

Ireland

National Child Protection Legislation

National Legislation

- Age of Child – **Under the age of 18 years**
[The Child Act, 2001](#)
Art. 3
 1. In this Act, unless the context otherwise requires —
“child” means a person under the age of 18 years.

 - Age of Consent – **17 years of age**
[Criminal Law \(Sexual Offences\) Act 2006](#)
Art. 3

Any person who engages in a sexual act with a child who is under the age of 17 years shall be guilty of an offence...

 - Age of Marriage – **18 years of age**
[Family Law Act, 1995](#)
Part V – Marriage
Art. 31
 1. A marriage solemnized, after the commencement of this section, between persons either of whom is under the age of 18 years shall not be valid in law.
[Criminal Law \(Rape\) \(Amendment\) Act, 1990](#)
Art. 5
 1. Any rule of law by virtue of which a husband cannot be guilty of the rape of his wife is hereby abolished.

 - Age of Criminal Responsibility – **12 years of age**
[The Child Act, 2001](#)
Art. 52

It shall be conclusively presumed that no child under the age of 12 years is capable of committing an offence.

There is a rebuttable presumption that a child who is not less than 12 but under 14 years of age is incapable of committing an offence because the child did not have the capacity to know that the act or omission concerned was wrong.

[Criminal Law \(Rape\) \(Amendment\) Act, 1990](#)
Art. 6

Any rule of law by virtue of which a male person is treated by reason of his age as being physically incapable of committing an offence of a sexual nature is hereby abolished
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- **Extraterritoriality**

- [Extradition Act, 1965](#)

- **Art. 8**

- 1. Where by any international agreement or convention to which the State is a party an arrangement is made with another country for the surrender by each country to the other of persons wanted for prosecution or punishment or where the Government are satisfied that reciprocal facilities to that effect will be afforded by another country, the Government may be ordered to apply this part in relation to that country.
 2. Where the Government have made an arrangement amending an extradition agreement the Government may be order so declare and the extradition agreement shall thereupon have effect as so amended.

- **Art. 9**

- Where a country in relation to which the part applies duly requests the surrender of a person who is being proceeded against in that country for an offence or who is wanted by that country for the carrying out of a sentence, that person shall, subject to an in accordance with the provisions of this Part, be surrendered to that country.

- **Dual Criminality**

- [Extradition Act, 1965](#)

- **Art. 10**

- 1. Subject to subsection 2, extradition shall be granted only in respect of an offence which is punishable under the laws of the requesting country and of the State by imprisonment for a maximum period of at least one year or by a more severe penalty and for which, if there has been a conviction and sentence in the requesting country, imprisonment for a period of at least four months or a more severe penalty has been imposed.
 2. If a request is made for extradition in respect of an offence to which subsection 1 applies and the request includes also any other offence which is punishable under the laws of the request includes also any other offence which is punishable under the laws of the requesting country's and of the state but does not comply with the conditions as to the period of imprisonment which may be, or has been, imposed then extradition may, subject to the provisions of this part, be granted also in respect of the latter offence.
 3. In this section references to an offence punishable under the laws of the state shall be construed as including references to an act which, if it had been committed in the State, would constitute such an offence.

- **Mandatory reporting requirements**

- [Children First Act, 2015](#)

- **Part 3 – Reporting, Sec. 14. Mandated Persons**

- 1. Subject to subsections (3), (4), (5), (6), and (7), where a mandated person knows, believes or has reasonable grounds to suspect, on the basis of information that he or she has received, acquired or becomes aware of in the course of his or her employment or profession ad such a mandated person, that a child
 - a. Has been harmed
 - b. Is being harmed
 - c. Is at risk of being harmed

- He or she shall, as soon as practicable, report that knowledge, belief or suspicion, as the case may be, to the Agency.
2. Where a child believes that he or she
 - a. Has been harmed
 - b. Is being harmed, or
 - c. Is at risk of being harmedAnd discloses that belief to a mandated person in the course of the mandated person's employment or profession as such a person, the mandated person shall, subject to subsections (5), (6), and (7), as soon as practicable, report that disclosure to the Agency.
 3. A mandated person shall not be required to make a report to the Agency under subsection (1) where—
 - a. he or she knows or believes that—
 - i. a child who is aged 15 years or more but less than 17 years is engaged in sexual activity, and
 - ii. the other party to the sexual activity concerned is not more than 2 years older than the child concerned,
 - b. he or she knows or believes that—
 - i. there is no material difference in capacity or maturity between the parties engaged in the sexual activity concerned, and
 - ii. the relationship between the parties engaged in the sexual activity concerned is not intimidatory or exploitative of either party,
 - c. he or she is satisfied that subsection (2) does not apply, and
 - d. the child concerned has made known to the mandated person his or her view that the activity, or information relating to it, should not be disclosed to the Agency and the mandated person relied upon that view.
 4. A mandated person shall not be required to make a report to the Agency under subsection (1) where the sole basis for the mandated person's knowledge, belief or suspicion is as a result of information he or she has acquired, received or become aware of—
 - a. from—
 - i. another mandated person, or
 - ii. a person, other than a mandated person, who has reported jointly with a mandated person pursuant to subsection (6)(b), that a report has been made to the Agency in respect of the child concerned by that other person,
 - b. pursuant to his or her role, as a member of staff of the Agency, in carrying out an assessment as to whether a child who is the subject of a report or any other child has been, is being or is at risk of being harmed, or
 - c. pursuant to his or her role in assisting the Agency with an assessment as to whether a child who is the subject of a report or any other child has been, is being or is at risk of being harmed.
 5. Subsections (1) and (2) apply only to information that a mandated person acquires, receives or becomes aware of after the commencement of this section irrespective of whether the harm concerned occurred before or after that commencement.
 6. Subject to subsection (7), a report under subsection (1) or (2) shall be made by the completion of such form as shall be specified for that purpose by the Agency (in this Act referred to as a "mandated report form") and may be made by the mandated person—
 - a. himself or herself, or
 - b. jointly with one or more than one other person, irrespective of whether or not the other person is a mandated person.
 7. Where a mandated person acting in the course of his or her employment or profession knows, believes or has reasonable grounds to suspect that a child may be at risk of

