Minister regarding the intended revocation, including representations relating to the matters referred to in *subsections (7) and (8)*.
- (5) After the expiry of the period referred to in *subsection (4)* the Minister shall—
- (a) having regard to the representations, if any, made by the permission holder under that subsection, decide—

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- (i) whether to revoke the permission, and
  - (ii) where he or she decides to revoke the permission, and in accordance with *subsections (7) and (8)* (where applicable), the date on which such revocation is to take effect, which shall be no earlier than the expiration of the period for submitting an appeal under *subsection (10)*,
- and
- (b) give the permission holder concerned a notification in writing of his or her decision.
- (6) A revocation under *paragraph (a) or (b) of subsection (1)* of a permission to reside in the State shall take effect on such date as is specified in the notification under *subsection (5)(b)*.
- (7) A revocation under *paragraph (c), (d), (e) or (f) of subsection (1)* of a permission to reside in the State may operate—
- (a) from the date of revocation,
  - (b) where the Minister considers it appropriate having regard to the circumstances of the individual case and the matters referred to at *subsection (8)*, from the date the permission was granted, or
  - (c) from any date between the dates referred to in *paragraphs (a) and (b)*, depending on the circumstances of the individual case and the matters referred to in *subsection (8)*.
- (8) The Minister shall have regard to the following matters, where applicable, when considering whether to revoke, in accordance with *subsection (7)(b)*, a permission from the date the permission was granted:
- (a) whether a child or dependent of the permission holder has derived an autonomous right, entitlement or status from the person's right, entitlement or status to reside in the State;
  - (b) the extent to which any other person has derived an autonomous right, entitlement or status within the meaning of *paragraph (a)*;
  - (c) whether the permission holder failed to inform the Minister of a material fact which had, or was capable of having, an effect on the validity of the permission;
  - (d) whether the permission was procured by fraud, misrepresentation, whether innocent or fraudulent, or concealment of material facts or circumstances;
  - (e) any other information that the Minister deems relevant in the making of his or her decision.
- (9) Where the Minister decides under *subsection (5)* to revoke the permission, the notification under *paragraph (b) of that subsection* shall include a statement informing the permission holder of—
- (a) the Minister's decision to revoke the permission, including the date on which the revocation is to take effect,

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- (b) subject to *subsection (13)*, the reasons for the decision,
  - (c) where applicable, the right under *subsection (10)* of the permission holder to appeal that decision, and
  - (d) the effect of *subsection (11)*.
- (10) Where the revocation of a permission is on a ground referred to in *paragraph (c), (d), (e) or (f)* of *subsection (1)*, the permission holder concerned may, within the period of 15 days beginning on the date on which the notification under *subsection (5)(b)* is given to him or her, appeal that decision to the Tribunal in accordance with *Part 6*.
- (11) The Tribunal, on the hearing of an appeal under *subsection (10)*, may, as it thinks proper—
- (a) affirm the decision of the Minister, or
  - (b) direct the Minister not to revoke temporary protection.
- (12) The decision of the Minister to revoke the permission shall take effect—
- (a) where no appeal to the Tribunal is brought against the decision of the Minister, on the date specified in the notification under *subsection (5)(b)*, or
  - (b) where an appeal to the Tribunal is brought against the decision of the Minister—
    - (i) from the date on which the Tribunal, under *subsection (11)(a)*, affirms the decision, or
    - (ii) from the date on which the appeal is withdrawn.
- (13) Where the Minister considers that specifying the reasons for his or her intention to, or decision to, revoke a permission would be contrary to the interests of national security, he or she shall not include such reasons in the notice of intention to revoke or notification under *subsection (5)(b)*, as the case may be.”.

[#This is a reference to a section proposed to be inserted by amendment No. 336]

SECTION 179

338. In page 146, between lines 15 and 16, to insert the following:

**“Crisis or force majeure: deemed satisfaction and request**

179. (1) This section applies where, in any period of 6 consecutive months—
- (a) the number of pending applications exceeds the number that can be concluded within the statutory time limits provided for in *sections 100, 110, 111, 116 or 118*, or
  - (b) the number of applicants accommodated is equal to or exceeds 85 per cent of national reception capacity.
- (2) For the purposes of the administration of this Part, where *subsection (1)* applies the conditions for recognition of a crisis or *force majeure* situation under Regulation (EU) 2024/1359 shall be deemed to be satisfied.

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- (3) Where *subsection (2)* applies, the Minister shall submit a request under Regulation (EU) 2024/1359 for recognition of a crisis or *force majeure* situation and shall, within 14 days, lay before each House of the Oireachtas a statement confirming the making of the request.
- (4) In this section, “national reception capacity” has the same meaning it has in *section 2(1)#* or, where no such definition is in force, the capacity consistent with the standards of the Reception Conditions Directive.”.

—Senator Sharon Keogan.

[#This is a reference to a definition proposed to be inserted by amendment No. 16]

**339.** In page 146, between lines 15 and 16, to insert the following:

**“Pending request and renewal**

- 179.** (1) Where a request under Regulation (EU) 2024/1359 has been submitted and remains pending, any obligation under this Part to submit a further request shall be suspended until that request is determined or withdrawn.
- (2) Where a request under Regulation (EU) 2024/1359 has been refused or has lapsed, and the circumstances in *section 179(1)#* continue to apply, the Minister shall—
- (a) make a fresh determination under *section 179(2)#* within 30 days, and
  - (b) where the conditions are determined to be satisfied, submit a renewed request unless the Minister lays before each House a written statement setting out material changes that, in the Minister’s view, mean such a request would no longer be appropriate.
- (3) While a request remains pending for more than 6 months, the Minister shall, at intervals not exceeding 30 days, lay before each House a short progress report on the status of the request and any communications relevant to its consideration under Regulation (EU) 2024/1359.”.

