



Number 49 of 1998

PROTECTIONS FOR PERSONS REPORTING CHILD ABUSE ACT 1998

REVISED

Updated to 1 October 2015

This Revised Act is an administrative consolidation of the *Protections for Persons Reporting Child Abuse Act 1998*. It is prepared by the Law Reform Commission in accordance with its function under the *Law Reform Commission Act 1975* (3/1975) to keep the law under review and to undertake revision and consolidation of statute law.

All Acts up to and including *Urban Regeneration and Housing Act 2015* (33/2015), enacted 28 July 2015, and all statutory instruments up to and including *Labour Relations Commission (Dissolution Day) Order 2015* (S.I. No. 413 of 2015), made 30 September 2015, were considered in the preparation of this Revised Act.

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Introduction

This Revised Act presents the text of the Act as it has been amended since enactment, and preserves the format in which it was passed.

Related legislation

This Act is not collectively cited with any other Act.

Annotations

This Revised Act is not annotated and only shows textual amendments. An annotated version of this revision is also available which shows textual and non-textual amendments and their sources. It also shows editorial notes including statutory instruments made pursuant to the Act and previous affecting provisions.

Material not updated in this revision

Where other legislation is amended by this Act, those amendments may have been superseded by other amendments in other legislation, or the amended legislation may have been repealed or revoked. This information is not represented in this revision but will be reflected in a revision of the amended legislation if one is available. A list of legislative changes to any Act, and to statutory instruments from 1999, may be found linked from the page of the Act of statutory instrument at www.irishstatutebook.ie.



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ARRANGEMENT OF SECTIONS

Section

1. Interpretation.
2. Designated officers.
3. Protection from civil liability of persons who have reported child abuse.
4. Protection of employees from penalisation for having reported child abuse.
5. False reporting of child abuse.
6. Saving.
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ACTS REFERRED TO

Health Act, 1970	1970, No. 1
Petty Sessions (Ireland) Act, 1851	14 & 15 Vict., c. 93
Terms of Employment (Information) Act, 1994	1994, No. 5
Unfair Dismissals Act, 1977	1977, No. 10
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AN ACT TO PROVIDE PROTECTION FROM CIVIL LIABILITY TO PERSONS WHO REPORT CHILD ABUSE IN CERTAIN CIRCUMSTANCES, TO PROVIDE PROTECTION TO SUCH PERSONS FROM PENALISATION BY THEIR EMPLOYERS, TO PROVIDE FOR AN OFFENCE IN RESPECT OF THE FALSE REPORTING OF CHILD ABUSE AND TO PROVIDE FOR RELATED MATTERS. [23rd December, 1998]

BE IT ENACTED BY THE OIREACHTAS AS FOLLOWS:

Interpretation.

1.—(1) In this Act, unless the context otherwise requires—

“the Act of 1994” means the Terms of Employment (Information) Act, 1994;

“appropriate person” means a designated officer or a member of the Garda Síochána;

“child” means a person who has not attained 18 years of age;

“employee” and “employer” have the same meaning as they have in the Act of 1994;

[‘designated officer’ means an employee of the Health Service Executive or the Child and Family Agency appointed under section 2 of this Act to be a designated officer for the purposes of this Act.]

[...]

“the Minister” means the Minister for Health and Children;

“welfare”, in relation to a child, comprises the moral, intellectual, physical, emotional and social welfare of the child.

(2) In this Act a reference to any enactment shall, unless the context otherwise requires, be construed as a reference to that enactment as amended, adapted or extended by or under any subsequent enactment including this Act.

Designated officers.

[2. (1) The Health Service Executive and the Child and Family Agency shall from time to time as occasion may require (including a case in which a direction is given under this section), appoint one or more employees of the Health Service Executive or of the Child and Family Agency as the case may be, to be a designated officer or officers for the purposes of this Act; in making any such appointment, the Health Service Executive and the Child and Family Agency shall comply with any direction under this section for the time being in force.