- immediate harm and should be removed to a place of safety, he or she may make a report to the Agency under subsection (1) or (2) other than by means of a mandated report form.
8. Where a mandated person makes a report under subsection (7), he or she shall in addition, complete a mandated report form as soon as may be but in any event not later than 3 days after the making of the first-mentioned report.
 9. Any of the following matters may be prescribed:
 - a. the procedures that are to apply to a mandated person making a report under this section;
 - b. the making of a report by a mandated person jointly with one or more than one other person under this section.
 10. The Agency shall make a mandated report form available in such form and manner (including on the internet) as the Agency considers appropriate.
 11. The obligations imposed on a mandated person under this section are in addition to, and not in substitution for, any other obligation that the person has to disclose information to the Agency (whether or not in his or her capacity as a mandated person), but, subject to subsection (8), this section shall not require the mandated person to disclose that information to the Agency more than once.
 12. Nothing in this section shall operate to affect any other obligation that a person has to disclose information to a member of An Garda Síochána under the Criminal Justice (Withholding of Information on Offences against Children and Vulnerable Persons) Act 2012 or to any other person by or under any other enactment or rule of law

[Protection for Persons Reporting Child Abuse Act, 1998](#)

Sec. 3 – Protection from civil liability of persons who have reported child abuse

1. A person who, apart from A person who, apart from this section, would be so liable shall not be liable in damages in respect of the communication, whether in writing or otherwise, by him or her to an appropriate person of his or her opinion that—
 - a. a child has been or is being assaulted, ill-treated, neglected or sexually abused, or
 - b. a child's health, development or welfare has been or is being avoidably impaired or neglected,unless it is proved that he or she has not acted reasonably and in good faith in forming that opinion and communicating it to the appropriate person.
2. The reference in subsection (1) of this section to liability in damages shall be construed as including a reference to liability to be the subject of an order providing for any other form of relief.

Sec. 4 – Protection of employees from penalisation for having reported child abuse

1. An employer shall not penalize an employee for having formed an opinion of the kind referred to in *section 3* of this Act and communicated it, whether in writing or otherwise, to an appropriate person if the employee has acted reasonably and in good faith in forming that opinion and communicating it to the appropriate person.
2. In proceedings under this section before a rights commissioner or the Employment Appeals Tribunal in relation to a complaint that subsection (1) of this section has been contravened, it shall be presumed, until the contrary is proved, that the employee concerned acted reasonably and in good faith in forming the opinion and making the communication concerned.
3. If a penalisation of an employee, in contravention of subsection (1) of this section, constitutes a dismissal of the employee within the meaning of the Unfair Dismissals Acts, 1977 to 1993, relief may not be granted to the employee in respect of that penalisation both under this section and under those Acts...

- **Obligations of Educational Institutions**

[Children First Act, 2015](#)

Art. 2 – Definitions

“harm” means, in relation to a child—

- (a) assault, ill-treatment or neglect of the child in a manner that seriously affects or is likely to seriously affect the child’s health, development or welfare, or
 - (b) sexual abuse of the child,
- whether caused by a single act, omission or circumstance or a series or combination of acts, omissions or circumstances, or otherwise.

Art. 8 – Definitions for Purposes of Part 2

“provider” means, in relation to a relevant service, a person—

- (a) who provides a relevant service, and
- (b) who, in respect of the provision of such relevant service—
 - (i) employs (whether under contract of employment or otherwise) one or more than one other person to undertake any work or activity that constitutes a relevant service,
 - (ii) enters into a contract for services with one or more than one other person for the provision by the person of a relevant service, or
 - (iii) permits one or more than one other person (whether or not for commercial or other consideration and whether or not as part of a course of education or training, including an internship scheme) to undertake any work or activity, on behalf of the person, that constitutes a relevant service.

Relevant Services as defined in Schedule 1

RELEVANT SERVICES

- 1. Any work or activity which is carried out by a person, a necessary and regular part of which consists mainly of the person having access to, or contact with, children in—
 - (b) a school or centre of education, both within the meaning of the Education Act 1998,
 - (f) a children detention school within the meaning of section 3 of the Children Act 2001,
- 5. Any work or activity which consists of the provision of—
 - (a) educational, research, training, cultural, recreational, leisure, social or physical activities to children,
 - (b) care or supervision of children, or ...

Art. 10 – Child safeguarding

A provider of a relevant service shall ensure, as far as practicable, that each child availing of the service from the provider is safe from harm while availing of that service. Risk assessment and child safeguarding statements, etc.

Art. 11 – Risk assessment and child safeguarding statements, etc.

- (1) Where a person proposes to operate as a provider of a relevant service, he or she shall, within 3 months from the date on which he or she commences as such a provider—
 - (a) undertake an assessment of any potential for harm to a child while availing of the service (in this section referred to as a “risk”),
 - (b) prepare, in accordance with subsection (3), a written statement (in this Act referred to as a “child safeguarding statement”) specifying the service being provided and the principles and procedures to be observed to ensure as far as practicable, that a child, while availing of the service, is safe from harm, and