—Senator Sharon Keogan.

[#This is a reference to a subsection proposed to be inserted by another amendment.]

**340.** In page 146, between lines 15 and 16, to insert the following:

**“Determination and request: crisis or *force majeure***

- 179.** (1) This subsection applies where, in any period of 6 consecutive months—
- (a) the number of pending applications exceeds the number that can be concluded within the statutory time limits provided for in *sections 100, 110, 111, 116 or 118*, or
  - (b) the number of applicants accommodated is equal to or exceeds 85 per cent of national reception capacity.
- (2) Where *subsection (1)* applies, the Minister shall make a written determination as to whether the conditions for recognition of a crisis or *force majeure* situation under

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Regulation (EU) 2024/1359 are satisfied.

- (3) Where the Minister determines that those conditions are satisfied, the Minister shall submit a request under Regulation (EU) 2024/1359 and shall, within 14 days, lay before each House a statement confirming—
  - (a) the determination, and
  - (b) the making of the request.
- (4) In this section, “national reception capacity” is to be construed in accordance with *section 2(1)#* or the Reception Conditions Directive standard.”.

—*Senator Sharon Keogan.*

[#This is a reference to a definition proposed to be inserted by amendment No. 16]

341. In page 146, between lines 15 and 16, to insert the following:

**“Reporting on crisis assessments**

179. Where the Minister makes a request under Regulation (EU) 2024/1359, or determines not to make such a request following a determination under *section 179(2)#*, the Minister shall lay before each House of the Oireachtas, within 14 days, a written statement setting out—
- (a) the determination made under *section 179(2)#*,
  - (b) the reasons for making or not making a request under that Regulation, and
  - (c) any information the Minister considers relevant to the operation of this Part.”.

—*Senator Sharon Keogan.*

[#This is a reference to a section proposed to be inserted by another amendment.]

342. In page 146, between lines 15 and 16, to insert the following:

**“Determination and explanation: crisis or *force majeure***

179. (1) This subsection applies where, in any period of 6 consecutive months—
- (a) the number of pending applications exceeds the number that can be concluded within the statutory time limits provided for in *sections 100, 110, 111, 116* or *118*,  
or
  - (b) the number of applicants accommodated is equal to or exceeds 85 per cent of national reception capacity.
- (2) Where *subsection (1)* applies, the Minister shall make a written determination as to whether the conditions for recognition of a crisis or *force majeure* situation under Regulation (EU) 2024/1359 are satisfied and shall lay that determination before each House of the Oireachtas within 14 days.
  - (3) Where the Minister determines that those conditions are satisfied but does not submit a request under Regulation (EU) 2024/1359, the Minister shall, within 14 days, lay

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before each House a written statement setting out the reasons for not making such a request.

- (4) In this section, “national reception capacity” is to be construed in accordance with *section 2(1)*# or the Reception Conditions Directive standard.”.

—*Senator Sharon Keogan.*

[#This is a reference to a definition proposed to be inserted by amendment No. 16]

- \*343. In page 146, line 29, to delete “*section 82*” and substitute “*sections 82, 95*# and *179(10)*##”.

[#This is a reference to a section proposed to be inserted by amendment No. 182]

[##This is a reference to a section proposed to be inserted by amendment No. 337]

SECTION 182

- \*344. In page 147, line 26, to delete “*section 82*” and substitute “*sections 82, 95*# and *179(10)*##”.

[#This is a reference to a section proposed to be inserted by amendment No. 182]

[##This is a reference to a section proposed to be inserted by amendment No. 337]

SECTION 183

- \*345. In page 149, between lines 14 and 15, to insert the following:

“(9) The Minister may, notwithstanding *subsection (8)*, appoint an Appeals Officer under *subsection (7)* without a selection competition having been held by the Service under *subsection (8)* where the person stands appointed as a member of the International Protection Appeals Tribunal (other than its chairperson) and he or she consents to being so appointed.”.

- \*346. In page 149, line 15, to delete “The Minister may,”.

- \*347. In page 149, line 15, to delete “, designate”.

- \*348. In page 149, line 16, before “a” to insert “the Government may designate”.

- \*349. In page 149, line 17, before “persons” to insert “the Minister may designate”.

- \*350. In page 149, line 19, to delete “Minister” and substitute “Government”.

SECTION 184

- \*351. In page 150, line 8, after “shall” to insert “, subject to *subsection (4)*#,”.

[#This is a reference to a section proposed to be inserted by amendment No. 352]

- \*352. In page 150, between lines 21 and 22, to insert the following:

“(4) The term of office of an Appeals Officer to whom *section 183(9)*# applies shall be for a period not exceeding the unexpired term of the person’s appointment as a member of the International Protection Appeals Tribunal.”.

[#This is a reference to a section proposed to be inserted by amendment No. 345]

SECTION 198

353. In page 160, line 24, after “acts” to insert the following:

“such funds, as may be necessary for the proper functioning of the Chief Inspector, shall

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be paid out of moneys provided by the Oireachtas”.