(2) The Minister may, with the consent of the Minister for Health, give a direction in writing to the Health Service Executive or the Minister may give a direction in writing to the Child and Family Agency requiring it to appoint to be designated officers each person falling within a category or categories of employee of the Health Service Executive or the Child and Family Agency specified in the direction.

(3) The Minister may give a direction in writing to the Health Service Executive or the Child and Family Agency amending or revoking a direction given to it under this section (including a direction under this subsection).]

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

3.—(1) 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.

[(3) This section does not apply to a communication that is a protected disclosure within the meaning of the Protected Disclosures Act 2014.]

Protection of employees from penalisation for having reported child abuse.

4.—(1) An employer shall not penalise 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.

[(1A) Subsection (1) does not apply to a communication that is a protected disclosure within the meaning of the Protected Disclosures Act 2014.]

(2) In proceedings [under Part 4 of the Workplace Relations Act 2015 before an adjudication officer or the Labour Court] 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 Part 4 of the Workplace Relations Act 2015] and under those Acts.

(4) An employee may present a complaint to a rights commissioner that his or her employer has contravened *subsection (1)* of this section in relation to him or her and, if he or she does so, the commissioner shall give the parties an opportunity to be heard by the commissioner and to present to the commissioner any evidence relevant to the complaint, shall give a decision in writing in relation to it and shall communicate the decision to the parties.

[(5) A decision of an adjudication officer under section 41 of the Workplace Relations Act 2015 in relation to a complaint of a contravention of *subsection (1)* shall do one or more of the following, namely—

(a) declare that the complaint was or, as the case may be, was not well founded,

(b) require the employer to comply with *subsection (1)*, and, for that purpose, require the employer to take a specified course of action,

(c) require the employer to pay to the employee compensation of such amount (if any) as is just and equitable having regard to all of the circumstances, but not exceeding 104 weeks' remuneration in respect of the employee's employment calculated in accordance with regulations under section 17 of the Unfair Dismissals Act 1977.]

[(6) A decision of the Labour Court under section 44 of the Workplace Relations Act 2015, on appeal from a decision of an adjudication officer referred to in *subsection (5)*, shall affirm, vary or set aside the decision of the adjudication officer.]

(7) [...]

False reporting of child abuse.

5.—(1) A person who states to an appropriate person 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,

knowing that statement to be false shall be guilty of an offence.

[(1A) This section does not apply to the making of a statement that is a protected disclosure within the meaning of the Protected Disclosures Act 2014.]

(2) A person guilty of an offence under this section shall be liable—

(a) on summary conviction, to a fine not exceeding £1,500 or to imprisonment for a term not exceeding 12 months or to both,

(b) on conviction on indictment, to a fine not exceeding £15,000 or to imprisonment for a term not exceeding 3 years or to both.

(3) Notwithstanding section 10(4) of the Petty Sessions (Ireland) Act, 1851, summary proceedings for an offence under this Act may be instituted within 2 years from the date on which the offence was committed or, if later, 2 years from the date on which evidence that, in the opinion of the person by whom the proceedings are brought, is sufficient to justify the bringing of the proceedings comes to that person's knowledge.

(4) For the purposes of *subsection (3)* of this section, a certificate signed by or on behalf of the person bringing the proceedings as to the date on which the evidence referred to in that subsection relating to the offence concerned came to his or her knowledge shall be *prima facie* evidence thereof and in any legal proceedings a document purporting to be a certificate issued for the purpose of this subsection and to be so signed shall be deemed to be so signed and shall be admitted as evidence without proof of the signature of the person purporting to sign the certificate.

Saving.

6.—Section 3 of this Act is in addition to, and not in substitution for, any privilege or defence available in legal proceedings, by virtue of any enactment or rule of law in force immediately before the passing of this Act, in respect of the communication by a person to another (whether that other person is an appropriate person or not) 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.