- (c) appoint a relevant person for the purposes of this Part.
- (2) A person who, immediately before the commencement of this section, was operating as a provider of a relevant service shall, not later than 3 months from the date of such commencement—
 - (a) undertake an assessment of any risk,
 - (b) prepare, in accordance with subsection (3), a child safeguarding statement, and
 - (c) appoint a relevant person for the purposes of this Part.
- (3) A child safeguarding statement shall include a written assessment of the risk and, in that regard, specify the procedures that are in place—
 - (a) to manage any risk identified,
 - (b) in respect of any member of staff who is the subject of any investigation (howsoever described) in respect of any act, omission or circumstance in respect of a child availing of the relevant service,
 - (c) for the selection or recruitment of any person as a member of staff of the provider with regard to that person's suitability to work with children,
 - (d) for the provision of information and, where necessary, instruction and training, to members of staff of the provider in relation to the identification of the occurrence of harm,
 - (e) for reporting to the Agency by the provider or a member of staff of the provider (whether a mandated person or otherwise) in accordance with this Act or the guidelines issued by the Minister under section 6,
 - (f) for maintaining a list of the persons (if any) in the relevant service who are mandated persons, and
 - (g) for appointing a relevant person for the purposes of this Part.
- (4) A provider of a relevant service shall ensure that the child safeguarding statement being prepared by the provider has due regard to, and is in accordance with, any guidelines issued by—
 - (a) the Minister under section 6, and
 - (b) the Agency concerning child safeguarding statements.
- (5) A provider of a relevant service shall furnish a copy of the provider's child safeguarding statement—
 - (a) to members of staff of the provider, and
 - (b) on request—
 - (i) to a parent or guardian, as the case may be, of a child availing of the relevant services,
 - (ii) to the Agency, or
 - (iii) to members of the public.
- (6) As soon as may be after the preparation of a child safeguarding statement or any review of it, the provider shall display the statement in a prominent place where the relevant service concerned relates or is provided, or both, as may be appropriate.
- (7) Subject to subsection (8), a provider of a relevant service shall, at intervals of not more than 24 months, undertake a review of the provider's child safeguarding statement and the first such review shall be undertaken not more than 24 months from the date on which the first child safeguarding statement was prepared under subsection (1) or (2), as the case may be, and displayed under subsection (6), and any subsequent review shall be undertaken not more than 24 months from the date when the last review was undertaken.
- (8) A provider of a relevant service shall review a child safeguarding statement prepared under this section as soon as practicable after there has been a material change in any matter to which the statement refers.
- (9) Any of the following matters may be prescribed: (a) the form of a child safeguarding statement; (b) the matters to be included in a child safeguarding statement; (c) the

procedures to be followed by a provider of a relevant service in respect of a review, by the provider, of a child safeguarding statement.

(10) In this section “member of staff” means, in relation to a provider, a person referred to in subparagraph (i), (ii) or (iii) of paragraph (b) of the definition of “provider” as set out in section 8.

▪ **Prohibition to hold certain positions**

[Sex Offenders Act, 2001](#)

Art. 26 – Failure to inform employer, etc., of sexual offence conviction

1. In this section “relevant work” means work or a service (including State work or a service) a necessary and regular part of which consists, mainly, of the person referred to in subsection (3), (5) or (6) having unsupervised access to, or contact with, a child or children or a mentally impaired person or persons.
2. A person referred to in subsection (3) shall be guilty of an offence if he or she—
 - a. applies to another person to be employed by that person to do relevant work,
 - b. enters into a contract of employment to do relevant work,
 - c. applies to another person to do relevant work on that other person's behalf (whether in return for payment or for any other consideration or not), or
 - d. enters into a contract for services to do relevant work,without, during the course of the application or before entering into the contract, informing the other person or the other party to the contract of the fact that he or she has been convicted of the offence referred to in subsection (3).
3. The person mentioned in subsection (2) is a person who has been convicted, before or after the commencement of this Part, either—
 - a. in the State of a sexual offence, or
 - b. in a place outside the State of an offence and the act constituting that offence would, if done in the State, constitute a sexual offence (within the meaning of this Act) under the law of the State.
4. In proceedings for an offence under subsection (2) it shall be a defence for the accused to prove that he or she neither knew nor could reasonably be expected to have known that the work to which the application or contract referred to in subsection (2) related was relevant work (within the meaning of this section).
5. A person convicted, before or after the commencement of this Part, of an offence referred to in subsection (3) who—
 - a. does a thing referred to in any of paragraphs (a) to (d) of subsection (2) (and, in the case of paragraph (a) or (c) of that subsection, commences to do the work concerned), and
 - b. at the time he or she does such a thing, neither knows nor can reasonably be expected to know that the work concerned is relevant work (within the meaning of this section),shall inform the other person or the other party to the contract referred to in subsection (2) of the fact that he or she has been convicted of that offence as soon as may be after he or she becomes aware of the fact that the work concerned is relevant work.
6. A person who—
 - a. does a thing referred to in any of paragraphs (a) to (d) of subsection (2) (and, in the case of paragraph (a) or (c) of that subsection, commences to do the work concerned), and
 - b. is subsequently convicted of an offence referred to in subsection (3),shall, unless, at the time of the conviction, the work he or she has applied to do is wholly completed or the contract he or she has entered into has expired or ceased to be in force, inform the person on whose behalf the work is being done or the other

party to the contract, as soon as may be after the conviction, of the fact that he or she has been so convicted.

7. A person who fails to comply with subsection (5) or (6) shall be guilty of an offence.
8. A person guilty of an offence under subsection (2) or (7) shall be liable—
 - a. on summary conviction, to a fine not exceeding £1,500 or imprisonment for a term not exceeding 12 months or both, or
 - b. on conviction on indictment, to a fine not exceeding £10,000 or imprisonment for a term not exceeding 5 years or both.

- **Employment Law**

[Minimum Notice and Terms of Employment Act, 1973](#)

Art. 8

Nothing in this Act shall affect the right of any employer or employee to terminate a contract of employment without notice because of misconduct by the other party.

- **Criminal Law – Defamation**

[Defamation Act, 2009](#)

Art. 6 – Defamation

- (1) The tort of libel and the tort of slander –
 - (a) Shall cease to be so described, and
 - (b) Shall, instead, be collectively described, and are referred to in this Act, as the “tort of defamation”.
- (2) The tort of defamation consists of the publication, by any means, of a defamatory statement concerning a person to one or more than one person (other than the first mentioned person), and “defamation” shall be construed accordingly.
- (3) A defamatory statement concerns a person if it could reasonably be understood as referring to him or her.
- (4) There shall be no publication for the purposes of the tort of defamation if the defamatory statement concerned is published to the person to whom it relates and to a person other than the person to whom it relates in circumstances where –
 - (a) It was not intended that the statement would be published to the second-mentioned person, and
 - (b) It was not reasonably foreseeable that publication of the statement to the first-mentioned person would result in its being published to the second-mentioned person.
- (5) The tort of defamation is actionable without proof of special damage.

