



An Bille um Míchumas (Forálacha Ilghnéitheacha), 2016
Disability (Miscellaneous Provisions) Bill 2016

Mar a tionscnaíodh

As initiated



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**AN BILLE UM MÍCHUMAS (FORÁLACHA ILGHNÉITHEACHA), 2016
DISABILITY (MISCELLANEOUS PROVISIONS) BILL 2016**

Bill

entitled

An Act to give further effect to the Convention on the Rights of Persons with Disabilities done at New York on 13 December 2006; to amend the Juries Act 1976, the Electoral Act 1992, the National Disability Authority Act 1999, the Equal Status Act 2000, the Disability Act 2005, the Irish Human Rights and Equality Commission Act 2014; and to provide for related matters. 5

Be it enacted by the Oireachtas as follows: 10

Amendment of Juries Act 1976

1. (1) The Act of 1976 is amended—

(a) in section 7, by the insertion of the following subsection:

“(2) A person who is deaf shall not be ineligible for jury service by reason only of his requiring the services of a sign language interpreter for the purpose of enabling him to perform the duties of juror effectively.” 15

and

(b) under the heading “*Other persons*” in Part I of the First Schedule, by the substitution of—

“A person who does not, in the opinion of the court, have sufficient mental or intellectual capacity to serve as a juror.” 20

for—

“A person who suffers or has suffered from mental illness or mental disability and on account of that condition either—

(a) is resident in a hospital or other similar institution, or 25

(b) regularly attends for treatment by a medical practitioner.”

(2) The text of section 7 (other than subsection (2)) of the Act of 1976 shall be described as subsection (1) of that section.

(3) In this section “Act of 1976” means the Juries Act 1976.

Amendment of Electoral Act 1992

2. Section 41 of the Electoral Act 1992 is amended by the deletion of paragraph (i).

Provisions regarding National Disability Authority Act 1999

3. (1) The Act of 1999 is amended—

- (a) in section 8(2), by the insertion of the following paragraph after paragraph (c): 5

“(cc) to provide information and advice to the Irish Human Rights and Equality Commission, including the development and provision of statistical information if required, in order to assist it in carrying out its function under section 10(2)(hh) of the Irish Human Rights and Equality Commission Act 2014.”, 10

- (b) in section 27—

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

“(1A) A member of staff (other than a member of staff to whom section 27A applies) appointed to the Authority after the date of commencement of section 3(1)(b)(i) of the *Disability (Miscellaneous Provisions) Act 2016* shall be a civil servant in the Civil Service of the State.”, 15

and

- (ii) by the insertion of the following subsection after subsection (2):

“(2A) The Authority shall be the appropriate authority (within the meaning of the Civil Service Commissioners Act 1956 and the Civil Service Regulation Acts 1956 to 2005) in relation to its officers.”, 20

and

- (c) by the insertion of the following section after section 27:

“Further provisions regarding staff of Authority

27A. (1) (a) Every person who immediately before the appointed day was a member of the staff of the Authority shall, on that day, continue to be a member of the staff of the Authority and shall hold a position in the Civil Service of the State. 25

(b) The Director of the Authority shall, on the appointed day, hold a position in the Civil Service of the State. 30

(2) Save in accordance with a collective agreement negotiated with a recognised trade union or staff association and approved by the Minister with the consent of the Minister for Public Expenditure and Reform, a person referred to in subsection (1) shall on the appointed day be subject to such terms and conditions of service, including terms and conditions relating to remuneration, as are not less favourable than the terms and conditions of service, including terms and conditions relating to remuneration, to which the person was subject immediately before that day. 35

- (3) The previous service in the Authority of a person referred to in subsection (1) shall be reckonable for the purposes of, but subject to any exceptions or exclusions in:
- (a) the Redundancy Payments Acts 1967 to 2014;
 - (b) the Protection of Employees (Part-Time Work) Act 2001; 5
 - (c) the Protection of Employees (Fixed-Term Work) Act 2003;
 - (d) the Organisation of Working Time Act 1997;
 - (e) the Terms of Employment (Information) Acts 1994 to 2014;
 - (f) the Minimum Notice and Terms of Employment Acts 1973 to 2005;
 - (g) the Unfair Dismissals Acts 1977 to 2015; 10
 - (h) the Maternity Protection Acts 1994 and 2004;
 - (i) the Parental Leave Acts 1998 and 2006;
 - (j) the Adoptive Leave Acts 1995 and 2005;
 - (k) the Carer’s Leave Act 2001;
 - (l) the Paternity Leave and Benefit Act 2016. 15
- (4) Subject to subsection (5), any superannuation benefits awarded to or in respect of a person referred to in subsection (1) and the terms relating to those benefits shall be no less favourable than those applicable to or in respect of that person immediately before the appointed day. 20
- (5) Subsection (4) shall not apply in respect of a provision in a scheme or arrangement in relation to superannuation in respect of which the consent or approval of the Minister for Finance, the Minister for Public Expenditure and Reform or any other Minister of the Government was required by or under any enactment but not obtained. 25
- (6) The pension payments and other superannuation liabilities of the Authority in respect of the persons referred to in subsection (1) become on the appointed day the liabilities of the Minister for Public Expenditure and Reform.
- (7) A person referred to in subsection (1) shall be subject to and employed 30 in accordance with the Civil Service Regulation Acts 1956 to 2005 and the Ethics in Public Office Acts 1995 and 2001.
- (8) The Minister may make—
- (a) an order appointing a day to be the appointed day for the purposes of this section, or 35
 - (b) one or more orders appointing different appointed days for the purposes of this section in respect of different categories or grades of the staff of the Authority to whom subsection (1) applies.
- (9) In this section—

‘appointed day’ shall be construed in accordance with subsection (8);

‘recognised trade union or staff association’ means a trade union or staff association recognised by the Minister for the purposes of negotiations which are concerned with the remuneration or conditions of employment, or the working conditions of employees.”. 5

(2) (a) The National Disability Authority shall not, from the date of commencement of this subsection, make a scheme under section 28(1) of the Act of 1999.