—*Senators Laura Harmon, Nessa Cosgrove, Malcolm Noonan, Patricia Stephenson.*

SECTION 199

**354.** In page 161, line 16, after “functions” to insert the following:

“, and be guided, in the performance of those functions, by best international practice, including under the EU Fundamental Rights Agency Guidelines, the Optional Protocol to the Convention Against Torture, and the UN Paris Principles”.

—*Senators Alice-Mary Higgins, Lynn Ruane, Frances Black.*

SECTION 200

**355.** In page 161, lines 27 and 28, to delete “may be removed from office by the Government for stated reasons” and substitute the following:

“only be removed from office where a resolution is passed by both Houses of the Oireachtas calling for his or her removal for stated misbehaviour”.

—*Senators Alice-Mary Higgins, Lynn Ruane, Frances Black.*

**356.** In page 161, line 28, to delete “for stated reasons, including”.

—*Senators Laura Harmon, Nessa Cosgrove, Malcolm Noonan, Patricia Stephenson.*

**357.** In page 161, to delete lines 36 and 37.

—*Senators Laura Harmon, Nessa Cosgrove, Alice-Mary Higgins, Lynn Ruane, Frances Black.*

SECTION 202

**358.** In page 162, to delete lines 36 to 39 and substitute the following:

“(a) to monitor asylum border procedures and compliance with European Union and international law, including the Charter and in particular as regards—

(i) access to the asylum procedure,

(ii) the principle of non-refoulement,

(iii) the best interest of the child, and

(iv) the relevant legal provisions on detention during the screening procedure and in designated asylum border facilities,

in line with the independent monitoring mechanism provided for by the Screening Regulation and referred to in Article 43 of the Asylum Procedures Regulation;”.

—*Senators Laura Harmon, Nessa Cosgrove, Malcolm Noonan, Patricia Stephenson.*

**359.** In page 162, to delete lines 36 to 39 and substitute the following:

“(a) to monitor asylum border procedures and compliance with European Union and international law, including the Charter, with regard to, *inter alia*, the asylum procedure, the principle of non-refoulement, the best interest of the child and the

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relevant rules on detention, including relevant provisions on detention in national law and instances of *de facto* detention, during the screening process and in designated asylum border facilities, in line with the independent monitoring mechanism provided for by the Screening Regulation and referred to in Article 43 of the Asylum Procedures Regulation;”.

—*Senators Alice-Mary Higgins, Lynn Ruane, Frances Black.*

**360.** In page 164, between lines 15 and 16, to insert the following:

“(7) The Minister shall, in consultation with the Minister for Finance, make such funds available for the proper functioning of the Chief Inspector.”.

—*Senators Alice-Mary Higgins, Lynn Ruane, Frances Black.*

SECTION 205

**361.** In page 166, line 7, after “functions” to insert the following:

“and the Chief Inspector shall furnish to the Advisory Board such information regarding the performance of his or her functions as may be required for the Board to perform its functions”.

—*Senators Alice-Mary Higgins, Lynn Ruane, Frances Black.*

**362.** In page 166, between lines 19 and 20, to insert the following:

“(9) The Advisory Board is independent in the performance of its functions.”.

—*Senators Laura Harmon, Nessa Cosgrove, Malcolm Noonan, Patricia Stephenson.*

SECTION 206

**363.** In page 166, between lines 30 and 31, to insert the following:

“(g) a person who operates as an independent National Preventative Mechanism under the Optional Protocol to the United Nations against Torture;

(h) a representative of a refugee representative body.”.

—*Senators Alice-Mary Higgins, Lynn Ruane, Frances Black.*

SECTION 209

**364.** In page 168, lines 11 to 17, to delete all words from and including “(1) The” in line 11 down to and including line 17 and substitute the following:

“(1) The Chief Inspector shall, not later than 3 months after the end of each year, submit to each House of the Oireachtas an annual report on the performance of the Chief Inspector’s functions and on such other related matters during the previous year.

(2) The Chief Inspector may also lay before each House of the Oireachtas such other reports with respect to those functions as he or she thinks appropriate.”.

—*Senators Alice-Mary Higgins, Lynn Ruane, Frances Black.*

**365.** In page 168, to delete lines 13 and 14, and substitute the following:

“(a) the performance of the Chief Inspector’s functions during the previous year,

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- (b) the implementation during the previous year of any annual recommendations made by the Chief Inspector under *section 198(3)* in relation to the improvement of fundamental rights compliance at designated asylum border facilities,
- (c) the implementation during the previous year of recommendations made by the Chief Inspector in reports under *section 209*, and
- (d) such other related matters as seem to the Chief Inspector to be appropriate.”.

—*Senators Laura Harmon, Nessa Cosgrove, Malcolm Noonan, Patricia Stephenson.*

SECTION 210

**366.** In page 169, to delete lines 1 to 36, and substitute the following:

“(2) With the permission of the Chairperson of a committee making the request under *subsection (1)*, either—

- (a) the acting Chief inspector, or
- (b) a member of staff of the Chief Inspector,

may attend before the committee in place of the Chief Inspector to give an account of the general administration of the Office of the Chief Inspector.”.

—*Senators Alice-Mary Higgins, Lynn Ruane, Frances Black.*

SECTION 211

**367.** In page 170, line 25, to delete “may” and substitute “shall”.

—*Senators Alice-Mary Higgins, Lynn Ruane, Frances Black.*

**368.** In page 170, between lines 25 and 26, to insert the following:

“(7) Where there are incidents of death or serious harm in the Screening Process, Border Procedure, or Return Border Procedure, the Chief Inspector shall conduct a formal investigation under *section 213*.”.