- **Private fostering**

[Children Act, 2001](#)

Part 3 – Amendment of Act of 1991

Art. 16 – Amendments

The Act of 1991 is hereby amended by the insertion of the following Parts after section 23:

Art. 23(O) – Definitions

... ‘private foster care arrangement’ means any arrangement or undertaking whereby a child is for more than 14 days in the full-time care, for reward or otherwise, of a person other than his or her parent or guardian, a person cohabiting with a parent or guardian or a relative, except where the child—

- (a) is residing at a boarding school and receiving full-time education,
- (b) is in an institution managed by or on behalf of a Minister of the Government or a health board,
- (c) is in an institution in which the majority of persons being cared for and maintained are being treated for acute illness,
- (d) is in an institution for the care and maintenance of children with a disability,
- (e) is in a mental institution within the meaning of the Mental Treatment Acts, 1945 to 1966,
- (f) is detained in a children detention school or children detention centre within the meaning of the Children Act, 2001,
- (g) is placed for adoption under the Adoption Acts, 1952 to 1998,
- (h) is in the care of a health board,
- (i) is on holidays for a continuous period not exceeding 42 days,
- (j) is placed with a person or body for primarily educational purposes, or
- (k) is placed with a friend of the child's parent or guardian for a period not exceeding 42 days, while the parent or guardian is on holidays;

'relative', in relation to a child, means a grandparent, brother, sister, uncle or aunt, whether of the whole blood, half blood or by affinity, and includes the spouse of any such person and any person cohabiting with any such person.

Art. 23(P)

- (1) A person arranging or undertaking a private foster care arrangement shall give notice to the health board in the manner specified in section 23Q not less than thirty days before the placement.
- (2) Where a child is placed in a private foster care arrangement owing to an unforeseen emergency, both the person making the arrangement and the person undertaking it shall notify the health board in the manner specified in section 23Q as soon as practicable and not more than 14 days after the placement.
- (3) Any person arranging or undertaking a private foster care arrangement on the commencement of this Part who has submitted to the health board before such commencement the information it requires in relation to the arrangement or undertaking shall be deemed to have complied with subsection (1).

Art. 23(Q)

- (1) Any person arranging or undertaking a private foster care arrangement shall submit to the health board in writing—
 - (a) the person's name and address,
 - (b) the name, sex, date and place of birth and address of the child concerned,
 - (c) the name and address of the parent or guardian of the child,
 - (d) if the child's residence is changed, the child's new address,
 - (e) if the private foster care arrangement terminates, the reasons for its termination, and any other information that the health board may consider necessary in relation to any persons involved in the arrangement.
- (2) Any person arranging a private foster care arrangement shall submit to the relevant health board, in writing, the name and address of the person undertaking the arrangement and any other information in respect of that person that the health board may consider necessary.

Art. 23(R)

- (1) Any person arranging or undertaking a private foster care arrangement in respect of a child shall regard the child's welfare as the first and paramount consideration.

- (2) Any person undertaking such an arrangement shall take all reasonable measures to safeguard the health, safety and welfare of the child concerned.
- (3) Any person arranging such an arrangement shall make all reasonable enquiries to ensure that the person undertaking it is in a position to comply with subsection (2).

Art. 23(T)

- (1) Where the relevant health board has received a notice in accordance with section 23P in respect of a private foster care arrangement, an authorised officer may at all reasonable times enter any premises (including a private dwelling) in which the child concerned is residing.
- (2) A judge of the District Court may, if satisfied on the sworn information of an authorised officer that there are reasonable grounds for believing that a private foster care arrangement has been arranged or undertaken and that the health board has not received the requisite notice, issue a warrant authorising an authorised officer, accompanied if necessary by other persons, to enter, if need be by reasonable force, and inspect any premises (including a private dwelling) in which the child may be residing.
- (3) An authorised officer, on entering any such premises, shall investigate the care and attention that the child is receiving and the condition of the premises with a view to ensuring that the person undertaking the arrangement is complying with his or her duty to take all reasonable measures to safeguard the child's health, safety and welfare.
- (4) An authorised officer may request a member of the Garda Síochána to accompany him or her when carrying out an inspection.

Art. 23(U)

23U.—If a health board believes—

- a. that a person who is arranging or undertaking a private foster care arrangement has not notified it under section 23P, or
- b. that such a person is not taking all reasonable measures to safeguard the health, safety and welfare of the child concerned,
it may apply to the District Court for one of the following orders:
 - i. that a supervision order under section 19 be made in respect of the child,
 - ii. that the child be taken into the care of the health board under section 13, 17 or 18, or
 - iii. that the arrangement be terminated and the child returned to his or her parents or guardian,and the Court may order accordingly.

Art. 23(V)

- (1) A person shall not arrange or undertake a private foster care arrangement for the purpose of adopting a child under the Adoption Acts, 1952 to 1998.
- (2) Any person undertaking a private foster care arrangement in respect of a child shall not apply under those Acts to adopt the child unless—
 - a. the child is eligible for adoption under the Adoption Acts, 1952 to 1998, and
 - b. the relevant health board has consented to the continuance of the arrangement pending the completion of an assessment of that person under those Acts.
- (3) If a health board believes that a person who is arranging or undertaking a private foster care arrangement is doing so in contravention of subsection (1) or (2), it may apply to the District Court for an order either—
 - a. that the child be taken into its care under section 13, 17 or 18, or
 - b. that the arrangement be terminated and the child returned to his or her parents or guardian,

and the Court may order accordingly.

Art. 23(W)

(1) Any person—

- a. who while arranging or undertaking a private foster care arrangement does not notify the relevant health board under section 23P,
- b. who contravenes subsection (2) or (3) of section 23R,
- c. who refuses to allow an authorised officer to enter any premises in accordance with subsection (1) or (2) of section 23T or obstructs or impedes an authorised officer in the exercise of his or her powers under that section,
- d. who while arranging or undertaking a private foster care arrangement knowingly or wilfully makes or causes or procures any other person to make a false or misleading statement to the relevant health board,
- e. who contravenes section 23V (1), or
- f. who does not comply with an order under paragraph (ii) or (iii) of section 23U or under section 23V (3),

is guilty of an offence and liable on summary conviction to a fine not exceeding £1,500.