(b) *Paragraph (a)* shall not affect the validity of any scheme made under section 28(1) of the Act of 1999 before the date of commencement of this subsection.

(3) In this section “Act of 1999” means the National Disability Authority Act 1999. 10

Amendment of Equal Status Act 2000

4. Section 4 of the Equal Status Act 2000 is amended by the insertion of the following subsection after subsection (2):

“(2A) (a) Notwithstanding subsection (2), insofar as—

(i) a body referred to in paragraphs (a) to (g) of the definition of ‘public body’ in section 2(1) of the Irish Human Rights and Equality Commission Act 2014 is a provider of a service, 15

(ii) a society registered as a credit union under the Credit Union Act 1997, including a society deemed to be so registered by virtue of section 5(3) of that Act, is a provider of a service to which that Act applies, 20

(iii) an institution or financial institution, within the meaning of the European Union (Capital Requirements) Regulations 2014 (S.I. No. 158 of 2014), is a provider of a service to which those Regulations apply, 25

(iv) an insurance undertaking within the meaning of the European Union (Insurance and Reinsurance) Regulations 2015 (S.I. No. 485 of 2015) is a provider of a service to which those Regulations apply,

(v) a person is a provider of a service that is the subject of regulation by the Commission for Communications Regulation pursuant to the performance of its functions under section 10(1) of the Communications Regulation Act 2002, or 30

(vi) a public transport operator within the meaning of the Dublin Transport Authority Act 2008 who is providing a public passenger transport service, is a provider of a service, 35

a refusal or failure to provide the special treatment or facilities to which subsection (1) refers shall not be deemed reasonable unless such provision would impose a disproportionate burden on the provider of the service in question. 40

(b) For the purposes of this subsection, in determining whether the provision of special treatment or facilities to which subsection (1) refers would impose a disproportionate burden, account shall be taken, in particular, of—

(i) the financial and other costs entailed, 5

(ii) the scale and financial resources of the service provider, and

(iii) the possibility of obtaining public funding or other assistance.”.

Amendment of Disability Act 2005

5. Section 46 of the Disability Act 2005 is amended, in subsection (3), by the substitution of “members, within the meaning of section 3(1) of the Garda Síochána Act 2005, of the Garda Síochána” for “the Garda Síochána”. 10

Amendment of Irish Human Rights and Equality Commission Act 2014

6. The Irish Human Rights and Equality Commission Act 2014 is amended—

(a) in section 10(2)—

(i) by the substitution, in paragraph (e), of the words “the High Court, the Court of Appeal or the Supreme Court” for “the High Court or the Supreme Court” wherever they occur, and 15

(ii) by the insertion of the following paragraph after paragraph (h):

“(hh) without prejudice to the generality of paragraph (b) or (h), to keep under review the adequacy and effectiveness of law and practice in the State relating to the protection of persons with disabilities;”, 20

(b) in section 18—

(i) in subsection (1)—

(I) by the substitution, in paragraph (a), of “functions,” for “functions, and”, and 25

(II) by the insertion of the following paragraph after paragraph (a):

“(aa) without prejudice to the generality of paragraph (a), appoint an advisory committee to assist and advise it on matters relating to its function under section 10(2)(hh), and”,

and 30

(ii) by the insertion of the following subsection:

“(3A) In the case of an advisory committee referred to in subsection (1)(aa), at least half of the number of persons appointed under subsection (3) shall have, or have had, a disability within the meaning of section 2(1) of the Disability Act 2005.”. 35

Short title and commencement

7. (1) This Act may be cited as the Disability (Miscellaneous Provisions) Act 2016.
- (2) This Act shall come into operation on such day or days as the Minister for Justice and Equality may by order or orders appoint either generally or with reference to any particular purpose or provision and different days may be so appointed for different purposes or different provisions. 5

An Bille um Míchumas (Forálacha
Ilghnéitheacha), 2016

BILLE

(mar a tionscnaíodh)

dá ngairtear

Acht do thabhairt tuilleadh éifeachta don Choinbhinsiún ar Chearta Daoine faoi Míchumas a rinneadh i Nua Eabhrac an 13 Nollaig 2006; do leasú Acht na nGiúiréithe, 1976, an Achta Toghcháin, 1992, an Achta um Údarás Náisiúnta Míchumais, 1999, an Achta um Stádas Comhionann, 2000, an Achta um Míchumas, 2005, an Achta fã Choimisiún na hÉireann um Chearta an Duine agus Comhionannas, 2014; agus do dhéanamh socrú i dtaobh nithe gaolmhara.

*An Tánaiste agus Aire Dlí agus Cirt agus
Comhionannais a thíolaic,*

21 Nollaig, 2016

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2016

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*Presented by the Tánaiste and Minister for Justice
and Equality,*

21st December, 2016

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