—*Senators Alice-Mary Higgins, Lynn Ruane, Frances Black.*

**369.** In page 170, between lines 32 and 33, to insert the following:

“(9) The Chief Inspector shall, in acknowledging the receipt of complaints made under *subsection (7)*, provide the complainant with a clear timeline for the handling and determination of his or her complaint.”.

—*Senators Alice-Mary Higgins, Lynn Ruane, Frances Black.*

SECTION 213

**370.** In page 172, line 39, after “*subsection (4)*” to insert the following:

“and the Minister shall cause copies of this report to be laid before each House of the Oireachtas, not later than one month after its submission”.

—*Senators Alice-Mary Higgins, Lynn Ruane, Frances Black.*

**371.** In page 172, between lines 39 and 40, to insert the following:

“(6) The Minister shall, subject to *subsections (3) and (4)* of *section 205* (which apply to

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reports under this section as they apply to reports under that section), cause a copy of the report to be laid before each House of the Oireachtas as soon as practicable after he or she receives the report.”.

—*Senators Laura Harmon, Nessa Cosgrove, Malcolm Noonan, Patricia Stephenson.*

SECTION 214

**372.** In page 173, lines 28 and 29, to delete all words from and including “of” in line 28 down to and including line 29 and substitute the following:

“of the action—

(a) that will be taken, or

(b) that has been taken,

on foot of the report and the rationale for same.”.

—*Senators Laura Harmon, Nessa Cosgrove, Malcolm Noonan, Patricia Stephenson.*

SECTION 217

**373.** In page 176, between lines 9 and 10, to insert the following:

“(4) Where the Minister enters into contracts for the provision of premises for screening centres, asylum border procedure centres, or detention facilities, the Minister shall ensure that such contracts contain such terms and conditions to ensure suitable health and safety standards in those centres or facilities.

(5) Where the Minister enters into contracts for services with companies to assist him or her in the performance of his or her functions under this Act, such contracts shall contain terms and conditions which require those companies to disclose their ownership structure, and these details, including, *inter alia*, the cost of such contracts, shall be made publicly available.

(6) Where the Minister enters into contracts for services with regard to the functions of immigration officers or officers of the Minister under this Act, the Minister shall ensure that such contracts contain terms and conditions which require any persons who may be performing the functions of immigration officers or officers of the Minister under this Act to be appropriately trained and experienced in the performance of their functions.”.

—*Senators Alice-Mary Higgins, Lynn Ruane, Frances Black.*

SECTION 221

**374.** In page 179, between lines 30 and 31, to insert the following:

**“Schedule of Safe Transit Countries**

**221.** (1) The Minister shall by regulations establish and maintain a Schedule of Safe Transit Countries for the purposes of *sections 11 and 99*.

(2) The Schedule shall include, at a minimum—

(a) Member States of the European Union,

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- (b) States of the European Economic Area,
  - (c) the Swiss Confederation,
  - (d) the United Kingdom of Great Britain and Northern Ireland,
  - (e) all countries designated as safe countries of origin or safe third countries at European Union level, and
  - (f) such additional countries as the Minister may designate, having regard to the criteria in *sections 219 and 220*.
- (3) The Minister may at any time add to, amend or revoke entries in the Schedule having regard to—
- (a) designations adopted at European Union level,
  - (b) assessments under *sections 219 and 220*,
  - (c) guidance from the European Union Agency for Asylum, and
  - (d) the State’s migration and international protection obligations.
- (4) The Minister shall conduct a review of the Schedule at intervals not exceeding three months, and shall amend the Schedule as necessary to reflect—
- (a) any change in European Union designations, and
  - (b) any country which, in the Minister’s view, satisfies the criteria for designation as safe for the purposes of this Act.
- (5) Presence in a country listed in the Schedule shall constitute *prima facie* evidence of safe transit for the purposes of the application of—
- (a) the concept of safe third country under *section 11*, and
  - (b) inadmissibility under *section 99*.”.

—*Senator Sharon Keogan*.

**\*375.** In page 179, line 34, after “Officer” where it firstly occurs to insert “and the Director (within the meaning of *Part 11*)”.

**\*376.** In page 179, line 35, to delete “*section 82*,” and substitute “*section 82, 95# 179(10)## or*”.

[#*This is a reference to a section proposed to be inserted by amendment No. 182*]

[##*This is a reference to a section proposed to be inserted by amendment No. 337*]

SECTION 223

**\*377.** In page 180, between lines 19 and 20, to insert the following:

**“Family tracing for unaccompanied minors**

**223.** (1) Where it is in the best interests of an unaccompanied minor, the Minister shall start tracing the members of the unaccompanied minor’s family as soon as possible after the earlier of the following occurring—

[SECTION 223]

- (a) an application for international protection is made by or on behalf of the unaccompanied minor, or
  - (b) an unaccompanied minor becomes a beneficiary of international protection.
- (2) Where there is a possible threat to the life or integrity of the unaccompanied minor or the minor's close relatives, in particular if those relatives have remained in the minor's country of origin, the Minister shall ensure that the collection, processing and circulation of information concerning those persons is undertaken on a confidential basis, so as to avoid jeopardising the safety of either the minor or the minor's close relatives.
- (3) Where necessary, the Minister may perform his or her functions under this section with the assistance of international or other relevant organisations.”.
- \*378. In page 180, lines 23 to 28, to delete all words from and including “(1) *Part*” in line 23 down to and including line 28.
- \*379. In page 181, between lines 2 and 3, to insert the following:

“(5) A person who gave an indication under paragraph (a), (b) or (c) of section 13(1) of the Act of 2015 before the date on which this subsection comes into operation but did not, before that date, make an application under section 15 of the Act of 2015, shall be considered to have made an application for international protection under *section 34* on that date, if immediately before that date the person was a resident of accommodation allocated under the European Communities (Reception Conditions) Regulations 2018.”.