(2) Where a person is convicted of an offence under this section, the District Court may by order prohibit the person from arranging or undertaking a private foster care arrangement for such period as may be specified in the order.

Miscellaneous

****[Commission to Inquire into Child Abuse Act, 2000](#)**

The [Commission to Inquire into Child Abuse](#) was established on 23 May 2000, pursuant to the “Commission to Inquire into Child Abuse Act 2000” and given three primary functions:

- to hear evidence of abuse from persons who allege they suffered abuse in childhood, in institutions, during the period from 1940 or earlier, to the present day;
- to conduct an inquiry into abuse of children in institutions during that period and, where satisfied that abuse occurred, to determine the causes, nature, circumstances and extent of such abuse; and
- to prepare and publish reports on the results of the inquiry and on its recommendations in relation to dealing with the effects of such abuse.

The Commission has a mandate in relation to four types of abuse:

- **Physical abuse** – the willful, reckless or negligent infliction of physical injury on, or failure to prevent such injury to, the child;
- **Sexual abuse** – the use of the child by a person for sexual arousal or sexual gratification of that person or another person;
- **Neglect** – failure to care for the child which results, or could reasonably be expected to result in serious impairment of the physical or mental health or development of the child, or serious adverse effects on his or her behaviour or welfare;
- **Emotional abuse** – any other act or omission towards the child which results, or could reasonably be expected to result in serious impairment of the physical or mental health or development of the child, or serious adverse effects on his or her welfare.

The types of institutions include a school, an industrial school, a reformatory school, an orphanage, a hospital, a children’s home and any other place where children are cared for other than as members of their families. A “child” was deemed to be a person who had not attained the age of 18 years at the relevant time.

Sexual Offences Against Children

[Criminal Law \(Sexual Offences\) Act 2017](#)

Part 2 – Sexual Exploitation of Children

Art. 3 – Obtaining, providing etc. a child for purpose of sexual exploitation

1. A person who for the purposes of the sexual exploitation of a child—
 - a. pays, gives, offers or promises to pay or give a child or another person money or any other form of remuneration or consideration,
 - b. provides or offers or offers or promises to provide, a child to another person, or
 - c. obtains a child for himself or herself or for another person, shall be guilty of an offence.
2. A person (other than the child) who accepts or agrees to accept money or any other form of remuneration or consideration in the circumstances referred to in subsection (1)(a) or accepts or agrees to accept a child in the circumstances referred to in subsection (1)(b) or (1)(c) shall be guilty of an offence.
3. A person who causes an offence under subsection (1) or (2) to be committed shall be guilty of an offence.
4. A person who attempts to commit an offence under subsection (1), (2) or (3) shall be guilty of an offence.
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 12 months, or both, or (b) on conviction on indictment, to a fine or imprisonment for a term not exceeding 10 years, or both.
6. In this section “child” means a person under the age of 18 years.

Art. 4 – Invitation etc. to sexual touching

1. A person who, for sexual purposes, invites, induces, counsels or incites a child to touch, with a part of the body or with an object, the body of any person, including the body of the person who so invites, induces, counsels or incites and the body of the child, shall be guilty of an offence and shall be liable on conviction on indictment to imprisonment for a term not exceeding 14 years.
2. In this section “child” means a person under the age of 15 years.

Art. 5 – Sexual activity in presence of a child

1. A person who, for the purpose of obtaining sexual gratification from the presence of a child or corrupting or depraving a child, intentionally engages in sexual activity whether or not with another person—
 - a. when the child is present or in a place from which the person can be observed by the child, and
 - b. knowing or believing that the child is aware, or intending that the child should be aware, that the person is engaging in sexual activity, shall be guilty of an offence and shall be liable on conviction on indictment to imprisonment for a term not exceeding 10 years.
2. In this section “child” means a person under the age of 17 years.

Art. 6 – Causing child to watch sexual activity

1. A person who, for the purpose of obtaining sexual gratification or corrupting or depraving a child, intentionally causes a child—
 - a. to watch another person engaging in sexual activity, or
 - b. to look at an image of that person or another person engaging in sexual activity, shall be guilty of an offence and shall be liable on conviction on indictment to imprisonment for a term not exceeding 10 years.
2. In this section “child” means a person under the age of 17 years.

Art. 7 – Meeting child for purpose of sexual exploitation

1. A person who—
 - a. intentionally meets, or travels with the intention of meeting a child or makes arrangements with the intention of meeting a child or for a child to travel, whether or not from within the State, having communicated by any means with that child on at least one previous occasion, and
 - b. does so for the purpose of doing anything that would constitute sexual exploitation of the child, shall be guilty of an offence.
2. A person guilty of an offence under this section shall be liable on conviction on indictment to imprisonment for a term not exceeding 14 years.
3. In this section “child” means a person under the age of 17 years.

Art. 8 – Use of information and communication technology to facilitate sexual exploitation of a child

1. A person who by means of information and communication technology communicates with another person (including a child) for the purpose of facilitating the sexual exploitation of a child by that person or any other person shall be guilty of an offence and liable on conviction on indictment to imprisonment for a term not exceeding 14 years.
2. A person who by means of information and communication technology sends sexually explicit material to a child shall be guilty of an offence and shall be liable—
 - a. on summary conviction, to a class A fine or to imprisonment for a term not exceeding 12 months or both, or
 - b. on conviction on indictment, to imprisonment for a term not exceeding 5 years.
3. No proceedings for an offence under this section against a child under the age of 17 years shall be brought except by, or with the consent of, the Director of Public Prosecutions.
4. In this section “sexually explicit material” means any indecent or obscene images or words.
5. In this section “child” means a person under the age of 17 years.

Amendments to [Child Trafficking and Pornography Act, 1998](#)

Art. 9 – Amendment of section 2 of Act of 1998

Section 2(1) of the Act of 1998 is amended—

- a. by the substitution of the following definition for the definition of “child”: “‘child’ means a person under the age of 18 years;”, and
- b. by the substitution of the following paragraph for paragraph (a) of the definition of “child pornography”:
 - i. “(a) any visual representation—that shows, or in the case of a document relates to, a person who is or is depicted as being a child and who is engaged in or is depicted as being engaged in real or simulated sexually explicit activity,
 - ii. that shows, or in the case of a document relates to, a person who is or is depicted as being a child and who is or is depicted as witnessing any such activity by any person or persons, or
 - iii. that shows, for a sexual purpose, the genital or anal region of a child or of a person depicted as being a child.”