SECTION 224

380. In page 181, between lines 2 and 3, to insert the following:

**“Reports on national reception capacity**

224. (1) For the purposes of monitoring the operation of this Act and the State's compliance with its obligations under the Reception Conditions Directive and the EU Acts, the Minister shall, at intervals not exceeding three months, lay before each House of the Oireachtas a statement containing—
- (a) the national reception capacity, and
  - (b) the number of applicants accommodated within that capacity.
- (2) Where the number in *subsection (1)(b)* is equal to or exceeds 85 per cent of national reception capacity, the statement shall include a notice to that effect.”.

—*Senator Sharon Keogan.*

381. In page 181, between lines 2 and 3, to insert the following:

**“Statement prior to expansion of reception capacity**

224. (1) Before approving any expansion of national reception capacity, the Minister shall lay before each House of the Oireachtas a statement setting out—

[SECTION 224]

- (a) the reasons for the proposed expansion,
  - (b) the impact of the proposed expansion on the operation of this Act, and
  - (c) the implications of the proposed expansion for the State's obligations under the EU Acts.
- (2) In deciding whether to approve an expansion of national reception capacity, the Minister shall have regard to any resolution of either House relating to a statement laid under *subsection (1)*.”.

—*Senator Sharon Keogan*.

**382.** In page 181, between lines 2 and 3, to insert the following:

**“Preservation of national sovereignty**

**224.** Nothing in this Act shall be construed as diminishing the sovereign right of the State to determine and regulate its own immigration, border and international protection policies, save only to the extent necessary to give effect to obligations arising under directly applicable European Union law.”.

—*Senator Sharon Keogan*.

SECTION 225

**\*383.** In page 183, between lines 7 and 8, to insert the following:

**“Transitional provisions relating to appointment of Appeals Officers under Part 11**

- 225.** (1) The Minister may, before the establishment day of the Tribunal, designate a person who immediately before that day stands appointed under section 62(3) of the Act of 2015 as a member of the International Protection Appeals Tribunal (other than the chairperson (within the meaning of the Act of 2015)) to be appointed, with the person's consent, as an Appeals Officer (other than the Chief Appeals Officer).
- (2) Where, immediately before the establishment day of the Tribunal, a person stands designated under *subsection (1)*, the person shall, on and from that day, stand appointed as an Appeals Officer for a period not exceeding the unexpired term of his or her appointment as a member of the International Protection Appeals Tribunal.
- (3) The terms and conditions to which a person is subject on his or her becoming an Appeals Officer in accordance with *subsection (2)* shall, subject to that subsection, be deemed to have been determined by the Minister in accordance with *section 184*.
- (4) In this section, “Appeals Officer”, “establishment day of the Tribunal” and “International Protection Appeals Tribunal” have the same meanings as they have in *Part 11*.”.

[SECTION 231]

SECTION 231

\*384. In page 185, between lines 23 and 24, to insert the following:

**“Amendment of section 62 of Act of 2015**

**231.** Section 62 of the Act of 2015 is amended—

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

“(2A) Where a person stands appointed as an Appeals Officer (within the meaning of *Part 11* of the *International Protection Act 2026*), the period of such appointment shall, notwithstanding subsection (2), be deemed to be reckonable for the purpose of calculating a period of appropriate experience as specified in that subsection.”,

(b) in subsection (4), by the substitution of “subsections (4A), (8) and (15)” for “subsections (8) and (15)”,

(c) by the insertion of the following subsection after subsection (4):

“(4A) The Minister may, notwithstanding subsection (4), appoint a person under subsection (3) as a member of the Tribunal (other than the chairperson) without a selection competition having been held by the Public Appointments Service under subsection (4) where the person—

(a) stands appointed as an Appeals Officer (within the meaning of *Part 11* of the *International Protection Act 2026*),

(b) has the requisite experience referred to in subsection (2)(a) or (b),  
and

(c) consents to being so appointed.”,

and

(d) by the insertion of the following subsection after subsection (7B):

“(7C) The term of office of a member of the Tribunal to whom subsection (4A) applies shall be for a period not exceeding the unexpired term of the person’s appointment as an Appeals Officer under *Part 11* of the *International Protection Act 2026*.”.

\*385. In page 185, line 30, to delete “subsection,” and substitute “subsection, or”.

\*386. In page 185, line 31, to delete “paragraphs” and substitute “paragraph”.

\*387. In page 185, to delete lines 32 to 34, and in page 186, to delete lines 1 to 3 and substitute the following:

“(d) it consists of a period during which a person is—

(i) an applicant within the meaning of Regulation (EU) 2024/1348 of the European Parliament and of the Council of 14 May 2024 establishing a common procedure for international protection in the Union and repealing Directive 2013/32/EU,

[SECTION 231]

- (ii) the subject of a return decision under *Part 9* of the *International Protection Act 2026*,
- (iii) the subject of a decision to withdraw international protection status in accordance with *section 156(1)* or *(2)* of the *International Protection Act 2026* that has taken effect in accordance with *section 157(3)* of that Act, which period shall end on the commencement by the person of a period of residence to which this subsection does not apply, or
- (iv) entitled to remain in the State pursuant to a permission referred to in *paragraph (e)* of *section 177(1)* of the *International Protection Act 2026*.”.”.