Art. 10 – Amendment of section 3 of Act of 1998

Section 3 of the Act of 1998 is amended—

- a. by the repeal of subsections (2A) and (2B), and
- b. in subsection (5), by the substitution of the following definition for the definition of “sexual exploitation”:
sexual exploitation’ means, in relation to a child—

- a. inviting, inducing or coercing the child to engage in prostitution or the production of child pornography,
- b. the prostitution of the child or the use of the child for the production of child pornography,
- c. the commission of an offence specified in the Schedule to the Sex Offenders Act 2001 against the child, causing another person to commit such an offence against the child, or inviting, inducing or coercing the child to commit such an offence against another person,
- d. inducing or coercing the child to engage or participate in any sexual, indecent or obscene act,
- e. inviting the child to engage or participate in any sexual, indecent or obscene act which, if done, would involve the commission of an offence against the child, or
- f. inviting, inducing or coercing the child to observe any sexual, indecent or obscene act, for the purpose of corrupting or depraving the child, and 'sexually exploits' shall be construed accordingly;".

Art. 11 – Organising etc. child prostitution or production of child pornography

The Act of 1998 is amended by the insertion of the following section after section 4:

Sec. 4A

1. A person who—
 - a. controls or directs the activities of a child for the purposes of the prostitution of the child or the use of the child for the production of child pornography,
 - b. organises the prostitution of children or the production of child pornography by controlling or directing the activities of more than one child for those purposes,
 - c. compels, coerces or recruits a child to engage or participate in child prostitution or the production of child pornography,
 - d. knowingly gains from the prostitution of a child or the production of child pornography, or
 - e. incites or causes a child to become involved in child prostitution or production of child pornography, shall be guilty of an offence.
2. A person guilty of an offence under this section shall be liable on conviction on indictment to a fine or to imprisonment for a term not exceeding 14 years or both.

Art. 12 – Producing, distributing, etc. child pornography

The Act of 1998 is amended by the substitution of the following section for section 5:

Sec. 5

1. Subject to subsections (3) and (4) of section 6, a person who—
 - a. knowingly produces any child pornography,
 - b. knowingly distributes, transmits, disseminates, prints or publishes any child pornography,
 - c. knowingly imports, exports, sells or shows any child pornography,
 - d. knowingly supplies or makes available any child pornography to another person,
 - e. knowingly publishes, distributes, transmits or disseminates any advertisement likely to be understood as conveying that the advertiser or any other person produces, distributes, transmits, disseminates, prints, publishes, imports, exports, sells, shows, supplies or makes available any child pornography,
 - f. encourages, knowingly causes or facilitates any activity mentioned in paragraphs (a) to (e), or
 - g. knowingly possesses any child pornography for the purpose of distributing, transmitting, disseminating, publishing, exporting, selling or showing it, shall be guilty of an offence and shall be liable—
 - i. on summary conviction, to a class A fine or imprisonment for a term not exceeding 12 months or both, or

- ii. on conviction on indictment, to a fine or imprisonment for a term not exceeding 14 years or both.
2. A person who attempts to commit an offence under subsection (1) shall be guilty of an offence and shall be liable—
 - a. on summary conviction, to a class A fine or imprisonment for a term not exceeding 12 months or both, or
 - b. on conviction on indictment, to a fine or imprisonment for a term not exceeding 14 years or both.
3. In this section ‘distributes’, ‘transmits’ or ‘disseminates’, in relation to child pornography, includes parting with possession of it to, or exposing or offering it for acquisition by, another person, and the references to ‘distributing’, ‘transmitting’ and ‘disseminating’ in that context shall be construed accordingly.”.

Art. 13 – Participation of child in pornographic performance

The Act of 1998 is amended by the insertion of the following section after section 5:

Sec. 5A

1. A person who—
 - a. causes, incites, compels or coerces, or
 - b. recruits, invites or induces, a child to participate in a pornographic performance, or gains from such participation, shall be guilty of an offence.
2. A person who attempts to commit an offence under subsection (1) shall be guilty of an offence.
3. A person guilty of an offence under subsection (1) or (2) shall be liable on conviction on indictment to imprisonment for a term not exceeding 10 years.
4. A person who knowingly attends a pornographic performance shall be guilty of an offence.
5. A person guilty of an offence under subsection (4) shall be liable—
 - a. on summary conviction, to a class A fine, or imprisonment for a term not exceeding 12 months, or both, or
 - b. on conviction on indictment, to a fine or imprisonment for a term not exceeding 10 years, or both.
6. In this section— ‘attends a pornographic performance’ includes viewing the performance by means of information and communication technology, ‘pornographic performance’ means a live exhibition aimed at an audience, including by means of information and communication technology, of—
 - a. a child engaged in real or simulated sexually explicit activity, or
 - b. the sexual organs of a child for primarily sexual purposes.

Art. 14 – Possession of child pornography

The Act of 1998 is amended by the substitution of the following for section 6

Sec. 6

1. Without prejudice to section 5(1)(g) and subject to subsections (3) and (4), any person who
 - a. knowingly acquires or possesses child pornography, or
 - b. knowingly obtains access to child pornography by means of information and communication technology, shall be guilty of an offence and shall be liable—
 - i. on summary conviction, to a class A fine or imprisonment for a term not exceeding 12 months or both, or
 - ii. on conviction on indictment, to a fine or imprisonment for a term not exceeding 5 years or both.
2. Any person who attempts to commit an offence under subsection (1) shall be guilty of an offence and shall be liable—
 - a. on summary conviction, to a class A fine or imprisonment for a term not exceeding 12 months or both, or

- b. on conviction on indictment, to a fine or imprisonment for a term not exceeding 5 years or both.
3. Subsections (1) and (2) of section 5 and subsections (1) and (2) shall not apply to a person who possesses or obtains access to child pornography—
 - a. in the exercise of functions under the Censorship of Films Acts 1923 to 1992, the Censorship of Publications Acts 1929 to 1967, or the Video Recordings Acts 1989 and 1992, or
 - b. for the purpose of the prevention, investigation or prosecution of offences under this Act.
4. Without prejudice to subsection (3), it shall be a defence in a prosecution for an offence under section 5(1) or (2) or this section for the accused to prove that he or she possessed or obtained access to the child pornography concerned for the purposes of bona fide research.