**\*388.** In page 186, line 7, to delete “subsection,” and substitute “subsection, or”.

**\*389.** In page 186, line 8, to delete “paragraphs” and substitute “paragraph”.

**\*390.** In page 186, to delete lines 9 to 14 and substitute the following:

“(d) it consists of a period during which a person is—

- (i) an applicant within the meaning of Regulation (EU) 2024/1348 of the European Parliament and of the Council of 14 May 2024 establishing a common procedure for international protection in the Union and repealing Directive 2013/32/EU,
- (ii) the subject of a return decision under *Part 9* of the *International Protection Act 2026*,
- (iii) the subject of a decision to withdraw international protection status in accordance with *section 156(1)* or *(2)* of the *International Protection Act 2026* that has taken effect in accordance with *section 157(3)* of that Act, which period shall end on the commencement by the person of a period of residence to which this subsection does not apply, or
- (iv) entitled to remain in the State pursuant to a permission referred to in *paragraph (e)* of *section 177(1)* of the *International Protection Act 2026*.”.”.

SECTION 232

**\*391.** In page 186, between lines 14 and 15, to insert the following:

**“Amendment of Act of 1995**

**232.** (1) The Act of 1995 is amended—

(a) in section 1(1), by the insertion of the following definitions:

“ ‘*Act of 2026*’ means the *International Protection Act 2026*;

‘legal counselling’ has the same meaning as it has in the *Act of 2026*.”,

(b) in section 5—

[SECTION 232]

- (i) in subsection (1)(a)—
  - (I) in subparagraph (i), by the substitution of “Act,” for “Act, and”,
  - (II) in subparagraph (ii), by the substitution of “service, and” for “service;”,  
and
  - (III) by the insertion of the following subparagraph after subparagraph (ii):
    - “(iii) legal counselling;”,and
- (ii) in subsection (1)(b)—
  - (I) in subparagraph (i), by the substitution of “purpose,” for “purpose, and”,
  - (II) in subparagraph (ii), by the substitution of “purpose,” for “purpose.”,  
and
  - (III) by the insertion of the following subparagraphs after subparagraph (ii):
    - “(iii) legal counselling by the engagement of persons appointed by it  
for that purpose, and
    - (iv) training in legal counselling, either by itself or by persons  
appointed by it for that purpose.”,
- (c) by the insertion of the following section after section 11A:

**“Appointment of persons to provide legal counselling or training in relation to such services**

- 11B.** (1) The Board may, subject to subsection (3), appoint persons specified in subsection (2) whom it considers to be qualified by reason of knowledge, experience, qualifications, training or expertise to provide legal counselling or training in legal counselling.
- (2) The persons referred to in subsection (1) are—
    - (a) a member of staff of the Board, or
    - (b) a person contracted by the Board.
  - (3) The Board shall determine the selection criteria applicable to appointments under subsection (1) having regard to—
    - (a) the purpose of legal counselling,
    - (b) the purpose of training in legal counselling,
    - (c) the objective that persons appointed under that subsection possess knowledge of, and experience, qualifications, training or expertise in, the matters specified in subsection (4), and
    - (d) the need to ensure that a person appointed under that subsection is a fit and proper person to provide legal counselling or training in legal counselling, as the case may be.

- (4) The matters referred to in subsection (3)(c) are—
- (a) legal counselling,
  - (b) training in legal counselling,
  - (c) the procedures governing applications for international protection under the Act of 2026,
  - (d) the rights and obligations of applicants during the procedures referred to in paragraph (c),
  - (e) without prejudice to paragraph (d), the rights and obligations of applicants who are unaccompanied minors or in need of special procedural guarantees, and
  - (f) the operation of the laws governing the system of entry into and presence of persons in the State.
- (5) A person appointed under subsection (1) and to whom subsection (2) (b) applies shall be appointed subject to such terms and conditions as may be determined by the Minister with the consent of the Minister for Public Expenditure, Infrastructure, Public Service Reform and Digitalisation.
- (6) In this section, ‘applicant’ and ‘applicant in need of special procedural guarantees’ have the same meanings as they have in *section 2(1) of the Act of 2026*.”

and

- (d) in section 37(2), by the insertion of the following paragraph after paragraph (fd):

“(fe) make provision as to the conditions relating to the provision of legal counselling by the Board;”.

\*392. In page 186, between lines 14 and 15, to insert the following:

**“Amendment of section 23C of Road Traffic Act 1961**

**232.** Section 23C of the Road Traffic Act 1961 is amended—

- (a) in subsection (1), by the insertion of “or a return decision” after “a deportation order”,
- (b) in subsection (2), by the insertion of “or the coming into effect of the decision” after “making of the order”,
- (c) in subsection (3)—
  - (i) by the substitution of—
    - (I) “makes a deportation order or a return decision” for “makes a deportation order”, and
    - (II) “making of the order or coming into effect of the decision” for “making

[SECTION 232]

of the order”,

- (ii) in paragraph (a), by the insertion of “or return decision” after “deportation order”,
- (iii) in paragraph (b), by the insertion of “or return decision” after “deportation order”,
- (iv) in paragraph (c), by the insertion of “or return decision” after “deportation order”,

and

- (d) in subsection (5), by the insertion of “and ‘return decision’ means a return decision under *Part 9* of the *International Protection Act 2026*” after “the International Protection Act 2015”.”.

SECTION 233

**\*393.** In page 186, between lines 21 and 22, to insert the following:

**“Amendment of Act of 1999**

**233.** The Act of 1999 is amended—

(a) in section 3(4A)—

- (i) in paragraph (a), by the deletion of “or”, and
- (ii) by the insertion of the following paragraph after paragraph (a):

“(aa) the person has been, by a final judgment, convicted outside the State of an offence which, were the act or omission constituting that offence done or made in the State, would constitute a serious offence under the law of the State, or”,

and

- (b) in section 6(1)(b), by the insertion of “or *section 61(2)(b)* of the *International Protection Act 2026*” after “International Protection Act 2015”.”.

[*Acceptance of this amendment involves the deletion of section 233 of the Bill.*]

SECTION 234

**\*394.** In page 187, line 7, after “82(9)” to insert “or 83(3)”.

**\*395.** In page 187, line 22, to delete “*section 137*” and substitute “*section 131(5)* or *137*”.

**\*396.** In page 187, line 26, to delete “*section 158 or 160*” and substitute “*Part 9* or an entry ban notice under *section 159*”.

SECTION 235

**\*397.** In page 188, line 15, after “section 4(3)” to insert the following:

“—

- (i) in paragraph (f)—

[SECTION 235]

- (I) in subparagraph (ii), by the deletion of “or”,
- (II) in subparagraph (iii), by the substitution of “State, or” for “State;”, and
- (III) by the insertion of the following subparagraph after subparagraph (iii):

“(iv) a return decision or entry ban notice that is in effect under *Part 9 of the International Protection Act 2026*;”,

and

- (ii) in paragraph”.

**\*398.** In page 188, line 25, after “2013/32/EU” to insert the following:

“as amended by Regulation (EU) 2026/463 of the European Parliament and of the Council of 24 February 2026 and Regulation (EU) 2026/464 of the European Parliament and of the Council of 24 February 2026”.

**\*399.** In page 190, to delete line 36.

**\*400.** In page 191, between line 3 and 4, to insert the following:

“and

- (g) in section 18(1)(b), by the insertion of “or *section 61(2)(b) of the International Protection Act 2026*” after “International Protection Act 2015”.”.

SECTION 236

**\*401.** In page 191, between lines 3 and 4, to insert the following:

**“Amendment of Social Welfare Consolidation Act 2005**

**236.** The Social Welfare Consolidation Act 2005 is amended—

- (a) in section 246—

- (i) in subsection (6)—

- (I) in paragraph (i), by the substitution of “force;” for “force.”, and

- (II) by the insertion of the following paragraphs after paragraph (i):

- “(j) a beneficiary of international protection within the meaning of the *Act of 2026*;

- (k) a person who has been given, or is deemed under the *Act of 2026* to have been given, a permission to reside in the State under *section 146* of that Act, where the permission concerned is in force;

- (l) a person who has been given, or is deemed under the *Act of 2026* to have been given, a permission to enter and reside in the State under *section 147* of that Act, where the permission concerned is in force;

- (m) a person who has been given a permission to reside in the State under *section 178(8)#* of the *Act of 2026*, where the permission

[SECTION 236]

concerned is in force;

(n) a person who is a programme refugee within the meaning of *Part 10* of the *Act of 2026*.”,

(ii) in subsection (7)—

(I) in paragraph (f), by the substitution of “1999;” for “1999.”, and

(II) by the insertion of the following paragraphs after paragraph (f):

“(g) an applicant within the meaning of section 2(1) of the *Act of 2026*, or a person deemed to have made an application under that Act;

(h) a person who has made, or is deemed under the *Act of 2026* to have made, an application for international protection under that Act which is the subject of a final decision within the meaning of that Act rejecting the application or declaring the application to be implicitly withdrawn or explicitly withdrawn;

(i) a person in relation to whom a return decision has been made under *Part 9* of the *Act of 2026*.”,

(iii) in subsection (8)—

(I) in paragraph (c), by the substitution of “Act,” for “Act, or”,

(II) by the insertion of the following paragraphs after paragraph (e):

“(f) is granted, or deemed under the *Act of 2026* to be granted, refugee status within the meaning of that Act,

(g) is given, or deemed under the *Act of 2026* to be given, a permission to reside in the State under *section 146* of that Act,

(h) is given, or deemed under the *Act of 2026* to be given, a permission to enter and reside in the State under *section 147* of that Act, or

(i) is granted, or deemed under the *Act of 2026* to be granted, subsidiary protection status within the meaning of that Act.”,

and

(III) by the substitution of “declaration, permission or status” for “declaration or permission” in each place where it occurs,

and

(iv) in subsection (10), by the insertion of the following definition:

“ ‘*Act of 2026*’ means the *International Protection Act 2026*;”,

and

(b) in section 247D—

(i) in subsection (1), by the substitution of “Act of 2015 or *section 178(8)*# of the *Act of 2026*” for “Act of 2015”,

[SECTION 236]

and

(ii) in subsection (2)—

(I) by the substitution of the following definition for the definition of “designated accommodation centre”:

“ ‘designated accommodation centre’ means a premises designated under *subsection (15) of section 178# of the Act of 2026*, or deemed under *subsection (16) of that section* to be so designated.”, and

(II) by the insertion of the following definition:

“ ‘Act of 2026’ means the *International Protection Act 2026*;”.”.