Amendments to [Criminal Law \(Sexual Offences\) Act 2006](#)

Art. 15 – Amendment of section 1 of Act of 2006

Section 1 of the Act of 2006 is amended—

(a) by the substitution of the following definition for the definition of “person in authority”:
‘person in authority’, in relation to a child against whom an offence is alleged to have been committed, means—

- a. a parent, grandparent, uncle or aunt whether of the whole blood, of the half blood or by affinity of the child,
- b. a current or former guardian or foster parent of the child,
- c. a current or former step-parent of the child,
- d. a current or former partner of a parent of the child who lives or has lived in an enduring family relationship with the parent,
- e. any person who is for the time being, or has been, in loco parentis to the child, or
- f. any other person who is or has been responsible for the education, supervision, training, care or welfare of the child;”, and

(b) by the insertion of the following definition:

‘foster parent’ means a person other than a relative of a child who is caring for the child on behalf of the Child and Family Agency in accordance with regulations made under the Child Care Act 1991;

Art. 16 – Sexual act with child under 15 years of age

The Act of 2006 is amended by the substitution of the following section for section 2:

Sec. 2

1. A person who engages in a sexual act with a child who is under the age of 15 years shall be guilty of an offence and shall be liable on conviction on indictment to imprisonment for life or a lesser term of imprisonment.
2. A person who attempts to engage in a sexual act with a child who is under the age of 15 years shall be guilty of an offence and shall be liable on conviction on indictment to imprisonment for life or a lesser term of imprisonment.
3. It shall be a defence to proceedings for an offence under this section for the defendant to prove that he or she was reasonably mistaken that, at the time of the alleged commission of the offence, the child against whom the offence is alleged to have been committed had attained the age of 15 years.
4. Where, in proceedings for an offence under this section, it falls to the court to consider whether the defendant was reasonably mistaken that, at the time of the alleged commission of the offence, the child against whom the offence is alleged to have been committed had attained the age of 15 years, the court shall consider whether, in all the circumstances of the case, a reasonable person would have concluded that the child had attained the said age.

5. The standard of proof required to prove that the defendant was reasonably mistaken that the child had attained the age of 15 years shall be that applicable to civil proceedings.
6. It shall not be a defence to proceedings for an offence under this section for the defendant to prove that the child against whom the offence is alleged to have been committed consented to the sexual act of which the offence consisted.

Art. 17 – Sexual act with child under 17 years of age

The Act of 2006 is amended by the substitution of the following section for section 3:

1. A person who engages in a sexual act with a child who is under the age of 17 years shall be guilty of an offence and shall be liable on conviction on indictment—
 - a. to imprisonment for a term not exceeding 7 years, or
 - b. if he or she is a person in authority, to imprisonment for a term not exceeding 15 years.
2. A person who attempts to engage in a sexual act with a child who is under the age of 17 years shall be guilty of an offence and shall be liable on conviction on indictment—
 - a. to imprisonment for a term not exceeding 7 years, or
 - b. if he or she is a person in authority, to imprisonment for a term not exceeding 15 years.
3. It shall be a defence to proceedings for an offence under this section for the defendant to prove that he or she was reasonably mistaken that, at the time of the alleged commission of the offence, the child against whom the offence is alleged to have been committed had attained the age of 17 years.
4. Where, in proceedings for an offence under this section, it falls to the court to consider whether the defendant was reasonably mistaken that, at the time of the alleged commission of the offence, the child against whom the offence is alleged to have been committed had attained the age of 17 years, the court shall consider whether, in all the circumstances of the case, a reasonable person would have concluded that the child had attained the said age.
5. The standard of proof required to prove that the defendant was reasonably mistaken that the child had attained the age of 17 years shall be that applicable to civil proceedings.
6. Subject to subsection (8), it shall not be a defence to proceedings for an offence under this section for the defendant to prove that the child against whom the offence is alleged to have been committed consented to the sexual act of which the offence consisted.
7. No proceedings for an offence under this section against a child under the age of 17 years shall be brought except by, or with the consent of, the Director of Public Prosecutions.
8. Where, in proceedings for an offence under this section against a child who at the time of the alleged commission of the offence had attained the age of 15 years but was under the age of 17 years, it shall be a defence that the child consented to the sexual act of which the offence consisted where the defendant—
 - a. is younger or less than 2 years older than the child,
 - b. was not, at the time of the alleged commission of the offence, a person in authority in respect of the child, and
 - c. was not, at the time of the alleged commission of the offence, in a relationship with the child that was intimidatory or exploitative of the child.

Art. 18 – Offence by person in authority

The Act of 2006 is amended by the insertion of the following section after section 3:

Sec. 3A

1. A person in authority who engages in a sexual act with a child who has attained the age of 17 years but is under the age of 18 years shall be guilty of an offence.
2. A person who attempts to commit an offence under subsection (1) shall be guilty of an offence.
3. It shall be a defence to proceedings for an offence under this section for the defendant to prove that he or she was reasonably mistaken that, at the time of the alleged commission of the offence,

the child against whom the offence is alleged to have been committed had attained the age of 18 years.

4. Where, in proceedings for an offence under this section, it falls to the court to consider whether the defendant was reasonably mistaken that, at the time of the alleged commission of the offence, the child against whom the offence is alleged to have been committed had attained the age of 18 years, the court shall consider whether, in all the circumstances of the case, a reasonable person would have concluded that the child had attained that age.
5. The standard of proof required to prove that the defendant was reasonably mistaken that the child had attained the age of 18 years shall be that applicable to civil proceedings.
6. It shall be a defence to proceedings for an offence under this section for the defendant to prove that he or she has reasonable grounds for believing that he or she was not a person in authority in relation to the child against whom the offence is alleged to have been committed.
7. It shall not be a defence to proceedings for an offence under this section for the defendant to prove that the child against whom the offence is alleged to have been committed consented to the sexual act of which the offence consisted.
8. A person guilty of an offence under this section shall be liable on conviction on indictment to imprisonment for a term not exceeding 10 years.