[#This is a reference to a section proposed to be inserted by amendment No. 336]

SECTION 236

\*402. In page 191, between lines 3 and 4, to insert the following:

**“Amendment of Schedule 3 to Broadcasting Act 2009**

**236.** Schedule 3 to the Broadcasting Act 2009 is amended by the insertion of the following paragraph after paragraph 44:

*“International Protection Act 2026*

45. Online content by which a person publishes or broadcasts information, contrary to *section 218(1) of the International Protection Act 2026* (prohibition on publication or broadcast of certain information).”.”.

SECTION 237

\*403. In page 191, line 20, after “decision” to insert “that is in effect”.

NEW SECTION

\*404. In page 192, after line 17, to insert the following:

**“Amendment of Childcare Support Act 2018**

**239.** The Childcare Support Act 2018 is amended—

(a) in section 1(1), by the insertion of the following definition:

“ ‘Act of 2026’ means the *International Protection Act 2026*;”.

(b) in section 7(1)(b), by the insertion of the following subparagraphs after subparagraph (iiia):

“(iib) an applicant within the meaning of section 2(1) of the *Act of 2026*, or a person deemed to have made an application under that Act, or

(iic) a person who is a programme refugee within the meaning of *Part 10 of the Act of 2026*, or

(iiid) a person who has been given a permission to reside in the State

[NEW SECTION]

under *section 178(8)#* of the *Act of 2026*, where the permission concerned is in force, or”,

(c) in section 15(2)(c), by the insertion of the following subparagraphs after subparagraph (iia):

“(iib) an applicant within the meaning of section 2(1) of the *Act of 2026*, or a person deemed to have made an application under that Act, or

(iic) a person who is a programme refugee within the meaning of *Part 10* of the *Act of 2026*, or

(iic) a person who has been given a permission to reside in the State under *section 178(8)#* of the *Act of 2026*, where the permission concerned is in force, or”,

and

(d) in Schedule 2, by the insertion of the following:

“

Minister for Justice, Home Affairs and Migration	To facilitate access to childcare services for applicants within the meaning of the Act of 2026 and programme refugees within the meaning of <i>Part 10</i> of that Act, so that parents or children can access education, integration and other relevant supports.
--	---

””.

[#This is a reference to a section proposed to be inserted by amendment No. 336]

\*405. In page 192, after line 17, to insert the following:

**“Amendment of section 5(1) of Criminal Justice (Smuggling of Persons) Act 2021**

**240.** Section 5(1) of the Criminal Justice (Smuggling of Persons) Act 2021 is amended by the substitution of the following definition for the definition of “international protection”:

“ ‘international protection’ has the meaning it has in the *International Protection Act 2026*;””.

\*406. In page 192, after line 17, to insert the following:

**“Amendment of Civil Law (Miscellaneous Provisions) Act 2022**

**241.** The Civil Law (Miscellaneous Provisions) Act 2022 is amended—

(a) in section 4, by the substitution of the following definition for the definition of “temporary protection beneficiary”:

“ ‘temporary protection beneficiary’ means a person to whom section 60 of the *International Protection Act 2015*, or *section 178#* of the *International Protection Act 2026*, applies on foot of Council

[NEW SECTION]

Implementing Decision (EU) 2022/382 of 4 March 2022 and who has been given a permission to reside in the State under section 60(6) of the International Protection Act 2015 or *section 178(8)#* of the *International Protection Act 2026*, as the case may be, which permission is valid;”, and

(b) in section 41—

(i) by the insertion of the following definition:

“ ‘*Act of 2026*’ means the *International Protection Act 2026*;”,

(ii) in the definition of “international protection”, by the substitution of “*Act of 2026*” for “Act of 2015”, and

(iii) in the definition of “relevant immigration enactment” by the insertion of the following paragraph after paragraph (a):

“(aa) *section 178#* of the *Act of 2026*.”.

[#This is a reference to a section proposed to be inserted by amendment No. 336]

\*407. In page 192, after line 17, to insert the following:

#### **“Amendment of section 8 of Employment Permits Act 2024**

**242.** Section 8 of the Employment Permits Act 2024 is amended—

(a) in subsection (1)—

(i) by the insertion of the following paragraph after paragraph (a):

“(aa) who is a beneficiary of international protection within the meaning of the *Act of 2026*,”

(ii) by the insertion of the following paragraphs after paragraph (b):

“(bb) who is given, or deemed under the *Act of 2026* to be given, a permission to reside in the State under *section 146* of that Act, where the permission concerned is in force,

(bc) who is given, or deemed under the *Act of 2026* to be given, a permission to enter and reside in the State under *section 147* of that Act, where the permission concerned is in force,”

(iii) by the insertion of the following paragraph after paragraph (c):

“(cc) a person who is a programme refugee within the meaning of *Part 10* of the *Act of 2026*,”

and

(iv) by the insertion of the following paragraph after paragraph (d):

“(dd) who is an applicant within the meaning of section 2(1) of the *Act of 2026* or a person deemed to have made an application under that Act and who has been granted a labour market access permission which is in force,”

[NEW SECTION]

and

(b) in subsection (3), by the insertion of the following definition:

“ ‘*Act of 2026*’ means the *International Protection Act 2026*;”.”.

TITLE

**\*408.** In page 15, line 19, after “2021/1147;” to insert the following:

“to give further effect to Council Directive 2001/55/EC of 20 July 2001 on minimum standards for giving temporary protection in the event of a mass influx of displaced persons and on measures promoting a balance of efforts between Member States in receiving such persons and bearing the consequences thereof;”.

**\*409.** In page 16, line 13, after “1956,” to insert “the Civil Legal Aid Act 1995,”.