Part 3 – Sexual Act with Protected Persons

Art. 20 – Definitions

In this Part— “sexual act” means—

- a. an act consisting of—
 - i. sexual intercourse, or
 - ii. buggery,
- b. an act described in section 3(1) or 4(1) of the Act of 1990, or
- c. an act which if done without consent would constitute a sexual assault; “sexual intercourse” shall be construed in accordance with section 1(2) of the Act of 1981.

Art. 21 – Sexual act with protected person

1. A person who engages in a sexual act with a protected person knowing that that person is a protected person or being reckless as to whether that person is a protected person shall be guilty of an offence.
2. A person who invites, induces, counsels or incites a protected person to engage in a sexual act knowing that that person is a protected person or being reckless as to whether that person is a protected person shall be guilty of an offence.
3. In proceedings for an offence under this section, it shall be presumed, unless the contrary is shown, that the defendant knew or was reckless as to whether the person against whom the offence is alleged to have been committed was a protected person.
4. A person guilty of an offence under subsection (1) where the sexual act consisted of sexual intercourse, buggery or an act described in section 3(1) or 4(1) of the Act of 1990 shall be liable on conviction on indictment to imprisonment for life or a lesser term of imprisonment.
5. A person guilty of an offence under subsection (1) where the sexual act consisted of an act which if done without consent would constitute a sexual assault shall be liable on conviction on indictment to imprisonment for a term not exceeding 14 years.
6. A person guilty of an offence under subsection (2) shall be liable, on conviction on indictment, to imprisonment for a term not exceeding 10 years.
7. For the purposes of this section, a person lacks the capacity to consent to a sexual act if he or she is, by reason of a mental or intellectual disability or a mental illness, incapable of—
 - a. understanding the nature, or the reasonably foreseeable consequences, of that act,

- b. evaluating relevant information for the purposes of deciding whether or not to engage in that act, or
- c. communicating his or her consent to that act by speech, sign language or otherwise, and, in this section, such a person is referred to as a “protected person”.

Art. 22 – Offence against relevant person by person in authority

1. A person in authority who engages in a sexual act with a relevant person shall be guilty of an offence.
2. A person in authority who invites, induces, counsels or incites a relevant person to engage in a sexual act shall be guilty of an offence.
3. It shall be a defence to proceedings for an offence under this section for the defendant to prove that he or she was reasonably mistaken that, at the time of the alleged commission of the offence, the person against whom the offence is alleged to have been committed was not a relevant person.
4. It shall not be a defence to proceedings for an offence under this section for the defendant to prove that the person against whom the offence is alleged to have been committed consented to the sexual act of which the offence consisted.
5. The standard of proof required to prove that the defendant was reasonably mistaken that the person against whom the offence is alleged to have been committed was not a relevant person shall be that applicable to civil proceedings.
6. A person guilty of an offence under subsection (1) where the sexual act consisted of sexual intercourse, buggery or an act described in section 3(1) or 4(1) of the Act of 1990 shall be liable on conviction on indictment to imprisonment for a term not exceeding 10 years.
7. A person guilty of an offence under subsection (1) where the sexual act consisted of an act which if done without consent would constitute a sexual assault, or an offence under subsection (2) shall be liable on conviction on indictment to imprisonment for a term not exceeding 5 years.
8. In this section— “person in authority”, in relation to a relevant person against whom an offence is alleged to have been committed, means any person who as part of a contract of service or a contract for services is, for the time being, responsible for the education, supervision, training, treatment, care or welfare of the relevant person; “relevant person” means a person who has—
 - a. a mental or intellectual disability, or
 - b. a mental illness, which is of such a nature or degree as to severely restrict the ability of the person to guard himself or herself against serious exploitation.

Art. 26 – Amendment of section 5 of [Criminal Law \(Sexual Offences\) Act 2006](#)

Section 5 of the Act of 2008 is amended by—

- a. the insertion of the following subsection: “(2A) A person who pays, gives, offers or promises to pay or give a person (including the trafficked person) money or any other form of remuneration or consideration for the purposes of the prostitution of a trafficked person shall be guilty of an offence.”, and
- b. in subsection (5), by the substitution of “sections 7 and 7A of the Act of 1993 in so far as an offence under those sections” for “section 7 of the Act of 1993 in so far as an offence under that section”.

▪ **Female Genital Mutilation**

[Irish Criminal Justice \(Female Genital Mutilation\) Act 2012](#)

Art. 2

1. A person is guilty of an offence if the person does or attempts to do an act of female genital mutilation.
2. A person is not guilty of an offence under subsection (1) if

- a. the act concerned is a surgical operation performed by a registered medical practitioner on the girl or woman concerned, which is necessary for the protection of her physical or mental health,
- b. the act concerned is a surgical operation performed by a registered medical practitioner or a midwife, or a person undergoing training to be a midwife, on the girl or woman concerned when she is in any stage of labour, or has just given birth, for purposes connected with the labour or birth,
- c. the person is the girl or woman on whom the act of female genital mutilation is done, or
- d. the act concerned is done to a woman who is not less than 18 years of age and there is no resultant permanent bodily harm.

Art. 3

1. A person is guilty of an offence if the person removes or attempts to remove a girl or woman from the State where one of the purposes for the removal is to have an act of female genital mutilation done to her.

Art. 4

1. A person is guilty of an offence if the person does or attempts to do an act of female genital mutilation in a place other than the State, but only if it is done or attempted to be done—
 - a. on board an Irish ship within the meaning of section 9 of the Mercantile Marine Act 1955,
 - b. on an aircraft registered in the State, or
 - c. by a person who is a citizen of Ireland or is ordinarily resident in the State, and would constitute an offence in the place in which it is done.